

  
Joey D. Moya

IN THE SUPREME COURT  
OF THE STATE OF NEW MEXICO

**S-1-SC-38462**

No.

IN THE MATTER OF HON. APRIL J. SILVERSMITH  
McKinley County Magistrate Court

INQUIRY CONCERNING HON. APRIL J. SILVERSMITH  
JSC Inquiry No. 2019-064

**FILED UNDER SEAL**  
PURSUANT TO 27-104(B) NMRA

**PETITION TO ACCEPT STIPULATION TO PERMANENT  
RETIREMENT IN LIEU OF FURTHER DISCIPLINARY PROCEEDINGS**

JUDICIAL STANDARDS COMMISSION  
111 Lomas Blvd., NW, Suite 220  
Albuquerque, New Mexico 87102-2368  
(505) 222-9353

RANDALL D. ROYBAL  
*Executive Director & General Counsel*

PHYLLIS A. DOMINGUEZ  
*Deputy Director*

*Counsel for Petitioner*

WILLIAM G. STRIPP, ESQ.  
Law Office of William G. Stripp  
P.O. Box 159  
Ramah, New Mexico 87321-0159  
(505) 783-4138

*Counsel for Respondent*

IN THE SUPREME COURT  
OF THE STATE OF NEW MEXICO

No.

IN THE MATTER OF HON. APRIL J. SILVERSMITH  
McKinley County Magistrate Court

INQUIRY CONCERNING HON. APRIL J. SILVERSMITH  
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**PETITION TO ACCEPT STIPULATION TO PERMANENT  
RETIREMENT IN LIEU OF FURTHER DISCIPLINARY PROCEEDINGS**

The Judicial Standards Commission of the State of New Mexico (“Commission”), through the undersigned counsel, hereby respectfully petitions the Supreme Court for an order approving the attached *Stipulation Agreement to Permanent Retirement in Lieu of Further Disciplinary Proceedings* (“*Stipulation*”), attached hereto as Exhibit 1, in which Hon. April J. Silversmith (“Respondent”), represented by William G. Stripp, Esq., has elected to permanently retire from judicial office effective August 31, 2020.

The Commission further requests that the Supreme Court unseal the file in this matter, pursuant to Rule 27-104(B) NMRA.

Respondent requests that the matter remain sealed.

The Commission believes the *Stipulation* agreement best serves the interests of justice and the integrity of the New Mexico judiciary, and as further grounds for this petition states:

1. The Commission invokes its jurisdiction pursuant to the Commission's power to recommend the discipline of judges, and the Supreme Court's power to discipline judges under Article VI, Section 32 of the New Mexico Constitution; the Court's power of superintending control under Article VI, Section 3 of the New Mexico Constitution; and, Rule 36 of the Judicial Standards Commission's Rules.

2. This matter is currently pending before the Commission pursuant to a *Notice of Formal Proceedings* issued to Respondent on August 11, 2020 in Inquiry No. 2019-064 (*See Exhibit A to Exhibit 1*).

3. The Commission issued a *Notice of Investigation* to Respondent on February 20, 2020 (*See Exhibit B to Exhibit 1*), and Respondent's response to the *Notice of Investigation* was filed on March 16, 2020 (*See Exhibit C to Exhibit 1*).

4. Pursuant to Commission Rule 19, NMRA 2020, and following the Commission's receipt and review of Respondent's written response to the *Notice of Investigation*, the Commission invited Respondent and her counsel, William G. Stripp, Esq., to participate in an informal confidential conference with the Commission on August 3, 2020 by Zoom video conferencing. The conference afforded Respondent an opportunity to discuss and explain her response to the *Notice of Investigation* in person and provided the Commission an opportunity to ask Respondent questions and further discuss the pending allegations and Respondent's response to assist in determining the appropriate course of action.

5. After full consideration of Respondent's written response and the information she provided verbally at the informal confidential conference, the Commission issued a *Notice of Formal Proceedings* to Respondent and set the matter for a hearing on the merits.

6. On August 19, 2020, Respondent requested through her counsel that this matter be disposed of now by entering into a *Stipulation to Permanent Retirement in Lieu of Further Disciplinary Proceedings* ("*Stipulation*") with the Commission whereby Respondent would retire permanently from judicial office and never again seek judicial office in

New Mexico. Respondent cited reasons for her decision to permanently retire to include “her health and the stress of what she must do to continue with this matter.”

7. The Commission agreed that Respondent’s request for permanent retirement in lieu of further disciplinary proceedings should be granted and entered into the *Stipulation* whereby the Commission shall close Inquiry 2019-064 upon approval and order of Respondent’s permanent retirement by the Supreme Court.

8. Respondent understood and acknowledged that, based upon the *Stipulation*, her retirement is permanent, and if she seeks judicial office in the future, the Commission will act to enforce the agreement, to find contempt, and/or to pursue other proper remedy. Respondent understood and acknowledged the *Stipulation* as an equitable remedy that best serves the interests of justice and has voluntarily agreed to permanent retirement. Respondent understood and acknowledged that a violation of the terms of the *Stipulation* such as by running for or holding judicial office in New Mexico in the future after agreeing to permanently retire, prejudices the Commission’s ability to effectively adjudicate a case that is stale, where witnesses may have disappeared, whose memories may have faded, or

who may not wish to proceed in the matter after several years have passed.

9. The resolution of this matter through Respondent's voluntary permanent resignation ensures finality for the Commission, Respondent and witnesses and allows them to rely upon the binding *Stipulation* and Court orders.

10. The *Stipulation* is an equitable remedy that complies with Respondent's request to retire in lieu of further disciplinary proceedings, ensures the public's continued confidence and trust in the judiciary, and provides for judicial economy and best serves the interests of justice and the judiciary.

11. Following a vote of the Commissioners, the Commission entered into a *Stipulation* with the Respondent on August 27, 2020, which provides in pertinent part the following:

A. Respondent agrees to permanent retirement from judicial office effective August 31, 2020.

B. Respondent shall never again hold, become a candidate for, run for, or stand for election to any New Mexico judicial office in the future

C. Respondent shall never seek, accept appointment to, or serve *pro tempore* for any New Mexico judicial office in the future. New Mexico judicial office includes the posts of judge in probate court, municipal court, magistrate court,

metropolitan court, district court, Court of Appeals, and justice of the Supreme Court.

D. Respondent shall never again hold or exercise any judicial authority in the State of New Mexico including the judicial authority to officiate at weddings.


12. Upon order from this Court, the attached *Stipulation* is enforceable by the Commission before the Supreme Court.

13. It is in the best interests of justice and integrity of the New Mexico judiciary that the Supreme Court grants the Commission's *Petition to Accept Stipulation to Permanent Retirement from Judicial Office in Lieu of Further Disciplinary Proceedings*.

WHEREFORE, Petitioner respectfully requests this Court issue an order granting the Commission's *Petition to Accept Stipulation to Permanent Retirement from Judicial Office in Lieu of Further Disciplinary Proceedings*, approving the *Stipulation*, and ordering, effective August 31, 2020, the permanent retirement from judicial office of Respondent Hon. April J. Silversmith. The Commission further requests that this order unseal all documents filed with the Supreme Court in this matter pursuant to Rule 27-104(B) NMRA.

Respectfully submitted,

JUDICIAL STANDARDS COMMISSION

  
RANDALL D. ROYBAL,  
*Executive Director & General Counsel*

PHYLLIS A. DOMINGUEZ,  
*Deputy Director*  
111 Lomas Blvd. NW, Suite 220  
Albuquerque, NM 87102-2368  
Telephone: (505) 222-9353

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing was filed and served via the Court's Electronic Filing and Service System addressed to William G. Stripp, Esq. on this 28<sup>th</sup> day of August 2020.

  
PHYLLIS A. DOMINGUEZ



BEFORE THE JUDICIAL STANDARDS COMMISSION  
STATE OF NEW MEXICO

INQUIRY CONCERNING HON. APRIL J. SILVERSMITH  
McKinley County Magistrate Court

Inquiry No. 2019-064

**FILED**  
AUG 27 2020  
NM JUDICIAL  
STANDARDS COMMISSION



STIPULATION TO PERMANENT RETIREMENT FROM JUDICIAL OFFICE  
IN LIEU OF FURTHER DISCIPLINARY PROCEEDINGS

THIS MATTER is currently pending before the Judicial Standards Commission ("Commission") pursuant to a *Notice of Formal Proceedings* issued to Hon. April J. Silversmith ("Respondent") on August 11, 2020 in Inquiry No. 2019-064 (See **Exhibit A**).

This *Stipulation to Permanent Retirement from Judicial Office in Lieu of Further Disciplinary Proceedings* ("*Stipulation*") is entered into by and between the Commission and Respondent, who is represented by William G. Stripp, Esq.

The Commission issued a *Notice of Investigation* to Respondent on February 20, 2020 (See **Exhibit B**), and Respondent's response to the *Notice of Investigation* was filed on March 16, 2020 (See **Exhibit C**).

Pursuant to Commission Rule 19, NMRA 2020, and following the Commission's receipt and review of Respondent's written response to the *Notice of Investigation*, the Commission invited Respondent and her counsel William G. Stripp to participate in an informal confidential conference with the Commission on August 3, 2020 by Zoom video conferencing. The conference afforded Respondent an opportunity to discuss and explain her response to the *Notice of Investigation* in person and provided the Commission an opportunity to ask Respondent

EXHIBIT  
1

questions about the pending allegations and Respondent's response to assist in determining the appropriate course of action.

After full consideration of Respondent's written response and the information she provided verbally at the informal conference, the Commission issued a *Notice of Formal Proceedings* to Respondent and set the matter for a hearing on the merits.

On August 19, 2020, Respondent requested through her counsel that this matter be disposed of now by entering into a stipulation agreement with the Commission whereby Respondent would agree to retire permanently from judicial office and never again seek judicial office in New Mexico in lieu of further disciplinary proceedings. Respondent cited reasons for her decision to permanently retire to include "her health and the stress of what she must do to continue with this matter."

The Commission agrees that Respondent's request for permanent retirement in lieu of further disciplinary proceedings should be granted and enters this *Stipulation* whereby the Commission shall close Inquiry 2019-064 upon the New Mexico Supreme Court issuing an order accepting this *Stipulation Agreement* and Respondent's permanent retirement.

Respondent understands and acknowledges that, based upon this *Stipulation*, her retirement is permanent, and if she seeks judicial office in the future, the Commission will take action to enforce the agreement, to find contempt, and/or to pursue other proper remedy. Respondent understands and acknowledges this *Stipulation* as an equitable remedy that best serves the interests of justice and has voluntarily agreed to permanent retirement. Respondent understands and acknowledges that a violation of the terms of this *Stipulation* such as by running for or holding judicial office in New Mexico in the future after agreeing to permanently retire, prejudices the Commission's ability to effectively adjudicate a case that is stale, where witnesses

may have disappeared, whose memories may have faded, or who may not wish to proceed in the matter after several years have passed.

In consideration of the foregoing, the parties hereby enter into the following agreement:

1. The Commission has jurisdiction over Respondent and the above-captioned and numbered matter pursuant to Article VI, Section 32 of the Constitution of the State of New Mexico; NMSA 1978, Sections 34-10-1 through 34-10-4; and, the Judicial Standards Commission Rules.
2. Respondent agrees to permanently retire as judge of the McKinley County Magistrate Court effective August 31, 2020 at 5:00 p.m. Grounds for this *Stipulation* include charges stated in the *Notice of Formal Proceedings* attached hereto as **Exhibit A** and Respondent's decision to retire and never again seek judicial office due to "her health and stress of what she must do to continue the matter" before the Commission. Upon acceptance of this *Stipulation* by the Court, Respondent shall permanently retire by submitting duplicate original letters of retirement addressed to the Chief Justice of the New Mexico Supreme Court and to the Governor of the State of New Mexico, with a copy to the Judicial Standards Commission.
3. Upon retirement, Respondent shall never again hold, become a candidate for, run for, or stand for election to any New Mexico judicial office in the future. Respondent shall never seek, accept appointment to, or serve *pro tempore* for any New Mexico judicial office in the future. New Mexico judicial office includes the posts of judge in probate court, municipal court, magistrate court, metropolitan court, district court, Court of Appeals, and justice of the Supreme Court. Respondent shall never again hold or exercise any judicial authority in the State of New Mexico, including the judicial authority to officiate at weddings.

4. Pursuant to Rule 27-104(B) NMRA, the Commission will file under seal a *Petition to Accept Stipulation to Permanent Retirement from Judicial Office in Lieu of Further Disciplinary Proceedings* (“*Petition*”) with the New Mexico Supreme Court. A copy of this *Stipulation* will be attached as Exhibit 1 to the *Petition*.

5. Upon granting the *Petition* and pursuant to the plain language of Supreme Court Rule 27-104(B), the Court should unseal the *Petition* and its file in this matter.

6. Respondent requests the *Petition* remain sealed.

7. Upon execution of this *Stipulation* and acceptance by the Court, the Commission will abate and close the matter pending against Respondent before the Commission (Inquiry No. 2019-064).

8. This *Stipulation* is specifically enforceable by the Commission before the Supreme Court.

9. Respondent acknowledges that upon execution of this *Stipulation*, Respondent gives up all motions, defenses, objections, or requests that the Respondent has made or raised, or could assert hereafter, in or concerning the Commission’s proceedings.

10. Respondent shall not make any public misrepresentations concerning this inquiry, the facts and circumstances of Respondent’s permanent retirement, the Commission’s proceedings, or the disposition.

11. The Commission and Respondent shall take all actions necessary to carry out and fulfill the terms and conditions of this *Stipulation*.

12. This document is not enforceable unless fully executed by all parties.

13. If Respondent violates any terms or provisions of this executed *Stipulation*, Respondent agrees that all charges in the *Notice of Formal Proceedings* issued in Inquiry No. 2019-

064, shall be deemed admitted by the Respondent, will be used against Respondent in future proceedings before the Commission and the Court and may constitute obstruction of Commission business and contempt.

14. The terms and conditions contained in this *Stipulation* are mutually acceptable to and agreed upon by all parties.

15. All parties have read and understand this *Stipulation*, have had the opportunity to discuss it with and be advised by legal counsel, and hereby freely and voluntarily enter into this *Stipulation* free of any threats, and free of any promises not contained herein.

RESPONDENT'S REVIEW AND APPROVAL

I have read and understand this *Stipulation*. I have had the opportunity to discuss this matter and my rights with my attorney. I understand that by entering this *Stipulation*, I will be giving up my rights to a formal hearing on the merits and to confront, cross-examine and compel the attendance of witnesses regarding these issues.

I know, understand, and agree that the provisions of this *Stipulation* are material to the Commission's deliberations and ultimate acceptance of it. I also understand and agree that by entering into this *Stipulation*, I am agreeing to never again hold judicial office or exercise judicial authority under any circumstances as defined in this agreement, and that if I do hold any judicial office or exercise judicial authority at any point in the future, I will be in violation of this *Stipulation* and I could be held in contempt of the Commission and the Court. I further understand that if I violate any provision of this *Stipulation* in any other manner, I agree, acknowledge, and accept that all charges lodged against me in the *Notice of Formal Proceedings* issued to me are admitted by me as fact, and that the Commission shall re-initiate the matter pending before the Court and/or the Commission at the time this *Stipulation* was executed.

I understand and agree that my attorney is speaking for me, and on my behalf in this proceeding, and that anything my attorney says or does in this proceeding can and should be attributable to me. In the event my attorney says or does anything during the course of this proceeding that I do not agree with, I know, understand and agree that I have an affirmative duty to make my disagreement with my attorney's words or conduct known. If I do not make my disagreement known, then I know, understand, and agree that I am accepting my attorney's words and conduct in this proceeding as my own.




HON. APRIL J. SILVERSMITH  
Respondent

Dated: 8/26/2020

COUNSEL FOR RESPONDENT'S REVIEW AND APPROVAL

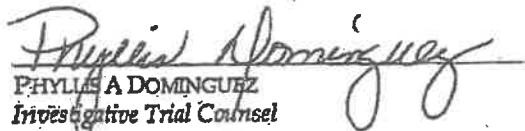
I have reviewed this *Stipulation* with my client. I have advised my client of her constitutional rights and possible defenses, and hereby accept and approve my client's entry into this *Stipulation*.

  
WILLIAM G. STRIPP  
Counsel for Respondent

Dated: August 26, 2020

INVESTIGATIVE TRIAL COUNSEL'S REVIEW AND APPROVAL

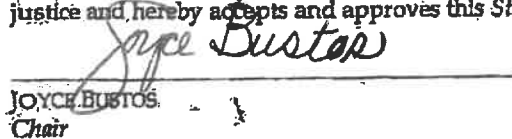
I have reviewed this *Stipulation* and find that it is appropriate and in the best interest of justice. I hereby recommend that the Judicial Standards Commission accept and approve this *Stipulation*.

  
PHYLLIS A. DOMINGUEZ  
Investigative Trial Counsel

Dated: 08/27/2020

JUDICIAL STANDARDS COMMISSION'S REVIEW & APPROVAL

The Commission has reviewed this *Stipulation* and finds that it is in the best interest of justice and hereby accepts and approves this *Stipulation*.

  
JOYCE BUSTOS  
Chair

Dated: 08/27/2020

  
RANDALL D. ROYBAL  
Executive Director & General Counsel

Dated: 08/27/2020

BEFORE THE JUDICIAL STANDARDS COMMISSION  
OF THE STATE OF NEW MEXICO

**FILED**

INQUIRY CONCERNING HON. APRIL J. SILVERSMITH  
McKinley County Magistrate Court, Gallup, New Mexico

AUG 11 2020

Inquiry No. 2019-064

**NM JUDICIAL  
STANDARDS COMMISSION**

NOTICE OF FORMAL PROCEEDINGS

TO: Hon. April J. Silversmith  
c/o William G. Stripp, Esq.  
P.O. Box 159  
Ramah, New Mexico 87321-0159

YOU ARE HEREBY NOTIFIED that the Judicial Standards Commission, in accordance with its jurisdiction under Article VI, Section 32 of the New Mexico Constitution and pursuant to Rule 15 of the Judicial Standards Commission Rules, has instituted formal proceedings on the charge set forth below.

COUNT 1

You failed to attend the April 26, 2019 Magistrate Judges' Association meeting after you requested and were approved to attend that meeting by McKinley County Magistrate Court Presiding Judge Cynthia Sanders, and you failed to report to court on April 26, 2019 and did not have prior approval to take leave from your judicial duties other to attend the Magistrate Judges' Association meeting on April 26, 2019.

Such conduct violates the Code of Judicial Conduct Rules 21-101, 21-102, 21-201, and 21-205 NMRA 2020 and constitutes willful misconduct in office.

EXHIBIT  
A

**COUNT 2**

You failed to diligently perform your judicial duties by incurring excessive absences from the McKinley County Magistrate Court. To wit: you were unavailable and absent from court for approximately 622.50 hours from January 1, 2019 through January 3, 2020, and unavailable and absent from court for approximately 570 hours from January 1, 2018 through December 31, 2018.

Such conduct violates the Code of Judicial Conduct Rules 21-101, 21-102, 21-201 and 21-205, NMRA 2020 and constitutes willful misconduct in office.

**COUNT 3**

On or between April 2019 and December 2019 you failed to attend court the required forty (40) hours per week pursuant to Section 35-1-36.1 NMSA 1978 and the Supreme Court's Order No. 19-8500-002, *In the Matter of Revisions to Magistrate Court Policy Directives*.

Such conduct violates the Code of Judicial Conduct Rules 21-101, 21-102, 21-201 and 21-205, NMRA 2020 and constitutes willful misconduct in office.

**COUNT 4**

You failed to notify Hon. Karen Townsend, Chief Judge of the Eleventh Judicial District Court, of absences over two days and whether you had obtained coverage for your absences on the following dates: April 22-26, 2019, August 12-16, 2019, October 9-11, 2019; November 13-14, 2019; and December 23, 2019-January 3, 2020, pursuant to the New Mexico Supreme Court's Order No. 19-8500-002, Policy Directive No. 4.



Such conduct violates the Code of Judicial Conduct Rules 21-101, 21-102, 21-201, and 21-205(A) & (B), and 21-211 NMRA 2020 and constitutes willful misconduct in office.

COUNT 5

You failed to inform court staff that Chelsey Thomas was your niece, failed to recuse from your niece's McKinley Magistrate Court cases, and adjudicated two traffic cases for your niece, to wit: In case number M-35-TR-2017-00358 you dismissed your niece's case with prejudice, and in case number M-35-TR-2017-00610, you dismissed the case after receiving a notice of dismissal from the district attorney's office.

Such conduct violates the Code of Judicial Conduct Rules 21-101, 21-102, 21-103, 21-209 and 21-211 NMRA 2020 and constitutes willful misconduct in office.

COUNT 6

On or about March 24, 2016, you initiated an *ex parte* communication with McKinley County Magistrate Court Manager Kristie Jaramillo regarding your son, Steven Silversmith's McKinley County Magistrate Court case (M-35-TR-2016-00651), and his Bernalillo County Metropolitan Court case (T-4-PR-2015-006035). You e-mailed Ms. Jaramillo the following:

Hi. My son Stephen Silversmith has a traffic case here. He is working full time and plans on coming in next Tuesday March 29<sup>th</sup> to enter a plea. I noticed he has a Bernalillo warrant also maybe he can take care of that when he comes in?

After receiving a response from Ms. Jaramillo stating that she could send an appearance waiver plea (APW) to him and that he would have to go to Albuquerque to take care of his Bernalillo warrant, you e-mailed the following:

I think he is going to enter a no contest plea because he cant [sic] come back for trial again. I will check to see if he wants us to sent [sic] an APW or still wants to come in I will let you know.

Such conduct violates the Code of Judicial Conduct Rules 21-101, 21-102, 21-103, 21-206 and 21-209 NMRA 2020 and constitutes willful misconduct in office.

**COUNT 7**

You attempted to initiate an *ex parte* communication with Eleventh Judicial Assistant District Attorney Eric Rhoades regarding a criminal case he was prosecuting in which your daughter, Brittany Silversmith, was the victim. You approached ADA Rhoades at the preliminary hearing and began speaking to him about the case at which time ADA Rhoades informed you that he could not speak to you. ADA Rhoades reported your conduct to his supervisor.

Such conduct violates the Code of Judicial Conduct Rules 21-101, 21-102, 21.103, 21-203, 21-206 and 21-209 NMRA 2020 and constitutes willful misconduct in office.

**COUNT 8**

You directed and/or allowed court staff to use your signature stamp to sign court documents when you were unavailable to perform your judicial duties.

Such conduct violates the Code of Judicial Conduct Rules 21-101, 21-102, 21-201, and 21-205 NMRA 20202 and constitutes willful misconduct in office.

**COUNT 9**

On or about May 19, 2017 you failed to be patient, dignified or courteous when you yelled at and admonished McKinley County Magistrate Court Manager, Kristie Jaramillo, in

front of court staff for not immediately closing the court upon hearing of Hon. Kenneth Howard's death.

Such conduct violates the Code of Judicial Conduct Rules 21-101, 21-102 and 21-208 NMRA 2020 and constitutes willful misconduct in office.

**COUNT 10**

On or about March 20-21, 2014, you failed to be patient, dignified or courteous to McKinley County Magistrate Court Presiding Judge Cynthia Sanders when you confronted her in her chambers, questioned her authority after she denied your requested leave and yelled at her loudly enough to be heard by court staff.

Such conduct violates the Code of Judicial Conduct Rules 21-101, 21-102, 21-205, and 21-208 NMRA 2020 and constitutes willful misconduct in office.

PLEASE BE ADVISED that in accordance with Rule 16 of the Judicial Standards Commission Rules, **you shall file a written answer to this notice within twenty-one (21) days of its service upon you. Your answer shall be filed with:**

*Clerk of the Commission  
Judicial Standards Commission  
111 Lomas Blvd. NW, Suite 220  
Albuquerque, New Mexico 87102-2368*

Your answer should be legible, and **your signature must be verified.**

Article VI, Section 32 of the New Mexico Constitution provides that all papers filed with and proceedings before the Judicial Standards Commission are confidential, except that any record filed by the Commission in the New Mexico Supreme Court continues privileged but, upon its filing, loses its confidential character, and a writing which was privileged prior to filing with the Commission or its masters does not lose its privilege by the filing.

JUDICIAL STANDARDS COMMISSION



By: \_\_\_\_\_

Joyce E. Bustos, Chair  
111 Lomas Blvd. NW, Suite 220  
Albuquerque, NM 87102-2368  
(505) 222-9353

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was sent certified mail returned receipt requested on this 11<sup>th</sup> day of August 2020 to the following:

Hon. April J. Silversmith  
c/o William G. Stripp, Esq.  
P.O. Box 159  
Ramah, New Mexico 87321-0159



SHARIESSE T. MCCANNON



**STATE OF NEW MEXICO  
JUDICIAL STANDARDS COMMISSION**

POST OFFICE BOX 27248  
ALBUQUERQUE, NEW MEXICO 87125-7248  
(505) 222-9353  
WWW.NMJSC.ORG

RANDALL D. ROYBAL  
*Executive Director & General Counsel*

PHYLLIS A. DOMINGUEZ  
*Deputy Director*

DEBORAH BORIO  
*Senior Investigative Trial Counsel*

February 20, 2019

**CONFIDENTIAL**  
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**FILED**

**FEB 20 2020**

**NM JUDICIAL  
STANDARDS COMMISSION**

Hon. April J. Silversmith  
McKinley County Magistrate Court  
285 S. Boardman, Ste. C  
Gallup, New Mexico 87301

*Re: Inquiry No. 2019-064; Notice of Investigation*

Dear Judge Silversmith:

You are hereby notified that the above-referenced matter came before the Judicial Standards Commission on a verified, third party complaint; a complaint docketed by the Commission's General Counsel; or upon the Commission's own motion. As part of an investigation pursuant to Rules 15(B) and (C) of the Judicial Standards Commission Rules (NMRA 2019), the Commission requires that you provide a written explanation as to the matter discussed below.

It has been alleged that:

1. You failed to attend the April 26, 2019 Magistrate Judges' Association meeting after you requested and were approved to attend that meeting by McKinley County Magistrate Court Presiding Judge Cynthia Sanders. Not only did you fail to attend the meeting, you failed to report to court on April 26, 2019 and did not have prior approval from Judge Sanders to take leave from your judicial duties on April 26, 2019.
2. You failed to diligently perform your judicial duties, failed to give precedence to your judicial duties and created an appearance of impropriety by incurring excessive absences from the McKinley County Magistrate Court. To wit: you were unavailable and absent from court for approximately 622.50 hours from January 1, 2019 through January 3, 2020, and unavailable and absent from court for approximately 570 hours from January 1, 2018 through December 31, 2018.
3. You failed to comply with Section 35-1-36.1 NMSA 1978 and the Supreme Court's Order No. 19-8500-002, *In the Matter of Revisions to Magistrate Court Policy Directives*

EXHIBIT  
B

on or between April 2019 and December 2019, when you failed to attend court the required forty (40) hours per week.

4. You failed to notify Hon. Karen Townsend, Chief Judge of the Eleventh Judicial District Court, of absences over two days and whether you had obtained coverage for your absences on the following dates: April 22-26, 2019, August 12-16, 2019, October 9-11, 2019; November 13-14, 2019; and December 23, 2019-January 3, 2020, pursuant to the Supreme Court's Order No. 19-8500-002, Policy Directive No. 4.
5. You failed to recuse from cases where your impartiality might reasonably be questioned and created an appearance of impropriety when you adjudicated two traffic cases for your niece, Chelsey Thomas, to wit: M-35-TR-2017-00358 and M-35-TR-2019-00610.
6. You inappropriately involved yourself in cases involving your son, Stephen Silversmith, created an appearance of impropriety, and initiated an *ex parte* communication with McKinley County Magistrate Court Manager Kristie Jaramillo when you e-mailed Ms. Jaramillo with information about your son's McKinley County Magistrate Court case (M-35-TR-2016-00651), and when you asked Ms. Jaramillo if your son could take care of his Bernalillo County Metropolitan Court case (T-4-PR-2015-006035) at the time he appeared at the McKinley County Magistrate Court.
7. You inappropriately involved yourself in a case where your daughter, Brittany Silversmith, was the victim in a criminal case, and created an appearance of impropriety when you attended hearings involving your daughter's case and when you attempted to initiate an *ex parte* communication with Assistant District Attorney Eric Rhoades who was prosecuting the criminal case.
8. You created an appearance of impropriety when you directed and/or allowed court staff to use your signature stamp to sign documents (e.g. release orders) when you were unavailable to perform your judicial duties.
9. You failed to be patient, dignified or courteous to McKinley County Magistrate Court Manager, Kristie Jaramillo, when you yelled and admonished her in front of court staff for not closing the court upon hearing of Hon. Kenneth Howard's death.
10. On or around March 20-21, 2014, you failed to be patient, dignified or courteous to McKinley County Magistrate Court Presiding Judge Cynthia Sanders when you confronted her in her chambers, yelled at her and questioned her after she denied your leave. You were loud enough to be heard by court staff.

Please provide the Commission with an explanation of this incident and the factual and legal bases for your conduct. Your response to this notice must be submitted in writing and must include an explanation and disclosure of all pertinent facts, along with any relevant documents or materials you wish the Commission to consider regarding the matter outlined herein.

Pursuant to Rule 16(B) of the Judicial Standards Commission Rules (NMRA 2019), the Commission must receive your response within twenty-one (21) days of your receipt of this notice.

Sincerely yours,

  
Joyce E. Bustos  
Chair

**CERTIFICATE OF MAILING**

I hereby certify that a true copy of the foregoing was mailed on the 20<sup>th</sup> day of February, 2020, by certified mail, return receipt requested to:

Hon. April J. Silversmith  
McKinley County Magistrate Court  
285 S. Boardman, Ste. C  
Gallup, New Mexico 87301

  
SHARIESSE T. MCCANNON  
CLERK OF THE COMMISSION

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## LAW OFFICE OF WILLIAM G. STRIPP

Joyce E. Bustos, Chair  
State of New Mexico Judicial Standards Commission  
Post Office Box 27248  
Albuquerque, NM 87125-7248

Re: Hon. April J. Silversmith, Inquiry No. 2019-064

Date: March 15, 2020

**FILED**

MAR 16 2020

**NM JUDICIAL  
STANDARDS COMMISSION**

Ms. Bustos:

I am representing Judge Silversmith with regard to the above-referenced inquiry. The Inquiry raises 10 issues. Judge Silversmith denies that she failed to perform her judicial duties. She also denies that she acted inappropriately in any way.

To begin, Judge Silversmith believes that she has been the subject of discrimination and bigotry by certain members of the McKinley Magistrate Court staff, including by former Court Manager Kristie Jaramillo, who is mentioned in the allegations. Other Navajo women in influential positions in McKinley County, including Emily Ellison, who is the Executive Director of Battered Family Services in Gallup, believe that Ms. Jaramillo has engaged in discriminatory behavior towards them and made racist comments about them. Judge Silversmith questions why the allegations, some of which are six years old, have not been presented to her previously, and are now presented to her through a complaint to the Judicial Standards Commission.

The lapse of time between when the alleged inappropriate behavior is supposed to have occurred and the date of the complaint has made it difficult for Judge Silversmith to gather information in response to the complaint. Given the lapse of time, Judge Silversmith is responding as best she can to the 10 individual allegations, but puts forward a general denial at the beginning of her response.

1. With regard to the first allegation involving failure to attend the April 26, 2019 Magistrate Judge's Association meeting, after being approved to attend the meeting Judge Silversmith was informed that she would not be reimbursed for expenses, including mileage. Therefore, Judge Silversmith decided not to attend the meeting, and informed Judge Sanders that she would not attend. Ironically, the minutes of the meeting list Judge Silversmith in attendance. (See Exhibit A.)

P.O. Box 159  
3279 State Highway 53  
Ramah, NM 87321  
U.S.A.

PHONE 505-783-4138  
FAX 505-783-4139  
EMAIL willstripp@willstripp.com

---

EXHIBIT  
C



1. (continued) In addition, April 26 is Judge Silversmith's birthday, so she did take the day off. However, she denies failing to notify either Judge Sanders or court staff that she would be taking the day off for her birthday.
2. With regard to the second allegation concerning alleged excessive absences, Judge Silversmith denies the allegation. The allegation that Judge Silversmith was absent from court for approximately 622.50 hours from January 1, 2019 through January 3, 2020 is absurd. That allegation asserts that Judge Silversmith was absent from the court for over 15 weeks. ( $622.5/40 = 15.5625$ .) Similarly, the allegation that Judge Silversmith was absent from court for approximately 570 hours from January 1, 2018 through December 31, 2018 is also absurd. That allegation asserts that Judge Silversmith was absent from court for over 14 weeks. ( $570/40 = 14.25$ .)
3. With regard to the third allegation, that Judge Silversmith failed to comply with Section 35-1-36.1 NMSA 1978 and Supreme Court Order No. 19-8500-002, by failing to attend court the required 40 hours per week between April 2019 and December 2019, Judge Silversmith denies the allegation. As Magistrate Judges do not have a time clock to punch in when they arrive at court or to punch out when they leave court, nor have time sheets to fill in, it is extremely difficult to reconstruct the exact hours that Judge Silversmith was in court or otherwise performing her duties. Given that, Judge Silversmith believes that she has fulfilled her obligations to perform at least 40 hours per week doing her work as a magistrate judge, including, but not limited to, preparing for court hearings, conducting court hearings, being on call for law enforcement warrants, conducting probable cause hearings at the detention center, conducting weddings, and performing other duties of a magistrate judge.
4. With regard to the fourth allegation, Judge Silversmith was unaware of the provision of Supreme Court Order No. 19-8500-002, Policy Directive No. 4, to wit: "All magistrates shall notify the district court chief judge of their judicial district of any absences longer than two days from the office and advise the chief judge as to whether or not the magistrate judge has been able to arrange for coverage by another magistrate during the absence so that the chief judge may prepare an orderly staffing plan as required by Rule 23-109(B)(12) NMRA." Instead, Judge Silversmith followed the previous custom and practice of the McKinley County Magistrate Court and notified the other judges of her planned absences either verbally or via e-mail. Judge Silversmith is unsure at this time of the dates of the absences alleged in paragraph 4. However, if she was absent for any period longer than two days, she is sure that she provided notice to the McKinley County Magistrate Court that she was going to be absent prior to any periods of absence. After reviewing the Policy Directive, Judge Silversmith affirms that in the future she will inform the district court chief judge prior to any absence of more than two days from her office.

5. With regard to the fifth allegation regarding two traffic cases involving her niece Chelsey Thomas, Judge Silversmith denies acting inappropriately and instead followed court protocol with regard to both cases. Judge Silversmith had to review the Court record to determine exactly what had occurred in both cases. Chelsey Thomas did not appear in front of Judge Silversmith in either case. M-35-TR-2017-00358 involved a traffic charge of expired registration. In keeping with court protocol, Ms. Thomas provided proof of registration and the charges were dismissed without Ms. Thomas ever appearing before Judge Silversmith. (See Exhibit B1, B2, B3, B4.) This was in keeping with longstanding court practice which was later memorialized by a New Mexico Department of Public Safety Directive dated February 12, 2019. (See Exhibit C.) M-35-TR-2019-00610 involved a speeding citation. The case was dismissed by the sheriff's deputy without it going in front of Judge Silversmith. (See Exhibits D1, D2, D3, and D4.)
6. With regard to the sixth allegation regarding her involvement in cases involving her son Stephen Silversmith, Judge Silversmith denies that she acted inappropriately. To begin, former Court Manager Kristie Jaramillo, whose attitude regarding Judge Silversmith and other Navajo women was discussed earlier in this response, appears to be confusing her duties with those of a judge when she alleges inappropriate ex parte communications with her. While Ms. Jaramillo may have wanted to be a magistrate judge, she never attained that position. M-35-TR-2016-00651 involved traffic citations for speeding and no proof of insurance. (See Exhibit E.) T-4-PR-2015-006035 involved a parking violation. (See Exhibit F.) Judge Silversmith was not involved as a judge in either case. A judge having questions about her son's alleged traffic and parking violations cannot reasonably be construed as judicial interference or improperly attempting to influence a case.
7. With regard to the seventh allegation, Judge Silversmith denies that she inappropriately involved herself in a criminal case in which her daughter Brittany Silversmith was the victim of a violent assault. April Silversmith appeared with her daughter as the mother of a victim, not in her capacity as a Magistrate Judge. Her appearance with her daughter was addressed to the district judge assigned to the case, the Honorable Robert Aragon, who stated in court that it was completely appropriate for Ms. Silversmith to be in court to provide support to her daughter. The case was eventually reassigned to the Grants district court and the Grants district attorney's office and was resolved in that court.
8. With regard to the eighth allegation, Judge Silversmith denies the allegation. Judge Silversmith has never directed nor allowed court staff to use her signature stamp to sign documents without her knowledge or when she was unavailable.
9. With regard to the ninth allegation, regarding an alleged failure to act courteously to former Court Manager Kristie Jaramillo regarding not closing the court upon hearing of the Honorable Kenneth Howard's death, Judge Silversmith denies the allegation. However, Judge Silversmith again notes that Ms. Jaramillo has

displayed a pattern of prejudice and disrespect towards Navajos, including the late Judge Howard, not just in the setting of the Magistrate Court, but outside the Court. Despite Ms. Jaramillo's apparent disdain for Navajos, including Navajo judges, Judge Silversmith has always treated Ms. Jaramillo courteously.


10. With regard to the tenth allegation, which involves an incident which allegedly occurred on or around March 20-21, 2014, almost 6 years ago, Judge Silversmith denies the allegations. While Judge Silversmith and Judge Sanders did have a disagreement at the time, the disagreement was resolved and Judge Silversmith apologized to Judge Sanders afterwards.

In conclusion, Judge Silversmith is aware of her obligations under the Code of Judicial Conduct, NMRA 21-001 through 21-406. In particular, Judge Silversmith is aware of her obligations under Rule 21-216, concerning "Cooperation with disciplinary authorities.", to wit "A judge shall cooperate and be candid and honest with and comply with all rules, requirements, and procedures of the New Mexico Judicial Standards Commission, the New Mexico Disciplinary Board, and the New Mexico Judicial Performance Evaluation Commission." Judge Silversmith is also aware of her obligations under Rule 21-406 concerning alleged "Violations" of the Code of Judicial Conduct, to wit "Violations of any of the rules of the Code of Judicial Conduct by judges shall be investigated, proceeded upon, and disposed of by the Judicial Standards Commission in accordance with its authority and rules of procedure, and by the Supreme Court of New Mexico acting under its powers of contempt and superintending control. Judges shall comply with all rules, requirements, and procedures of the Judicial Standards Commission, shall cooperate with the Judicial Standards Commission in the performance of its functions, and shall comply with all laws applicable to judicial office."

Judge Silversmith has every intention of fulfilling her obligations and duties under the Code of Judicial Conduct, including her duty to cooperate with the Judicial Standards Commission in conducting this inquiry. However, Judge Silversmith requests that the Commission take into account her busy schedule in requesting any further information or appearances by her. Her current schedule is as follows: Mondays: Civil cases, In custody arraignments, Probation violations and compliance issues; Tuesdays: Traffic misdemeanors and Domestic Violence cases; Wednesdays: Preliminary Examinations and arraignments; Thursdays: DWI cases; Fridays: Summonses and arraignments. Judge Silversmith has 25 DWI jury trials currently scheduled for April 27 and 20 DWI jury trials currently scheduled for May 12.

Please let me know whatever else is needed to complete this inquiry.

Thank you.

  
William G. Stripp, Attorney for the Honorable April J. Silversmith.

#1

**NM Magistrate Judges Association  
Board Meeting  
April 26, 2019**

The meeting of the NM Magistrate Judges Association was held at Division II Magistrate Court in Ruidoso on April 26, 2019. President Pat Casados called the meeting to order.

**Directors present:**

- Pat Casados (President)
- Warren Walton (Vice President)
- Katie Lund (Secretary/Treasurer)

**Directors absent:**

- Steve Jones (Pro Tem)

**Board members present:**

- K.C. Rogers
- Karen Mitchell
- Cynthia Sanders
- Joel Cano
- Maurine Lancy
- Chris Baca
- David Finger
- Tim Hoto
- John Chavez
- Buddy Hall
- Tina Garcia
- George Anaya
- D'Ann Read
- April Silversmith

**Board members absent:**

- Michael Suggs

**1. Call to Order:**

- President Pat Casados called the meeting to order at 8:30AM.
- Joel Cano made a motion to call to order. K.C. Rogers seconded the motion. Motion passed.

**2. Approval of Agenda:**

- Approval of the minutes from 02/20/2019 board meeting with the addition of "to fully support the unified budget which includes HB173 and SJR 8 in Paragraph 4":
- Joel Cano made a motion to addition of verbiage to paragraph 4. Tim Hoto seconded the motion. Motion passed.
- Joel Cano made a motion to approve payments of session to members at \$30.00 per day and to allow Pat Casados to receive \$30.00 per day for a maximum of ten days. K.C. Rogers seconded the motion. Motion passed.

**3. Reports from Directors:**



**REGISTER OF ACTIONS**  
**CASE No. M-35-TR-2017-00358**

State of New Mexico v. CHELSEY THOMAS

02/08/2017 09:51:00 AM

Case Type: Traffic  
Date Filed: 02/08/2017  
Location:  
Judicial Officer: Silversmith, April J.

**PARTY INFORMATION**

		Attorneys
Defendant	<b>THOMAS, CHELSEY</b> 3185 Bluehill AVE Gallup, NM 87301 DL: NM506590183	Female DOB: 02/28/1992 5' 3", 125 lbs.
Plaintiff	State of New Mexico	

**CHARGE INFORMATION**

Charges: THOMAS, CHELSEY	Statute	Level	Date
1. Expired Registration of a Motor Vehicle	66-3-19	Petty Misdemeanor	02/02/2017

**EVENTS & ORDERS OF THE COURT**

<b>DISPOSITIONS</b>	
03/02/2017	Plea (Judicial Officer: Silversmith, April J.) 1. Expired Registration of a Motor Vehicle Not Guilty
03/02/2017	Disposition (Judicial Officer: Silversmith, April J.) 1. Expired Registration of a Motor Vehicle. Dismissed, Proof Shown

<b>OTHER EVENTS AND HEARINGS</b>	
02/08/2017	OPN: CITATION FILED
03/02/2017	APPEARANCE, PLEA AND WAIVER FILED
03/02/2017	Documentation Presented re: Registration
03/02/2017	ORD: Order Dismissing Traffic Charges
03/06/2017	CLS: DISMISSED WITHOUT PREJUDICE



v  
CHELSEY THOMAS, Defendant

No. M-35-TR-2017-00358

**APPEARANCE, PLEA AND WAIVER**

I acknowledge that I have been charged with a violation(s) of the following traffic offense(s) with maximum fines as follows:

(List offenses and maximum fines.)

66-3-19	Expired Registration Of A Motor Vehicle	fine of up to \$300.00
---------	---	------------------------

I further confirm that I have received a copy of the citation, and I have read and understand the crime(s) charged. I have been informed of my rights, as follows:

1. The right to personally appear before the court at every stage of these proceedings;
2. The right to a trial before the judge;
3. The right to present witnesses on my behalf and to confront and cross-examine witnesses;
4. The right to remain silent and that any statement made by me may be used against me;
5. The right to hire a lawyer.

I further understand that there is a penalty, as reflected above, provided by law for the offense or offenses for which I am charged. In addition, I must pay court fees up to \$62.00 per violation. I may pay an additional one time \$20.00 docket fee depending on the charges and if I plead not guilty and am found guilty. I may also have points assessed against my New Mexico driver's license.

If I plead not guilty, the Judge is not allowed to discuss the case until the time of the hearing or trial.

After reading and understanding the above, I hereby give up my right to personally appear before the McKinley County Magistrate Court in Gallup for an arraignment.

I request dismissal because I am providing proof that I was in compliance on the date of the citation as follows:

- driver's license;  vehicle registration;  insurance; [OR]

I voluntarily enter my plea of [mark one]:

- Not Guilty based upon proof shown according to local rule  
 Not Guilty to one or more charges (Trial will be set)  
 Guilty to all charges  
 No Contest to all charges (A plea of No Contest means that you neither admit nor deny the charge or charges, but that you are not contesting the charge and do not want a trial.)

If I plead guilty or no contest I will be required to pay the fees and potentially pay a fine as set by state law or local rule [mark one]:

- I am discharging my obligation to the court in this matter by returning this signed document and remitting \$ \_\_\_\_\_ payable to McKinley County Magistrate Court in Gallup [OR]  
 I am requesting a sentencing hearing before the judge.

3/21/17  
 Date: \_\_\_\_\_  
 [Redacted] Y/N [Redacted]  
 Date of Birth Under 18 Social Sec. No.  
 3188 Birchill Ave  
 Mailing Address (print)  
 Gallup NM 87301  
 City, State and Zip Code (print)  
 [Redacted]  
 Daytime Phone Cell Phone

*Chelsey Thomas*  
 Defendant Signature  
 Chelsey Thomas  
 Name (print)  
 3188 Birchill Ave  
 Physical Address (print)  
 Gallup NM 87301  
 City, State and Zip Code (print)  
 I have a commercial driver's license:  Y  N

RETURN BY \_\_\_\_\_ TO:

McKinley County Magistrate Court in Gallup, 285 South Boardman, STE C Gallup NM 87301  
Phone: (505) 722-6636 Fax: (505) 863-3510

Distribution 1 copy - Court 1 copy - Defendant 1 copy - AOC (As amended, effective November 1, 1995, 9-605)


Traffic Citation Worksheet, Criminal Form Admin 124

Court Information:

McKinley County Magistrate Court in Gallup 285 South Boardman, STE C

Gallup NM 87301 phone (505) 722-6636 fax (505) 863-3510 web site: www.mckinleycounty.org



- State of New Mexico - Motor Vehicle Division					
Certificate of Vehicle Registration					
HP	13A	20170203			
Reg Exp Date 2/28/2018	Vehicle Classification PASSENGER VEHICLE	License Number [REDACTED]		Audit number 059305687	
D.G.V.W 0	Vehicle Identification Number [REDACTED]		Make TOYO	Yr 1st Reg 2015	
Fees Paid 45.00	WT/Wheels 2820	Yr/Model 2016	Body Type 4D	Cyls 4	Series COROLL
Signature - Owner Must Sign <i>Chelsey Thomas</i>			OWNER AFFIRMS FINANCIAL RESPONSIBILITY AS DEFINED IN THE MANDATORY FINANCIAL RESPONSIBILITY ACT.		
Registered Owner Name and Address CHELSEY L THOMAS 3188 BLUE HILL GALLUP NM 87301					

THIS CERTIFICATE AND EVIDENCE OF FINANCIAL RESPONSIBILITY MUST BE AVAILABLE WHILE VEHICLE IS IN USE. MVD-10248 REV 09/16

M.35-TR-2017.358

RECEIVED IN THE  
MAGISTRATE COURT  
OF MCKINLEY COUNTY  
ON 3-2-17 RT

EXHIBIT  
B3

STATE OF NEW MEXICO  
MCKINLEY COUNTY MAGISTRATE COURT IN GALLUP

RECEIVED IN THE  
MAGISTRATE COURT  
OF MCKINLEY COUNTY  
ON 3-2-17

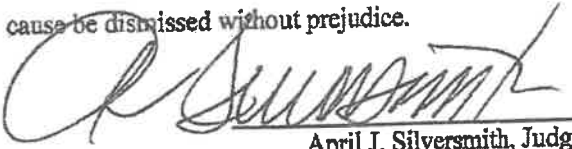
State of New Mexico  
v.  
CHELSEY THOMAS, Defendant

No. M-35-TR-2017-00358

**ORDER DISMISSING TRAFFIC CHARGE(S)**

This matter has come before the Court upon the defendant's fulfillment of requirements specified in statute or by court order.

It is hereby ordered that the charge(s) in the above-styled cause be dismissed without prejudice.

  
April J. Silversmith, Judge

USE NOTE

This form is to be used only when all charges against defendant are being dismissed. If some are dismissed and others are adjudicated, the court should use a judgment and sentence.

**CERTIFICATE OF SERVICE**

I CERTIFY that a copy of the foregoing was served on 3-6-17 to:

CHELSEY THOMAS

3188 Bluehill AVE  
Gallup, NM 87301

Robin Thompson, Clerk

**Court Information:**

M-CR-ADMIN-Dismissal for Traffic Charges  
McKinley County Magistrate Court in Gallup 285 South Boardman, STE C  
Gallup NM 87301 phone (505) 722-6636 fax (505) 863-3510 web site: [www.nmscourts.gov](http://www.nmscourts.gov)





MICHELLE LUJAN GRISHAM  
GOVERNOR

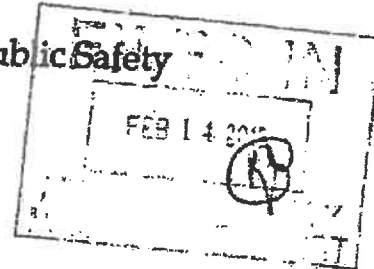


MARK H. SHEA  
CABINET SECRETARY-DESIGNATE

## New Mexico Department of Public Safety

February 12, 2019

To:  
McKinley County Magistrate Court - Gallup, NM  
Cibola County Magistrate Court - Grants, NM



New Mexico State Police, District 6 respectfully submit the following request:

Please consider dismissing certain traffic violations, if the defendant can show proof, to the court, that the violation has been resolved since the date the citation was issued. These citations are commonly referred to as "fix-it tickets."

We request this practice for the following violations:


- No insurance; 66-5-205
- Proof of insurance; 66-5-229
- No registration; 66-3-1
- Registration exhibited upon demand; 66-3-13
- Display of registration; 66-3-18
- Expired Registration; 66-3-19
- Notice of change of Address or name (on registration); 66-3-23
- Drivers must be licensed; 66-5-2
- License to be carried and exhibited on demand; 66-5-16
- Notice of change of Address or name (on license); 66-5-22
- Driving while license is suspended; 66-5-39
- Equipment violations; all statutes from 66-3-801 through 66-3-846.1, except for 66-3-802, 66-3-824, 66-3-825, 66-3-827, 66-3-831, 66-3-834, 66-3-835, 66-3-843 and 66-3-846.
- Vehicle in unsafe condition; 66-3-901

Please note that an Officer who issues one of the above citations may, at his or her discretion, ask the court not to dismiss the citation. However, the default is for the court to dismiss the above citations if the defendant has corrected the issue.

Also, please do not dismiss any of the above violations if they are part of an incident that resulted in multiple charges, where at least one charge is a non "fix-it ticket."

We request this system remain in place from the date of this letter through the entire calendar year of 2019. This system only applies to citations issued by members of the New Mexico State Police.

Thanks-you

  
Captain Troy Velasquez  
New Mexico State Police - District 6 Commander  
4200 E. Historic Hwy 66, Gallup, NM 87301



P.O. Box 1628 \* Santa Fe \* New Mexico \* 87504



**SUSANA MARTINEZ**  
GOVERNOR

**NEW MEXICO DEPARTMENT OF PUBLIC SAFETY**  
POST OFFICE BOX 1628 - SANTA FE, NEW MEXICO 87504-1628



<b>GREGORY J. FOURATT</b> CABINET SECRETARY-DEPUTY	<b>OFFICE OF THE SECRETARY</b> 505/ 827-3370	<b>MOTOR TRANSPORTATION POLICE</b> 505/ 476-2457	<b>SPECIAL INVESTIGATIONS</b> 505/ 841-8053
<b>PETE N. KASSETAS</b> CHIEF / DEPUTY SECRETARY LAW ENFORCEMENT OPERATIONS	<b>OFFICE OF THE CHIEF NEW MEXICO STATE POLICE</b> 505/ 827-9219	<b>ADMINISTRATIVE SERVICES</b> 505/ 827-2322	<b>TECHNICAL SUPPORT</b> 505/ 827-3382
<b>SCOTT WEAVER</b> ACTING DEPUTY SECRETARY SPECIAL LAW ENFORCEMENT SERVICES AND SUPPORT	<b>OFFICE OF THE DEPUTY SECRETARY</b> 505/ 827-9102	<b>INFORMATION TECHNOLOGY</b> 505/ 827-2418	<b>TRAINING AND RECRUITING</b> 505/ 827-9252

**MOTION TO DISMISS CHARGES ON OFFICER'S MOTION**

The officers of the New Mexico State Police hereby request the Honorable Cynthia Sanders, Honorable April Silversmith, Honorable Kenneth Howard Jr, Honorable Larry Diaz, and Honorable Johnny Valdez, Magistrate Courts for McKinley and Cibola Counties dismiss the following charges if the defendant meets the criteria set forth below:

**No Insurance 66-5-205 or 66-5-229(c)**

Defendant shows proof that valid insurance has been obtained and is now current, or was current at the time of the citation, for the vehicle listed on the citation.

**No Registration 66-3-1**

**Expired Registration 66-3-18 or 66-3-19**

**Registration on Demand 66-5-13**

Defendant shows proof that valid registration has been obtained and is now current, or was current at the time of the citation for the vehicle listed on the citation.

**Driver Must Be Licensed 66-5-2**

**License to be Carried 66-5-16**

**Suspended/Revoked License 66-5-39**

Defendant shows proof that a driver's license has been obtained and is now valid, or shows proof that the license was valid at the time the citation was issued.  
For Suspended/Revoked license 66-5-39, it will be for Suspended ONLY citations

**Sun Screening Materials on Windows**

**66-3-836.1**

Defendant shows proof of removal.

**Headlamps 66-3-804**

**Tail Lamps 66-3-805**

Defendant shows proof of repair.

FILED IN  
MAGISTRATE COURT  
2015 MAR 18 PM 9 46  
McKINLEY COUNTY  
GALLUP, NM



**CALEA**  
ACCREDITED LAW ENFORCEMENT AGENCY

MOTION TO DISMISS CHARGES ON OFFICER'S MOTION  
03/05/15  
PAGE 2

FILED IN  
MAGISTRATE COURT

2015 MAR 6 AM 11 55

The officers request that the court set any case for trial where the ~~essential~~ Facts section of the citation "Set For Trial".  
GALLUP, NM

This motion signed on behalf of all law enforcement officers employed by the agency listed above which is located within McKinley and Cibola county having statewide jurisdiction.

Mitchell Maestas  
Captain Mitchell B. Maestas  
Commander District 6, Gallup  
New Mexico State Police  
4200 E. Historic Highway 66  
Gallup, N.M. 87301  
Office-(505) 863-9353  
Fax-(505) 722-2043

**REGISTER OF ACTIONS**  
**CASE NO. M-35-TR-2019-00610**

State of New Mexico v. CHELSEY THOMAS

03/28/2019 09:47:47 AM

Case Type: Traffic  
Date Filed: 03/28/2019  
Location:  
Judicial Officer: Silversmith, April J.

**PARTY INFORMATION**

		Attorneys
Defendant	THOMAS, CHELSEY 3188 Bluehill AVE Gallup, NM 87301 DL: NM506590183	Female DOB: 02/28/1992 6' 3", 125 lbs
Plaintiff	State of New Mexico	

**CHARGE INFORMATION**

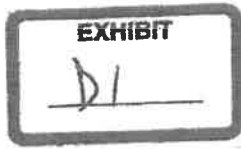
Charges: THOMAS, CHELSEY	Statute	Level	Date
1. Speeding (Over by 1-10)	66-7-301	Petty Misdemeanor	03/28/2019

**EVENTS & ORDERS OF THE COURT**

DISPOSITIONS	
06/13/2019	Plea (Judicial Officer: Silversmith, April J.) 1. Speeding (Over by 1-10) Not Guilty
06/21/2019	Disposition (Judicial Officer: Silversmith, April J.) 1. Speeding (Over by 1-10) Dismissed by Prosecutor / Nolle Prosequi

OTHER EVENTS AND HEARINGS	
03/28/2019	OPN: CITATION FILED
03/28/2019	Count 1 Citation
06/13/2019	APPEARANCE, PLEA AND WAIVER FILED
08/14/2019	CANCELED Arraignment (8:30 AM) (Judicial Officer Silversmith, April J.) Plea Before Trial
08/21/2019	NTC: Notice of Dismissal
06/25/2019	CLS: DISMISSED WITHOUT PREJUDICE
07/09/2019	CANCELED Non Jury Trial (8:30 AM) (Judicial Officer Silversmith, April J.) Case Dismissed





MICROFILM NUMBER, DO NOT PRINT ABOVE THIS LINE

STATE OF NEW MEXICO  
UNIFORM TRAFFIC CITATION

MCKINLEY COUNTY  
SHERIFFS  
DEPARTMENT

COUNTY CODE 1 3  
AGENCY CODE 1 1 3  
1173116 3

NAME (LAST)

THOMAS

NAME (FIRST)

CHELSEY

PHYSICAL ADDRESS

3188 BLUE HILL AVE

MAILING ADDRESS

SAME AS ABOVE

CITY GALUP  
CITY

STATE NM  
STATE

ZIP CODE 87301  
ZIP CODE

STATE NM DRIVER LICENSE NUMBER

DATE OF BIRTH

SOCIAL SECURITY NUMBER

SEX F HEIGHT 5 3

WEIGHT 130

EYE COLOR BRN

LICENSE PLATE NUMBER

STATE NM VEH VR 18 COLOR GRAY TYPE / MAKE / MODEL HONDA CIVIC 4DR

CITY

LICENSE TYPE LP V D E A B C Y N Y

HAZMAT PL

PASS TR

DOT NUMBER

TRAFFIC

WEATHER

ROAD

LIGHT

ACCIDENT

STATUTE 66-7-301 SPEEDING

CZ

STATUTE 66-8-229C NO INSURANCE PROOF

STATUTE

65 MPH IN A 55 ZONE

RH

STATUTE 66-7-372 NO SEAT BELTS

DATE 032619 1951 2664

DISTRICT 6 MILE POST 2

LOCATION

SR 264 EB

OFFICER'S PRINTED NAME

W. H. [Signature]

ESSENTIAL FACTS

WB VS EB, RAPTOR [Signature]

FILED IN  
MAR 27 2019  
ORDINANCE  
MCKINLEY COUNTY  
MAGISTRATE COURT

PENALTY ASSESSMENT: I acknowledge my guilt of the offense charged and my options as explained to me by the officer. I agree to remit by mail the penalty assessment of \_\_\_\_\_ OFFICER MAY NOT AC

TRAFFIC ARRAIGNMENT: You are hereby ordered to appear in \_\_\_\_\_ COURT on \_\_\_\_\_ at \_\_\_\_\_ AM/PM. My failure to appear will result in the issuance of a warrant and I will be required to pay an additional \$100.00 warrant fee. I am admitting guilt, I will appear as ordered.

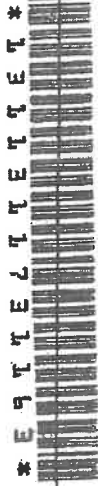
COURT APPEARANCE: I acknowledge receipt of this notice and without admitting guilt agree to appear in \_\_\_\_\_ MAGISTRATE court. Address \_\_\_\_\_ on (or by) \_\_\_\_\_, 2019 at 10:00 AM/PM.

WARNING NOTICE: I acknowledge receipt of this notice and agree that a violation of the law has been committed. No further action is required.

Signature: [Signature] Agree to the above marked determination.

COURT COPY

13113 1173116 3



M35TR02019-00010

STATE OF NEW MEXICO  
MCKINLEY COUNTY MAGISTRATE COURT IN GALLUP

State of New Mexico  
v  
CHELSEY THOMAS, Defendant

No. M-35-TR-2019-00610

APPEARANCE, PLEA AND WAIVER

I acknowledge that I have been charged with a violation(s) of the following traffic offense(s) with maximum fines as follows:

(List offenses and maximum fines.)

66-7-301 Speeding (over By 1-10)

fine of up to \$300.00  
FILED IN  
JUN 13 2019  
MCKINLEY COUNTY  
MAGISTRATE COURT

I further confirm that I have received a copy of the citation, and I have read and understand the criminal charge(s) I have been informed of my rights, as follows:

1. The right to personally appear before the court at every stage of these proceedings;
2. The right to a trial before the judge;
3. The right to present witnesses on my behalf and to confront and cross-examine witnesses;
4. The right to remain silent and that any statement made by me may be used against me;
5. The right to hire a lawyer.

I further understand that there is a penalty, as reflected above, provided by law for the offense or offenses for which I am charged. In addition, I must pay court fees up to \$62.00 per violation. I may pay an additional one time \$20.00 docket fee depending on the charges and if I plead not guilty and am found guilty. I may also have points assessed against my New Mexico driver's license.

If I plead not guilty, the Judge is not allowed to discuss the case until the time of the hearing or trial. After reading and understanding the above, I hereby give up my right to personally appear before the McKinley County Magistrate Court in Gallup for an arraignment,

- I request dismissal because I am providing proof that I was in compliance on the date of the citation as follows:
- driver's license;  vehicle registration;  insurance: [OR]

I voluntarily enter my plea of [mark one]:

- Not Guilty based upon proof shown according to local rule
- Not Guilty to one or more charges (Trial will be set)
- Guilty to all charges
- No Contest to all charges (A plea of No Contest means that you neither admit nor deny the charge or charges, but that you are not contesting the charge and do not want a trial.)

If I plead guilty or no contest I will be required to pay the fines and potentially pay a fine as set by state law or local rule [mark one]:

- I am discharging my obligation to the court in this matter by returning this signed document and remitting \$\_\_\_\_\_ payable to McKinley County Magistrate Court in Gallup [OR]
- I am requesting a sentencing hearing before the judge.  \_\_\_\_\_ interpreter needed.

6/13/19  
Date  
\_\_\_\_\_  
Date of Birth Under 18?  Social Sec. No. \_\_\_\_\_  
3188 Bluehill Ave  
Mailing Address (print)  
Gallup NM 87301  
City, State and Zip Code (print)  
\_\_\_\_\_  
Daytime Phone Cell Phone

*Chelsey Thomas*  
\_\_\_\_\_  
Defendant Signature  
Chelsey Thomas  
\_\_\_\_\_  
Name (print)  
3188 Bluehill Ave.  
\_\_\_\_\_  
Physical Address (print)  
Gallup NM 87301  
\_\_\_\_\_  
City, State and Zip Code (print)

I have a commercial driver's license:  /  N

McKinley County Magi

EXHIBIT  
D3

STE C Gallup NM 87301  
10

STATE OF NEW MEXICO  
MCKINLEY COUNTY MAGISTRATE COURT IN GALLUP

**FILED IN**  
JUN 21 2019  
MCKINLEY COUNTY  
MAGISTRATE COURT

STATE OF NEW MEXICO  
v.  
CHELSEY THOMAS, Defendant

No. M-35-TR-2019-00610

**NOTICE OF DISMISSAL**

The above-captioned case is a (check applicable alternative):

- FELONY CASE
- NON-FELONY CASE

The complaint filed in this case is dismissed without prejudice pending further investigation. Criminal charges may be refiled at a later time.

Prosecutor

MCSO #2664

**CERTIFICATE OF SERVICE**

I hereby certify that on Friday June 21, 2019 this Notice of Dismissal was

mailed by United States first class mail and addressed to:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State and zip code: \_\_\_\_\_

faxed by \_\_\_\_\_ (name of person who faxed document) to \_\_\_\_\_ (name of recipient) at \_\_\_\_\_ (telephone number).

The transmission was reported as complete. The time and date of the transmission was \_\_\_\_\_ [a.m.] [p.m.] on \_\_\_\_\_ (date).

e-mailed by \_\_\_\_\_ (name of person who transmitted) to \_\_\_\_\_ at \_\_\_\_\_ (electronic mail address of recipient) which address is on file with the clerk of the Supreme Court. The transmission was successful. The time and date of the transmission was \_\_\_\_\_ [a.m.] [p.m.] on \_\_\_\_\_ (date).

Signature of attorney

Date of signature

If this notice was served by a person other than an attorney, the following must also be completed and filed with the court.

**AFFIDAVIT OF SERVICE**

I declare under penalty of perjury that a copy of this notice of dismissal was served by [mail] [fax] [electronic transmission] as described above on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Signature of person who made service

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Judge, notary or other officer  
authorized to administer oaths

Official title

**EXHIBIT**  
D4

Distribution: 1 Copy - Court 1 Copy - Defendant 1 Copy - Prosecutor

Court Information: McKinley County Magistrate Court in Gallup 285 South Boardman, STE C  
Gallup NM 87301 phone (505) 722-6636 (fax) (505) 863-3510 web site: www.nmcourts.gov

**REGISTER OF ACTIONS**  
**CASE NO. M-35-TR-2016-00651**

State of New Mexico v. STEPHEN SILVERSMITH

03/02/2016 03/02/2016 03/02/2016 03/02/2016 03/02/2016

Case Type: Traffic  
 Date Filed: 03/02/2016  
 Location:  
 Judicial Officer: Hall, Buddy J.

**PARTY INFORMATION**

		Attorneys
<b>Defendant</b>	<b>SILVERSMITH, STEPHEN</b> 501 Coal Ave. SW Apt #215 Albuquerque, NM 87102 DL: NM500842261	Male Indian DOB: 03/21/1987 5' 11", 130 lbs
<b>Plaintiff</b>	<b>State of New Mexico</b>	

**CHARGE INFORMATION**

Charges:	Statute	Level	Date
1. Speeding (Over by 11 - 15)	68-7-301	Petty Misdemeanor	02/29/2016
2. No Proof of Insurance	66-5-229	Petty Misdemeanor	02/29/2016

**EVENTS & ORDERS OF THE COURT**

DISPOSITIONS																	
03/28/2016	<b>Plea</b> (Judicial Officer: Hall, Buddy J.) 1. Speeding (Over by 11 - 15) Not Guilty 2. No Proof of Insurance Not Guilty																
07/07/2016	<b>Amended Plea</b> (Judicial Officer: Hall, Buddy J.) Reason: Plea Agreement 1. Speeding (Over by 11 - 15) No Contest																
07/07/2016	<b>Disposition</b> (Judicial Officer: Hall, Buddy J.) 1. Speeding (Over by 11 - 15) Conviction - Plea																
07/07/2016	<b>Financial Sentence</b> (Judicial Officer: Hall, Buddy J.) 1. Speeding (Over by 11 - 15) Fee Totals: <table border="0" style="margin-left: 40px;"> <tr><td>Criminal Penalty</td><td>\$30.00</td></tr> <tr><td>Assessment Fine</td><td></td></tr> <tr><td>Criminal Petty Misd.</td><td>\$61.00</td></tr> <tr><td>Traffic Assessments</td><td></td></tr> <tr><td>Criminal Juvenile</td><td>\$1.00</td></tr> <tr><td>Adjudication Fee</td><td></td></tr> <tr><td>Criminal Court Costs</td><td>\$20.00</td></tr> <tr><td><b>Fee Totals \$</b></td><td><b>\$112.00</b></td></tr> </table>	Criminal Penalty	\$30.00	Assessment Fine		Criminal Petty Misd.	\$61.00	Traffic Assessments		Criminal Juvenile	\$1.00	Adjudication Fee		Criminal Court Costs	\$20.00	<b>Fee Totals \$</b>	<b>\$112.00</b>
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Adjudication Fee																	
Criminal Court Costs	\$20.00																
<b>Fee Totals \$</b>	<b>\$112.00</b>																
07/12/2016	<b>Disposition</b> (Judicial Officer: Hall, Buddy J.) 2. No Proof of Insurance Dismissed by Prosecutor / Nolle Prosequi																

OTHER EVENTS AND HEARINGS	
03/02/2016	<b>OPN: CITATION FILED</b>
03/25/2016	<b>CERTIFICATE OF EXCUSAL/RECUSAL FILED</b> (Judicial Officer: Howard, Kenneth, Jr.)
03/25/2016	<b>NTC: OF REASSIGNMENT ISSUED</b> (Judicial Officer: Hall, Buddy J.)
03/28/2016	<b>APPEARANCE, PLEA AND WAIVER FILED</b>
03/28/2016	<b>MTN: TO APPEAR TELEPHONICALLY</b>
03/28/2016	<b>RETURNED MAIL</b>
04/04/2016	<b>CANCELED Arraignment (10:00 AM)</b> (Judicial Officer Hall, Buddy J.) Other- Comments Required
05/02/2016	<b>Pre-Trial Hearing (10:00 AM)</b> (Judicial Officer Hall, Buddy J.) Parties Present Result: Failure to Appear - Defendant





05/02/2016 **WAR: BENCH WARRANT ISSUED**  
 05/02/2016 **BWE: BENCH WARRANT LETTER ISSUED**  
 05/02/2016 **MVD NTC of Failure to Appear in Court**  
     *(e-sent to MVD)*  
 05/03/2016 **CORRESPONDENCE**  
 05/03/2016 **WAR: Pre-Adjudication Warrant Quashed**  
 05/03/2016 **MVD NTC of Compliance for Failure to Appear in Court**  
     *(e-sent to MVD)*  
 05/09/2016 **WAR: PHYSICAL WARRANT RETURNED**  
 07/07/2016 **Non Jury Trial** (10:00 AM) (Judicial Officer Hall, Buddy J.)  
     Parties Present  
     Result: Held  
 07/07/2016 **ORD: ORDER ADJUSTING FINES/ FEES**  
 07/07/2016 **COMMUNITY SERVICE IN LIEU OF ORDERED** (Judicial Officer: Hall, Buddy J.)  
 07/07/2016 **AGREEMENT TO PAY FINE AND FEES FILED**  
 07/12/2016 **Documentation Presented re: Insurance**  
 07/12/2016 **NCI: JUDGMENT AND SENTENCE**  
 08/03/2016 **CORRESPONDENCE**  
 08/04/2016 **COMMUNITY SERVICE IN LIEU OF EXTENSION**  
 09/01/2016 **ORD: ORDER ADJUSTING FINES/ FEES**  
 09/15/2016 **CLS: ALL OBLIGATIONS MET**

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**FINANCIAL INFORMATION**

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	Defendant SILVERSMITH, STEPHEN	212.00
	Total Financial Assessment	212.00
	Total Payments and Credits	0.00
	<b>Balance Due as of 03/15/2020</b>	
		100.00
05/02/2016	Transaction Assessment	(100.00)
07/07/2016	Ordered by Judge	112.00
07/07/2016	Transaction Assessment	
09/01/2016	Community Service in lieu of Fines and Fees	(112.00)

**REGISTER OF ACTIONS**  
**CASE NO. T-4-PR-2015-006035**

City of Albuquerque vs. STEPHEN SILVERSMITH

09/22/2015 09:22:20 AM

Case Type: Parking  
Date Filed: 09/22/2015  
Location: Bernalillo Metropolitan  
Judicial Officer: Valdez, Victor E.

**PARTY INFORMATION**

		Attorneys	
Defendant	SILVERSMITH, STEPHEN 501 Coal Ave. SW Apt #215 Albuquerque, NM 87102 DL: NM500842281	Male Indian DOB: 03/21/1987 5' 11", 130 lbs	
Plaintiff	City of Albuquerque		

**CHARGE INFORMATION**

Charges:	Statute	Level	Date
1. 2 HOUR PARKING LIMITED BY SIGN	8-5-1-3	Petty Misdemeanor	09/02/2015

**EVENTS & ORDERS OF THE COURT**

- DISPOSITIONS**
- 08/07/2016 Disposition (Judicial Officer: Sedillo, Frank A.)  
1. 2 HOUR PARKING LIMITED BY SIGN  
Dismissed by Prosecutor - Prosecutor Gave Warning
- OTHER EVENTS AND HEARINGS**
- 09/22/2015 **OPN: CITATION FILED**
  - 09/22/2015 **Count 1 Citation**
  - 09/29/2015 **MISCELLANEOUS ENTRY**  
2nd summons jg.
  - 09/29/2015 **RETURNED MAIL**  
1st summons jg.
  - 10/29/2015 **AFFIDAVIT OF BENCH WARRANT**  
CRT: Failure to Respond to Parking Citation
  - 11/01/2015 **WAR: Warrant Ordered**
  - 11/02/2015 **WAR: Non-Arrestable Parking Warrant Issued**
  - 08/01/2016 **WAR: Non-Arrestable Parking Warrant Canceled**
  - 08/02/2016 **WAR: PHYSICAL WARRANT RETURNED**
  - 06/07/2016 **Traffic Arraignment, (8:15 AM) (Judicial Officer Sedillo, Frank A.)**  
Parties Present  
Result: Held
  - 06/07/2016 **WAR: Non-Arrestable Parking Warrant Quashed**
  - 06/07/2016 **ORD: On Bench Warrant**  
Document attached by TA.
  - 06/07/2016 **NTC: Notice of Dismissal (All Charges)**  
Notice of Dismissal generated in TA.
  - 06/07/2016 **CLS: DISMISSED**  
Case dismissed of all charges in TA.

