



**IN THE SUPREME COURT  
OF THE STATE OF NEW MEXICO**

No. S-1-SC-39802

IN THE MATTER OF HON. DEV ATMA S. KHALSA  
Santa Fe County Magistrate Court, New Mexico

INQUIRY CONCERNING HON. DEV ATMA S. KHALSA  
JSC Inquiry No. 2023-018

**FILED UNDER SEAL**

PURSUANT TO 27-104(B) NMRA

**PETITION TO ACCEPT STIPULATION TO PERMANENT  
RESIGNATION FROM JUDICIAL OFFICE IN LIEU OF  
FURTHER DISCIPLINARY PROCEEDINGS**

JUDICIAL STANDARDS COMMISSION  
6200 Uptown Blvd. NE, Suite 340  
Albuquerque, NM 87110-4159  
(505) 222-9353

PHYLLIS A. DOMINGUEZ  
*Executive Director & General Counsel*

KARA JOHNSON  
*Investigative Trial Counsel*

*Counsel for Petitioner*

Briggs Cheney  
Dixon • Scholl • Carrillo • P.A.  
P.O. Box 94147  
Albuquerque, NM 87199-4147  
(505) 244-3890

*Counsel for Respondent*

IN THE SUPREME COURT  
OF THE STATE OF NEW MEXICO

No. S-1-SC-39802

IN THE MATTER OF HON. DEV ATMA S. KHALSA  
Santa Fe County Magistrate Court, New Mexico

INQUIRY CONCERNING HON. DEV ATMA S. KHALSA  
JSC Inquiry No. 2023-018

**FILED UNDER SEAL**

PURSUANT TO 27-104(B) NMRA

**PETITION TO ACCEPT STIPULATION TO PERMANENT  
RESIGNATION FROM JUDICIAL OFFICE 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 to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* (“*Stipulation*”), attached hereto as **Exhibit 1**, in which Hon. Dev Atma S. Khalsa (“Respondent”), represented by Briggs Cheney, Esq., has

elected to permanently resign from judicial office to be effective by 5:00 p.m. the same day this Court enters an order approving this Petition.

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

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 March 1, 2023, in Inquiry No. 2023-018 (*See Exhibit A to Exhibit 1*). Respondent filed his Response to the Notice of Formal Proceedings on March 23, 2023. (*See Exhibit B to Exhibit 1*).

3. This Court placed Respondent on temporary indefinite

administrative leave with pay under its power of superintending control on February 27, 2023 (*See Exhibit C to Exhibit 1*). The Commission filed a petition for immediate temporary suspension without pay on March 1, 2023, pursuant to JSC Rule 24 and Rule 27-201 of the Supreme Court's Rules Governing Judicial Standards Commission Proceedings (*See Exhibit D to Exhibit 1*). This Court granted the Commission's petition on April 7, 2023 (*See Exhibit F to Exhibit 1*).

4. On May 9, 2023, Respondent requested through his counsel that this matter be disposed of by entering into a *Stipulation to Permanent Resignation in Lieu of Further Disciplinary Proceedings* ("*Stipulation*") with the Commission whereby Respondent shall resign permanently from judicial office and never again seek judicial office in New Mexico.

5. The Commission agreed that Respondent's request for permanent resignation in lieu of further disciplinary proceedings should be recommended and entered into the *Stipulation* whereby the Commission shall close Inquiry 2023-018 upon approval and order by the New Mexico Supreme Court of Respondent's permanent resignation.

6. Respondent understood and acknowledged that, based upon the *Stipulation*, their resignation is permanent, and if he 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 resignation. 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 resign, 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.

7. 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.

8. The *Stipulation* is an equitable remedy that complies with Respondent's request to resign 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.

9. Following a vote of the Commissioners, the Commission entered into a *Stipulation* with the Respondent on May 22, 2023, which provides in pertinent part the following:

A. Respondent agrees to permanent resignation from judicial office effective 5:00 p.m. on the same date the New Mexico Supreme Court enters an Order approving this *Petition*.

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.


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

11. 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 Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*.

WHEREFORE, Petitioner respectfully requests this Court issue an order approving the *Stipulation*, granting the Commission's *Petition to Accept Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*, and ordering the permanent resignation from judicial office of Respondent, Hon. Dev Atma S. Khalsa. 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

  
\_\_\_\_\_  
PHYLLIS A. DOMINGUEZ,  
*Executive Director & General Counsel*

KARA JOHNSON,  
*Investigative Trial Counsel*  
6200 Uptown Blvd. NE, Suite 340  
Albuquerque, NM 87110-4159  
Telephone: (505) 222-9353

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing was filed and served via the Supreme Court's Electronic Filing and Service System addressed to Briggs Cheney, Esq., bcheney@dsc-law.com, on this 22<sup>nd</sup> day of May, 2023.

*Kara Johnson*  
\_\_\_\_\_  
Kara Johnson



**FILED**

MAY 22 2023

BEFORE THE JUDICIAL STANDARDS COMMISSION  
STATE OF NEW MEXICO

**NM JUDICIAL**  
**STANDARDS COMMISSION**

INQUIRY CONCERNING HON. DEV ATMA S. KHALSA  
Santa Fe County Magistrate Court

Inquiry No. 2023-018

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

THIS MATTER is currently pending before the Judicial Standards Commission ("Commission") pursuant to the *Notice of Formal Proceedings* issued to Hon. Dev Atma S. Khalsa ("Respondent") on March 1, 2023 in Inquiry No. 2023-018 (*See Exhibit A*). Respondent filed his response to the Notice of Formal Proceedings on March 23, 2023 (*See Exhibit B*).

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

Prior to issuance of the *Notice of Formal Proceedings*, the Supreme Court placed Respondent on temporary indefinite administrative leave with pay under its power of Superintending Control on February 27, 2023. (*See Exhibit C*). Pursuant to JSC Rule 24 and Rule 27-201 of the Supreme Court's Rules Governing Judicial Standards Commission Proceedings, the Commission filed a petition with the Supreme Court to request immediate temporary suspension without pay, to bring the suspension within the Commission's jurisdiction on March 1, 2023 (*See Exhibit D*). On April 3, 2023 Respondent filed a response opposing the Commission's petition for immediate temporary suspension without pay (*See Exhibit E*). On April 7, 2023 the Supreme Court granted the Commission's petition for immediate temporary suspension without pay (*See Exhibit F*).

**Investigative Trial  
Counsel  
Exhibit #1**

On May 9, 2023, Respondent requested through their counsel that this matter be disposed of now by entering into a stipulation agreement with the Commission whereby Respondent would agree to permanently resign from judicial office. It is Respondent's choice and intention to dispose of the charges alleged in the pending *Notice of Formal Proceedings* by entering into this *Stipulation* with the Commission where Respondent agrees to permanently resign from judicial office in lieu of further disciplinary proceedings and never again seek judicial office in New Mexico.

The Commission agrees that a stipulation for the permanent resignation of Respondent in lieu of further disciplinary proceedings is in the best interests of justice and enters this *Stipulation* whereby the Commission shall close Inquiry No. 2023-018 upon issuance of an order by the New Mexico Supreme Court accepting this *Stipulation* and Respondent's permanent resignation.

Respondent understands and acknowledges that, based upon this *Stipulation*, his resignation is permanent, and if he 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(ies). Respondent understands and acknowledges this *Stipulation* is an equitable remedy that best serves the interests of justice and has voluntarily agreed to permanently resign. 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 resign 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:

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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 resign as judge of the Santa Fe County Magistrate Court effective at 5:00 p.m. on the same day the Supreme Court enters an order approving this *Stipulation*. Grounds for this *Stipulation* include the charges stated in the *Notice of Formal Proceedings* attached hereto as Exhibit A, Respondent's voluntary decision to permanently resign and never again seek judicial office, and to avoid further disciplinary proceedings before the Commission. Upon acceptance of this *Stipulation* by the Court, Respondent shall permanently resign by submitting triplicate original letters of resignation addressed to the Chief Justice of the New Mexico Supreme Court, the Chief Judge of the First Judicial District Court, and to the Governor of the State of New Mexico, with a copy to the Judicial Standards Commission.

3. Upon resignation, 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 Resignation 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*.

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5. Upon granting the *Petition* and pursuant to Rule 27-104(B) the Commission requests the Court unseal the *Petition* and its file in this matter.

6. 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. 2023-018).

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

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

9. Respondent shall not make any public misrepresentations concerning this inquiry, the facts and circumstances of Respondent's permanent resignation, the Commission's proceedings, or the disposition.

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

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

12. 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. 2023-018, shall be deemed admitted by the Respondent, will be used against Respondent in future proceedings before the Commission and the Supreme Court and may constitute obstruction of Commission business and contempt.

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

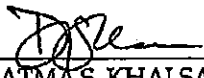
14. All parties have read and understand this *Stipulation*, have had the opportunity to discuss it with and be advised by legal counsel, and hereby freely and voluntarily enter into this *Stipulation* free of any threats, and free of any promises not contained herein.

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 into 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 Supreme Court. I 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 will 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. DEV ATMA S. KHALSA  
Respondent

Dated: 5/18/23

COUNSEL FOR RESPONDENT'S REVIEW AND APPROVAL

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



BRIGGS CHENEY, ESQ.  
Counsel for Respondent

Dated: May 18, 2023

INVESTIGATIVE TRIAL COUNSEL'S REVIEW AND APPROVAL

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

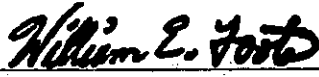


KARA JOHNSON  
Investigative Trial Counsel

Dated: 05/18/2023

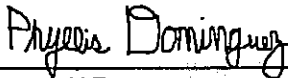
JUDICIAL STANDARDS COMMISSION'S REVIEW & APPROVAL

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



WILLIAM E. FOOTE, PH.D.  
Chair

Dated: 5/22/2023



PHYLLIS A. DOMINGUEZ  
Executive Director & General Counsel

Dated: 05/22/2023

**BEFORE THE JUDICIAL STANDARDS COMMISSION  
OF THE STATE OF NEW MEXICO**

INQUIRY CONCERNING HON. DEV ATMA S. KHALSA  
Santa Fe County Magistrate Court  
Inquiry No. 2023-018

**FILED**

MAR 01 2023 

**NM JUDICIAL  
STANDARDS COMMISSION**

**NOTICE OF FORMAL PROCEEDINGS**

TO: Hon. Dev Atma S. Khalsa  
Santa Fe County Magistrate Court  
P.O. Box 5138  
Santa Fe, NM 87505

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 Judicial Standards Commission Rule 15, has instituted formal proceedings on the charges set forth below.

**COUNT 1**

On or about February 26, 2023, you created the appearance of impropriety and failed to promote public confidence in the integrity of the judiciary when, after Santa Fe Police Officers responded to a single-car accident, you were arrested and charged with Operating a Motor Vehicle Under the Influence of Intoxicating Liquor or Drugs pursuant to City of Santa Fe Ordinance 12-6-12.1(D).

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

**COUNT 2**

On or about February 26, 2023, you created the appearance of impropriety and failed to promote public confidence in the integrity of the judiciary when you allegedly drove your motor vehicle, which was involved in a single-car accident, while your license was expired contrary to City of Santa Fe Ordinance 12-6-12.5. You were subsequently arrested and charged with this violation.

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

**EXHIBIT A**

**COUNT 3**

On or about February 26, 2023, you created the appearance of impropriety and failed to promote public confidence in the integrity of the judiciary when you allegedly drove your motor vehicle, which was involved in a single-car accident, in a careless, inattentive, or imprudent manner without due regard for the attendant circumstances contrary to City of Santa Fe Ordinance 12-6-12.4.

Such conduct violates the Code of Judicial Conduct Rules 21-101 and 21-102 NMRA 2020 and may constitute 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 the Commission electronically (call for filing e-mail address) or by mail sent to:

*Judicial Standards Commission  
6200 Uptown Blvd. NE, Suite 340  
Albuquerque, New Mexico 87110-4159*

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 its privilege 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:



William E. Foote, Ph. D., Chair  
6200 Uptown Blvd. NE, Suite 340  
Albuquerque, NM 87110-4159  
(505) 222-9353



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1<sup>st</sup> day of March 2023 a true copy of the foregoing was sent  
as follows:

**VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED**  
**RESPONDENT**

Hon. Dev Atma S. Khalsa  
Santa Fe County Magistrate Court  
P.O. Box 5138  
Santa Fe, NM 87505

JUDICIAL STANDARDS COMMISSION

A handwritten signature in black ink, appearing to read "Andrew J. [unclear]", is written over a horizontal line.

**FILED**

MAR 23 2023

**NM JUDICIAL  
STANDARDS COMMISSION**

**JUDICIAL STANDARDS COMMISSION  
FOR THE STATE OF NEW MEXICO**

**INQUIRY CONCERNING A JUDGE**  
*JSC Inquiry No. 2023-018*

**IN THE MATTER  
HON. DEV ATMA S. KHALSA**

**RESPONSE TO NOTICE OF FORMAL CHARGES**

Respondent, Judge Dev Atma S. Khalsa, responds to the Commission's *Notice of Formal Charges* as follows:

**COUNT 1**

In response to Count 1, Respondent admits that on February 26, 2023, he lost control over his vehicle and left the roadway. No other vehicles were involved. Respondent also admits that Santa Fe Police Officers responded to the accident and charged Respondent as set out in Count I. Respondent has retained counsel and entered a plea of not guilty to the charged violations of Santa Fe Ordinance 12-6-12.1(D) and that matter remains pending.

Respondent disagrees, and thus denies, that the alleged conduct violated the cited provisions of the Judicial Code of Conduct Rules. Respondent specifically denies that his actions were willful.

**EXHIBIT B**

## COUNT 2

In response to Count I, Respondent admits that on February 26, 2023, he lost control over his vehicle and left the roadway. No other vehicles were involved. Respondent admits his license had expired three days before the accident and has been reinstated.

Respondent disagrees, and thus denies, that the alleged conduct violated the cited provisions of the Judicial Code of Conduct Rules. Respondent specifically denies that his actions were willful.

## COUNT 3

In response to Count 3, Respondent admits that on February 26, 2023, he lost control over his vehicle and left the roadway. No other vehicles were involved. Respondent also admits that Santa Fe Police Officers responded to the accident and charged Respondent as set out in Count 3 driving a vehicle in a careless, inattentive, or imprudent manner in violation of Santa Fe Ordinance 12-6-12.4. Respondent has retained counsel and entered a plea of not guilty to the charged violations of the Santa Fe Ordinance and that matter remains pending.

Respondent disagrees, and thus denies, that the alleged conduct violated the cited provisions of the Judicial Code of Conduct Rules. Respondent specifically denies that his actions were willful.

## DEFENSES

1. Respondent acknowledges that he has been charged with violations of Santa Fe Ordinances relating to the operation of a motor vehicle, he has retained counsel and entered a plea of not guilty to those ordinance violations. A trial on those charges will follow. Respondent believes that a presumption of innocence governs, and it is unfair and incorrect to assert the complained conduct violates the Code of Judicial Conduct.

2. The circumstances surrounding Respondent's vehicle leaving the roadway is being investigated and other circumstances may explain the cause of the Respondent losing control.

3. Because the Formal Charges herein raise questions relating to impairment related to alcohol, NMRA 21-214(A) should be asserted by way of defense.

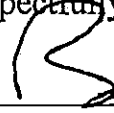
**WHEREFORE**, for all the reasons stated herein, Respondent, the Honorable Dev Atma S. Khalsa, requests:

A. The Judicial Standards Commission dismiss these proceedings in accordance with Rule 33 of the Judicial Standards Commission; or

B. In the alternative, enter a non-disciplinary disposition in accordance with Rule 35 of the Judicial Standards Commission; and

C. For any other or further relief, at law or in equity, to which this Commission deems Respondent to be justly entitled.

Respectfully Submitted:



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Briggs Cheney  
Dixon•Scholl•Carrillo•P.A.  
*Attorney for Dev Atma S. Khalsa*  
P.O. Box 94147  
Albuquerque, N.M. 87199-4147  
Phone: (505) 244-3890  
Fax: (505) 244-3889  
[bcheney@dsc-law.com](mailto:bcheney@dsc-law.com)

I hereby certify that a copy of the foregoing pleading was filed and served via the Judicial Standards e-mail filing system, [forfilingnmjsc@nmjsc.org](mailto:forfilingnmjsc@nmjsc.org), this 22<sup>nd</sup> day of March, 2023.



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Briggs Cheney



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**IN THE SUPREME COURT OF THE STATE OF NEW MEXICO**

**February 27, 2023**

**NO. S-1-SC-39802**

**IN THE MATTER OF  
HON. DEV ATMA SINGH KHALSA  
Santa Fe County Magistrate Court**

**ORDER**

**TO: Hon. Dev Atma Singh Khalsa  
Santa Fe County Magistrate Division 2 Court  
P.O. Box 5138  
Santa Fe, NM 87502**

**Hon. John Rysanek  
Presiding Judge, Santa Fe County Magistrate Court  
P.O. Box 5138  
Santa Fe, NM 87502**

**Hon. Bryan Biedscheid  
Chief Judge, First Judicial District Court  
P.O. Box 2268  
Santa Fe, NM 87504**

**GREETINGS:**

WHEREAS, this Court being sufficiently informed and good cause appearing for the issuance of a writ of superintending control as set forth in this Court's order issued today;

NOW, THEREFORE, IT IS ORDERED that Hon. Dev Atma Singh Khalsa, Hon. John Rysanek, and Hon. Bryan Biedscheid shall take all steps necessary to comply with this Court's order:

**EXHIBIT C**

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1. placing Magistrate Judge Dev Atma Singh Khalsa on indefinite administrative leave with pay, pending an investigation; and
2. prohibiting Magistrate Judge Dev Atma Singh Khalsa from being present within the Santa Fe Magistrate Courthouse until further order of the Court.

IT IS SO ORDERED.



WITNESS, the Honorable C. Shannon Bacon, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 27th day of February, 2023.

Elizabeth A. Garcia, Clerk of Court  
Supreme Court of New Mexico

I CERTIFY AND ATTEST:  
A true copy was served on all parties  
or their counsel of record on date filed.  
*Luzette Escobedo Cervantes*  
Chief Deputy Clerk of the Supreme Court  
of the State of New Mexico

By *Luzette Escobedo Cervantes*  
Chief Deputy Clerk of Court



IN THE SUPREME COURT  
OF THE STATE OF NEW MEXICO

No. S-1-SC-39802

IN THE MATTER OF HON. DEV ATMA S. KHALSA  
Santa Fe County Magistrate Court

INQUIRY CONCERNING HON. DEV ATMA S. KHALSA  
Inquiry No. 2023-018

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

**VERIFIED PETITION FOR IMMEDIATE TEMPORARY SUSPENSION  
WITHOUT PAY**

JUDICIAL STANDARDS  
COMMISSION  
6200 Uptown Blvd., NE, Ste. 340  
Albuquerque, New Mexico 87110-4159  
(505) 222-9353

HON. DEV ATMA S. KHALSA  
P.O. Box 5138  
Santa Fe, NM 87505  
(505) 984-9914

*Respondent*

PHYLLIS A. DOMINGUEZ  
*Executive Director & General Counsel*

KARA JOHNSON  
*Investigative Trial Counsel*

*Counsel for Petitioner*

EXHIBIT D



**IN THE SUPREME COURT  
OF THE STATE OF NEW MEXICO**

No. S-1-SC-39802

IN THE MATTER OF HON. DEV ATMA S. KHALSA  
Santa Fe County Magistrate Court

INQUIRY CONCERNING HON. DEV ATMA S. KHALSA  
Inquiry No. 2023-018

**VERIFIED PETITION FOR IMMEDIATE TEMPORARY SUSPENSION  
WITHOUT PAY**

The Judicial Standards Commission of the State of New Mexico (“*Petitioner*”), through the undersigned counsel, hereby petitions under seal pursuant to Rule 27-104(B) NMRA the New Mexico Supreme Court for an order that immediately and temporarily suspends Respondent Hon. Dev Atma S. Khalsa from judicial office pending completion of the City of Santa Fe’s prosecution of the pending criminal complaint and Judicial Standards Commission’s proceedings.

This Honorable Court entered an Order on February 27, 2023 placing the Respondent on indefinite administrative leave with pay pursuant to its power

of superintending control under N.M. Const. art. VI, §3 pending further investigation to include the investigation currently before the Petitioner.

Although this Honorable Court has ordered the Respondent placed on administrative leave, Petitioner requests that, pursuant to Rule 27-201(A)(4)(a) and (b) of the Rules Governing Review of Judicial Standards Commission Proceedings, and Judicial Standards Commission Rule 24, that this Honorable Court issue an order temporarily suspending the Respondent without pay, and Petitioner further requests, pursuant to Rule 27-104(B) NMRA, that this *Petition* and all Responses thereto be unsealed upon an Order of the Court. As grounds for this verified petition, Petitioner states:

1. Petitioner invokes its jurisdiction and files this *Verified Petition for Immediate Temporary Suspension Without Pay* pursuant to Petitioner's power to recommend the discipline of judges and the Supreme Court's power to discipline judges under N.M. Const. art. VI, §32; the Supreme Court's power of superintending control under N.M. Const. art. VI, §3; Rule 27-201(A)(4)(a) and (b) NMRA 2020 of the Rules Governing Review of the Judicial Standards

Commission Proceedings, and Rule 24(A) and (B) NMRA 2020 of the Judicial Standards Commission Rules.

2. The Respondent, Hon. Dev Atma S. Khalsa, is a full-time judge for the Santa Fe County Magistrate Court, and is based in Santa Fe, New Mexico.

3. Respondent is alleged to have committed acts that may constitute willful misconduct in office. The alleged charges are set forth in the Commission's *Notice of Formal Proceedings* and summarized herein. (See attached **Exhibit A**, *Notice of Formal Proceedings* in Inquiry No. 2023-018.) The facts on which the *Notice of Formal Proceedings* is based are summarized as follows:

A. On or about February 26, 2023, Respondent was allegedly driving under the influence of intoxicating liquor with an expired driver's license, and was involved in a single-vehicle roll-over accident to which Santa Fe Police Officers responded. Respondent extracted himself from the vehicle which had rolled over on Interstate I-25 at the northbound exit numbered 282. Santa Fe

Police Department Officer Alan Scott arrived on scene and observed that the Respondent's breath smelled of alcohol and that his speech was slurred. Santa Fe County Fire Department Medics advised that the Respondent be transported for medical evaluation to Christus Saint Vincent Hospital due to the crash. Upon arrival, Officer Scott observed Respondent to have red, bloodshot and watery eyes, slurred speech and that Respondent smelled of alcohol. Respondent refused medical evaluation, and refused to submit to a blood draw or any other chemical testing. Respondent was placed under arrest and transported to the Santa Fe County Adult Detention Center where he was booked. (See **Exhibit B**, *Santa Fe County Criminal Complaint Case No. 2023-002357*.)

B. Pursuant to Officer Scott's observations that Respondent had blood-shot and watery eyes, slurred speech and a strong odor of alcohol, and Respondent's refusal for blood testing, Respondent was arrested. Respondent has been charged with Driving While

Under the Influence of Intoxicating Liquor contrary to City of Santa Fe Ordinance 12-6-12.4(D). Because the Respondent was involved in an accident, Officers were unable to conduct standard field sobriety tests.

C. Respondent's driver's license was expired and Respondent was further charged with Driving with an Expired License in violation of City of Santa Fe Ordinance 12-6-12.5.

D. Respondent was further charged with Careless Driving in violation of City of Santa Fe Ordinance 12-6-12.4.

4. Petitioner is investigating Respondent's conduct.
5. Respondent's acts may constitute willful misconduct in office as set forth in N.M. Const. art. VI, §32.
6. Petitioner certifies that Respondent's immediate temporary suspension from judicial office is necessary pending termination of the City of Santa Fe's criminal prosecution, the Petitioner Judicial Standards Commission's proceedings, and to preserve the public's confidence in the integrity of the

judiciary. Petitioner's Certificate to this Honorable Court is attached hereto as **Exhibit C**.

WHEREFORE, Petitioner prays for an Order from this Honorable Court for the immediate temporary suspension without pay of Respondent, Hon. Dev Atma S. Khalsa, pursuant to Rules 27-201(A)(4)(a)-(b) and 27-201(C) NMRA 2020 of the Rules Governing Review of Judicial Standards Proceedings and Rule 24 of the JSC Rules, to preserve the public's confidence in the integrity of the judiciary and pending resolution of Respondent's criminal complaint and Petitioner's proceedings. Petitioner further requests that this Honorable Court's file in this matter be unsealed pursuant to Rule 27-104(B) NMRA 2020.

Respectfully Submitted,

JUDICIAL STANDARDS COMMISSION

*Kara Johnson*

---

PHYLLIS A. DOMINGUEZ

*Executive Director & General Counsel*

KARA JOHNSON

*Investigative Trial Counsel*

6200 Uptown Blvd., NE, Ste. 340  
Albuquerque, NM 87110-4159  
(505) 222-9353

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via e-mail through this Supreme Court's Electronic Filing and Service System to [sfemdisk@nmcourts.gov](mailto:sfemdisk@nmcourts.gov) and [dev.atma@khalsa.com](mailto:dev.atma@khalsa.com) on this 1st day of March, 2023, and mailed via certified mail, return receipt requested to the Respondent as follows:

*HON. DEV ATMA S. KHALSA  
P.O. Box 5138  
Santa Fe, NM 87502*

*Kara Johnson*  
\_\_\_\_\_  
KARA JOHNSON



**BEFORE THE JUDICIAL STANDARDS COMMISSION  
OF THE STATE OF NEW MEXICO**

INQUIRY CONCERNING HON. DEV ATMA S. KHALSA  
Santa Fe County Magistrate Court  
Inquiry No. 2023-018

**FILED**

MAR 01 2023 

**NM JUDICIAL  
STANDARDS COMMISSION**

**NOTICE OF FORMAL PROCEEDINGS**

TO: Hon. Dev Atma S. Khalsa  
Santa Fe County Magistrate Court  
P.O. Box 5138  
Santa Fe, NM 87505

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 Judicial Standards Commission Rule 15, has instituted formal proceedings on the charges set forth below.

**COUNT 1**

On or about February 26, 2023, you created the appearance of impropriety and failed to promote public confidence in the integrity of the judiciary when, after Santa Fe Police Officers responded to a single-car accident, you were arrested and charged with Operating a Motor Vehicle Under the Influence of Intoxicating Liquor or Drugs pursuant to City of Santa Fe Ordinance 12-6-12.1(D).

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

**COUNT 2**

On or about February 26, 2023, you created the appearance of impropriety and failed to promote public confidence in the integrity of the judiciary when you allegedly drove your motor vehicle, which was involved in a single-car accident, while your license was expired contrary to City of Santa Fe Ordinance 12-6-12.5. You were subsequently arrested and charged with this violation.

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

**EXHIBIT A**

**COUNT 3**

On or about February 26, 2023, you created the appearance of impropriety and failed to promote public confidence in the integrity of the judiciary when you allegedly drove your motor vehicle, which was involved in a single-car accident, in a careless, inattentive, or imprudent manner without due regard for the attendant circumstances contrary to City of Santa Fe Ordinance 12-6-12.4.

Such conduct violates the Code of Judicial Conduct Rules 21-101 and 21-102 NMRA 2020 and may constitute 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 the Commission electronically (call for filing e-mail address) or by mail sent to:

*Judicial Standards Commission  
6200 Uptown Blvd. NE, Suite 340  
Albuquerque, New Mexico 87110-4159*

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 its privilege 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:



William E. Foote, Ph. D., Chair  
6200 Uptown Blvd. NE, Suite 340  
Albuquerque, NM 87110-4159  
(505) 222-9353

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1<sup>st</sup> day of March 2023 a true copy of the foregoing was sent  
as follows:

**VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED**  
**RESPONDENT**

Hon. Dev Atma S. Khalsa  
Santa Fe County Magistrate Court  
P.O. Box 5138  
Santa Fe, NM 87505

JUDICIAL STANDARDS COMMISSION





# CRIMINAL COMPLAINT

**EXHIBIT B**

STATE OF NEW MEXICO

CASE # 2023-002357

SANTA FE

COUNTY

SANTA FE

CITY

IN THE MUNICIPAL

COURT

- VS -

Name: KHALSA DEV  
 Address: 13 OST SOMBRIO ROAD  
 City/Zip: ESPANOLA NM 87532  
 D.O.B.: 01/26/1978  
 S.S.N.: 649-40-4099  
 Height: 5' 09" Weight: 185 lbs  
 Hair: Brown - BRO  
 Eyes: Green - GRN

STN #: 05  
 Arrest Date: 02/26/2023  
 Driver Lic.#: 507026672  
 Citation #: \_\_\_\_\_  
 Arrest #: 2023-002357  
 Docket #: \_\_\_\_\_  
 Date Filed: 02/26/2023

The undersigned, under penalty of perjury, complains and says that on or about 02/26/2023, in the County/City of SANTA FE/ SANTA FE, State of New Mexico, the above named Defendant(s) did:

Contrary to Section 12-6-12.1 D 1ST

Charge Code \_\_\_\_\_

CRIME: DWI AGGRAVATED (1ST)  
 (Common name of Offense or Offenses)

Contrary to Section 12-6-12.5

Charge Code \_\_\_\_\_

CRIME: NO DRIVER'S LICENSE  
 (Common name of Offense or Offenses)

**CRIMINAL COMPLAINT:**

COUNT: I AGGRAVATED DWI (REFUSE TESTING) - 1ST OFFENSE  
 THE ABOVE-NAMED DEFENDANT OPERATED A MOTOR VEHICLE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS AND THE DEFENDANT REFUSED TO SUBMIT TO CHEMICAL TESTING, A MOTOR VEHICLE CODE MISDEMEANOR, CONTRARY TO CITY OF SANTA FE ORDINANCE 12-6-12.1 D .

COUNT: II EXPIRED DRIVER'S LICENSE  
 THE ABOVE-NAMED DEFENDANT DID DRIVE A MOTOR VEHICLE WHEN HIS DRIVER'S LICENSE WAS EXPIRED, A MOTOR VEHICLE CODE MISDEMEANOR, CONTRARY TO CITY OF SANTA FE ORDINANCE 12-6-12.5.

**STATEMENT OF PROBABLE CAUSE:**

ON FEBRUARY 26, 2023 WHILE DRIVING MY FULLY MARKED PATROL UNIT AND DISPLAYING MY BADGE OF OFFICER, I RESPONDED TO THE SINGLE MOTOR VEHICLE ROLL OVER CRASH ON INTERSTATE I-25 AT EXIT 282 NORTHBOUND.

UPON ARRIVAL, I OBSERVED A SILVER IN COLOR 2001 TOYOTA 4RUNNER BEARING NEW MEXICO (RML996) TO HAVE EXITED THE ROADWAY AND TO BE SITTING IN A DITCH AND HAVING COME TO REST ON THE DRIVERS SIDE OF THE VEHICLE. UPON WALKING DOWN TO THE VEHICLE, I OBSERVED THE DRIVER, IDENTIFIED AS DEV KHALSA TO HAVE SELF EXTRICATED HIMSELF FROM THE VEHICLE AND TO BE SPEAKING WITH SERGEANT CHRISTOPHER LAMOREUX UPON WALKING OVER TO MR. KHALSA TO SPEAK WITH HIM, I ASKED HIM WHAT HAPPENED. WHILE SPEAKING WITH MR. KHALSA I DETECTED TO SMELL OF ALCOHOLIC BEVERAGE OMITTING FROM HIS BREATH. I ALSO OBSERVED MR. KHALSA TO HAVE SLURRED SPEECH. MR. KHALSA WAS THEN WALKED OVER TO THE AMBULANCE TO BE MEDICALLY ASSESSED MY SANTA FE COUNTY FIRE DEPARTMENT MEDICS.

A SHORT TIME LATER, I WAS ADVISED BY ONE OF THE MEDICS THAT MR. KHALSA WAS GOING TO BE TRANSPORTED BY AMBULANCE TO CHRISTUS SAINT VINCENT HOSPITAL TO BE MEDICALLY EVALUATED DUE TO THE HIGH MECHANISM OF INJURY FROM THE CRASH. WHILE I WAS GETTING READY TO LEAVE THE SCENE AND FOLLOW THE AMBULANCE TO THE HOSPITAL, I WAS PROVIDED MR. KHALSA DRIVERS LICENSE WHICH I OBSERVED TO BE EXPIRED (02/24/2023). AFTER OBTAINING MR. KHALSA'S DRIVERS LICENSE, I PROCEEDED TO THE HOSPITAL TO CONTINUE MY INVESTIGATION.

UPON ARRIVAL AT THE HOSPITAL AND WALKING INTO THE EMERGENCY ROOM WITH MR. KHALSA AS HE WAS BEING WHEELED IN ON THE AMBULANCE STRETCHER, I OBSERVED MR. KHALSA TO HAVE BLOOD SHOOT WATERY EYES, I WAS ADVISED THAT DUE TO CRASH MR. KHALSA WAS GOING TO NEED TO BE MEDICALLY ASSESSED. WHILE THE DOCTOR WAS EXPLAINING THIS TO MR. KHALSA HE BECAME UNCOOPERATIVE AND STATED HE REFUSED TO BE MEDICALLY ASSESSED. AFTER HEARING THIS, I BEGAN MY DRIVING WHILE INTOXICATED (DWI) INVESTIGATION. I ADVISED MR. KHALSA THAT I COULD SMELL THE ODOR OF ALCOHOLIC BEVERAGE OMITTING FROM HIS BREATH. I THEN ASKED MR. KHALSA HOW MUCH HE HAD TO DRINK TO WHICH HE STATED "I HAVE HAD NOTHING TO DRINK." AGAIN I OBSERVED MR. KHALSA TO HAVE SLURRED SPEECH. I THEN ADVISED MR. KHALSA THAT I WAS GOING TO READ HIM THE NEW MEXICO IMPLIED CONSENT ADVISORY FOR BLOOD DRAW DUE TO MR. KHALSA AND I ALREADY BEING AT THE HOSPITAL. UPON READING THE NEW MEXICO IMPLIED CONSENT ADVISORY FOR BLOOD DRAW MR. KHALSA STATED "I DONT WANT TO TALK TO YOU AND THAT HE WAS NOT WILLING TO SUBMIT TO A BLOOD DRAW OR ANY CHEMICAL TESTING." AFTER MR. KHALSA MADE THIS STATEMENT, I ADVISED HIM THAT HE WAS GOING TO BE PLACED UNDER ARREST FOR AGGRAVATED DWI. I WAS ALSO ADVISED BY OFFICER ANDREW LAUR THAT HE RAN A

TRIPLE I ON MR. KHALSA AND FOUND HE HAD NO PRIOR DWI ARRESTS. DUE TO MR. KHALSA BEING INVOLVED IN A CRASH AND FROM WHAT I OBSERVED IN MY INVESTIGATION THE STANDARDIZED FIELD SOBRIETY TEST (SFST) WAS NOT COMPLETED.

AFTER MR. KHALSA WAS MEDICALLY CLEARED BY MEDICAL STAFF, I WAS PROVIDED WITH HIS MEDICAL CLEARANCE PAPER WORK. MR. KHALSA WAS THEN PLACED INTO HANDCUFFS WHICH WERE PROPERLY SPACED AND DOUBLE LOCKED AND TRANSPORTED TO THE SANTA FE POLICE DEPARTMENT TO BEGIN THE BOOKING PROCESS. MR. KHALSA WAS THEN TRANSPORTED TO THE SANTA FE COUNTY ADULT DETENTION CENTER WHERE HE WAS BOOKED.

NO FURTHER ACTION WAS TAKEN ON MY BEHALF.

I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT THE FACTS SET FORTH ABOVE ARE TRUE TO THE BEST OF MY INFORMATION AND BELIEF. I UNDERSTAND THAT IT IS A CRIMINAL OFFENSE, SUBJECT TO THE PENALTY OF IMPRISONMENT TO MAKE FALSE STATEMENT IN A CRIMINAL COMPLAINT.

Complainant A Scott

Name SCOTT, ALAN

Title(if any) 8470

Agency(if any) SANTA FE POLICE DEPARTMENT

This complaint may not be filed without the prior payment of a filing fee, unless approved by the District Attorney or a law enforcement officer authorized to serve an Arrest or Search Warrant. Approval of the district attorney or a law enforcement officer is not otherwise required.

Approved [Signature]

DISTRICT ATTORNEY OR LAW ENFORCEMENT OFFICER

[As amended, approved by the Supreme Court of New Mexico, effective September 1, 1990; April 1, 1991; November 1, 1991.]

### If Probable Cause Determination required:

- Probable Cause Found
- Probable Cause Not Found, and Defendant Released from Custody

Judge \_\_\_\_\_

Date \_\_\_\_\_

Time \_\_\_\_\_

[As amended, effective September 1, 1990; April 1, 1991; November 1, 1991; as amended by Supreme Court Order No.13-8300-020, effective for all cases pending or filed on or after December 31, 2013.]

BEFORE THE JUDICIAL STANDARDS COMMISSION  
FOR THE STATE OF NEW MEXICO

**FILED**

IN THE MATTER OF HON. DEV ATMA S. KHALSA  
Santa Fe County Magistrate Court

MAR 01 2023 

Inquiry No. 2023-018

**NM JUDICIAL  
STANDARDS COMMISSION**

CERTIFICATE OF JUDICIAL STANDARDS COMMISSION

The Judicial Standards Commission of the State of New Mexico (“Commission”) hereby certifies in accordance with Rule 24 of the Judicial Standards Commission’s Rules NMRA and Rule 27-201(A)(4)(a)(b) NMRA of the Rules Governing Review of the Judicial Standards Commission Proceedings, that immediate temporary suspension of Santa Fe County Magistrate Judge Dev Atma S. Khalsa (“Respondent”) is necessary pending disposition of the Commission’s ongoing proceedings against him.

The Commission is currently investigating allegations that Respondent has been charged with three (3) criminal counts including Driving While Under the Influence of Intoxicating Liquor, Driving with an Expired Driver’s License and Careless Driving, and may have committed willful misconduct in office which seriously interferes with his ability to fulfill his judicial responsibilities. The charges against Respondent are set forth in the Commission’s *Notice of Formal Proceedings*, and the events upon which the charges are based are summarized herein:

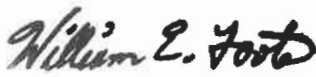
On or about February 26, 2023, Respondent was allegedly driving under the influence of intoxicating liquor with an expired driver’s license, and was involved in a single-vehicle roll over accident to which Santa Fe Police Officers responded. Respondent extracted himself from the vehicle which had rolled over on Interstate I-25 at the northbound exit numbered 282. Santa Fe Police Department Officer Alan Scott arrived on scene and observed that the Respondent’s breath smelled of alcohol and that his

**EXHIBIT C**

speech was slurred. Santa Fe County Fire Department Medics advised that the Respondent be transported for medical evaluation to Christus Saint Vincent Hospital due to the crash. Upon arrival, Officer Scott observed Respondent's speech was slurred, his eyes were red, watery and bloodshot, and Respondent smelled of alcohol. Respondent at this time refused medical evaluation and refused to submit to a blood draw or any other chemical testing. Respondent was then placed under arrest and transported to the Santa Fe County Adult Detention Center where he was booked for driving while under the influence of intoxicating liquor, driving without a valid driver's license, and later also charged with careless driving.

The Commission has determined that continued judicial service by Respondent, would cause immediate and substantial public harm; an appearance of impropriety; erosion of the public's confidence in the integrity, independence, and impartiality of the judiciary; and undermine the orderly administration of justice.

JUDICIAL STANDARDS COMMISSION

By   
WILLIAM E. FOOTE, PH.D Chair  
6200 Uptown Blvd., NE, Suite 340  
Albuquerque, NM 87110-4159  
505-222-9353



**IN THE SUPREME COURT OF THE STATE OF NEW MEXICO**

No. S-1-SC-39802

**IN THE MATTER HON. DEV ATMA S. KHALSA**  
Santa Fe County Magistrate Court

INQUIRY CONCERNING A JUDGE  
*JSC Inquiry No. 2023-018*

**VERIFIED RESPONSE IN OPPOSITION TO THE JUDICIAL  
STANDARDS COMMISSION'S VERIFIED PETITION  
FOR IMMEDIATE TEMPORARY SUSPENSION WITHOUT PAY**

Respondent Judge Dev Atma Khalsa responds to the Judicial Standards Commission's (hereinafter JSC or Commission) Petition temporary suspension without pay as follows:

**Introduction**

The Commission correctly states that this Court entered its Order on February 27, 2023, placing the Respondent on indefinite administrative leave with pay pursuant to the Court's superintending powers under the N.M. Constitution, Article VI, § 3, pending further investigation. Respondent has complied with the Court's February 27, 2023 Order. The Court's and the Commission's concerns as to the integrity of the judiciary and the public the judiciary serves have been addressed by the Court's February 23, 2023 Order.

**EXHIBIT E**



As detailed below, Respondent has retained counsel and entered a not guilty plea as to the traffic ordinances he has been charged with violating and through the exercise of due process accorded citizens of this state, a determination will be made as to Respondent's guilt or innocence. Until then, the Respondent is presumed to be innocent. Yet, the Commission has been unwilling to accept this Court's Order addressing this matter and seeks exercise its own powers to include its punitive powers.

The Commission's Petition should be denied for the following reasons:

1. By its February 23, 2023 Order, the Court placed Respondent on indefinite administrative leave with pay and Respondent has complied with the Court's Order and the relief sought by the Commission's Petition is unnecessary.

**Petition, p.1.**

2. The Commission's Petition on its face demonstrates the Commission has not fully investigated the circumstances surrounding the February 26, 2023 accident and the Petition relies on incomplete investigations and unsubstantiated conclusions by Santa Fe law enforcement officers. **Petition ¶¶ 3, 3.A, 4, 5, and 6.**

3. Respondent has entered a plea of not guilty to the charges which form the basis for the Commission's Petition and Respondent is presumed innocent until proven otherwise. N.M. Constitution, Art. II, § 18.

## **Response to Commission's Allegations**

1. Respondent does not dispute or question the Communication's authority or power as set out in paragraph 1 of its Petition. Respondent does question the Commission's exercise of its authority and power in this situation where the Court has already placed Respondent on indefinite administrative leave and which Respondent does not challenge. Respondent does challenge/oppose the Commission's request that he be denied pay during the indefinite administrative leave period. As discussed below, denial of Respondent's pay is discipline and punishment which can only follow the Commission's proving "there is clear and convincing evidence of the basis establishing grounds for discipline, removal, or retirement of a judge" and recommending such to the Court. Rule 32(B)(1) NMRA 2020 Judicial Standards Commission Rules.

2. Respondent admits paragraph 2 of the Commission's Petition.

3. Respondent acknowledges the allegations set out in paragraph 3 of the Commission's Petition and admits the Commission has served Respondent with *Notice of Formal Proceedings* to which Respondent has responded. **Exhibit A.** As discussed herein, at this stage the charges are just allegations which remain to be proved.

4. Respondent admits the Commission is, as alleged in paragraph 4, in the process of investigating Respondent's conduct; an investigation which is ongoing and not complete.

5. Respondent acknowledges the Commission's statement in paragraph 5. Respondent disputes that statement, but regardless, the Commission correctly notes that Respondent's conduct is yet to be proved.

6. In response to the allegations in paragraph 6, the Court's February 23, 2023 Order has addressed the issues and concerns stated in that paragraph.

### **Argument in Response**

#### **A. The Commission's Petition and required relief should be denied as unnecessary given the Court's February 23, 2023 Order placing Respondent on indefinite administrative leave.**

This Court acted promptly (within one day of Respondent's accident) issuing its February 23, 2023 Order placing Respondent on indefinite administrative leave with pay. Respondent was ordered to not be present in the Santa Fe County Magistrate Courthouse pending further order of the Court. It is important to note that the February 23, 2023 Order provides that Respondent's suspension with pay will remain pending an internal investigation including the Commission's investigation. Respondent has fully complied with the Court's Order and does not challenge and respects the Court's decision to place him on indefinite administrative leave.

Why the Commission believed it necessary to follow the Court's February 23, 2023 Order with this Petition is unclear. First, Rule 24 NMRA 2020 Judicial Standards Rules, does provide that the Commission "may" petition the Supreme Court for immediate temporary suspension if "continued service of a judge is causing", and the rule goes on to enumerate "substantial harm to the public" or "erosion of public confidence" in the judiciary or "other good cause." The operative word *may* necessarily implies that the judge in question is continuing to perform judicial duties. Here, that was not the case because the Court had already acted.

Respondent does not question the Commission's power to seek suspension. Pursuant to N.M. Const. Art. VI, § 32, the Commission has promulgated Rules which govern its activities which provide that the purpose of the Commission includes protecting the public from willful misconduct on the part of a judge and to preserve the integrity of the judiciary and to provide for expeditious and fair disposition of allegations against a judge. Rule 1(C)(1-3) NMRA 2020 Judicial Standards Commission Rules.

The Court's February 23, 2023 Order has taken the necessary steps to protect the public from possible misconduct by the Respondent, and by placing the Respondent on indefinite administrative leave, the Court has protected the integrity of the judiciary.

**B. The Commission's Petition is not consistent with its own rules.**

The Commission's Petition on its face demonstrates the Commission has not fully investigated the circumstances surrounding the February 26, 2023 accident and is relying on an incomplete investigation and unsubstantiated conclusions by Santa Fe County law enforcement officers. **Petition, ¶ 3 (“Respondent is alleged to have committed acts that may constitute willful conduct in office”), ¶ 3.A (“Respondent was allegedly driving under the influence of intoxicating liquor with an expired driver's license”), ¶ 4 (“Petitioner is investigating Respondent's conduct”, ¶ 5 (“Respondent's conduct may constitute willful conduct in office”) and ¶ 6 (“Respondent's immediate temporary suspension from judicial office is necessary pending termination of the City of Santa Fe's criminal prosecution.”)**

One of the purposes of the Commission is to investigate and determine if good cause exists to recommend to this Court that a judge should be disciplined, and the Commission has promulgated rules governing that process. Rule 1(C) and (D) NMRA 2020 Judicial Standards Commission Rules. And it is that process which is referenced in the Court's February 23, 2023 Order.

The Commission's rules provide the procedure for investigating and pursuing complaints against a judge. The Commission has filed Formal Charges against the Respondent and has the burden of proving by clear and convincing evidence the

charges which are the basis for the Commission's Petition herein. Rule 32(H) NMRA 2020 Judicial Standards Commission Rules. As outlined above, the Commission cannot do that at this time. The Commission should not be excused from that burden of proof at this stage by punishing/disciplining the Respondent by denying him his pay.

The Court's February 23, 2023 Order correctly respects Respondent's rights by providing that his indefinite administrative leave be with pay.

**C. Respondent has entered a plea of not guilty to the charges which form the basis for the Commission's Petition and Respondent is presumed innocent until proven otherwise. N.M. Const. Art. II, § 18.**

By this verified Response, Respondent advises the Court that he has retained counsel and entered a plea of not guilty to the charges now pending against him. Respondent understands his position and the office he holds in the judiciary, but he believes he is entitled to his constitutional presumption of innocence.

FOR THE FOREGOING REASONS, Respondent asks the Court to deny the Commission's Petition allowing this Court's February 23, 2023 Order to govern.

Respectfully Submitted:

*/s/ Briggs F. Cheney*  
Briggs Cheney  
Dixon•Scholl•Carrillo•P.A.  
Attorney for Dev Atma S. Khalsa  
P.O. Box 94147  
Albuquerque, N.M. 87199-4147  
Phone: (505) 244-3890  
[bcheney@dsc-law.com](mailto:bcheney@dsc-law.com)

I hereby certify that a copy of the foregoing pleading was filed and served through the Court's electronic filing system this 3<sup>rd</sup> day of April, 2023.

/s/ Briggs F. Cheney  
Briggs Cheney

VERIFICATION

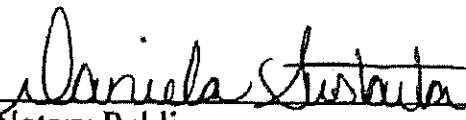
STATE OF NEW MEXICO )  
                  SANTA FE ) ss  
COUNTY OF ~~TAOS~~ )

I, Dev Atma S. Khalsa, being first duly sworn upon my oath, depose and state as follows:

I have read over and know and understand the contents of the foregoing Verified Response to the Judicial Standards Commission's Verified Petition for Immediate Suspension Without Pay and the statements made therein are true to the best of my knowledge, except those statements that are made upon information and belief, and as to those the undersigned believes them to be true.

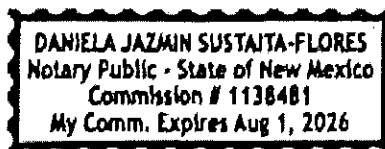
  
\_\_\_\_\_  
Dev Atma S. Khalsa

Subscribed and sworn to before me this 3<sup>rd</sup> day of April, 2023, by Dev Atma S. Khalsa.

  
\_\_\_\_\_  
Notary Public

My Commission Expires:

AUG 1, 2026





**JUDICIAL STANDARDS COMMISSION  
FOR THE STATE OF NEW MEXICO**

**INQUIRY CONCERNING A JUDGE**  
*JSC Inquiry No. 2023-018*

**IN THE MATTER  
HON. DEV ATMA S. KHALSA**

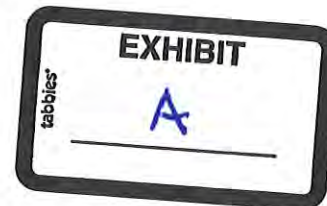
**RESPONSE TO NOTICE OF FORMAL CHARGES**

Respondent, Judge Dev Atma S. Khalsa, responds to the Commission's *Notice of Formal Charges* as follows:

**COUNT 1**

In response to Count 1, Respondent admits that on February 26, 2023, he lost control over his vehicle and left the roadway. No other vehicles were involved. Respondent also admits that Santa Fe Police Officers responded to the accident and charged Respondent as set out in Count I. Respondent has retained counsel and entered a plea of not guilty to the charged violations of Santa Fe Ordinance 12-6-12.1(D) and that matter remains pending.

Respondent disagrees, and thus denies, that the alleged conduct violated the cited provisions of the Judicial Code of Conduct Rules. Respondent specifically denies that his actions were willful.



## **COUNT 2**

In response to Count I, Respondent admits that on February 26, 2023, he lost control over his vehicle and left the roadway. No other vehicles were involved. Respondent admits his licensed had expired three days before the accident and has been reinstated.

Respondent disagrees, and thus denies, that the alleged conduct violated the cited provisions of the Judicial Code of Conduct Rules. Respondent specifically denies that his actions were willful.

## **COUNT 3**

In response to Count 3, Respondent admits that on February 26, 2023, he lost control over his vehicle and left the roadway. No other vehicles were involved. Respondent also admits that Santa Fe Policer Officers responded to the accident and charged Respondent as set out in Count 3 driving a vehicle in a careless, inattentive, or imprudent manner in violation of Santa Fe Ordinance 12-6-12.4. Respondent has retained counsel and entered a plea of not guilty to the charged violations of the Santa Fe Ordinance and that matter remains pending.

Respondent disagrees, and thus denies, that the alleged conduct violated the cited provisions of the Judicial Code of Conduct Rules. Respondent specifically denies that his actions were willful.

## DEFENSES

1. Respondent acknowledges that he has been charged with violations of Santa Fe Ordinances relating to the operation of a motor vehicle, he has retained counsel and entered a plea of not guilty to those ordinance violations. A trial on those charges will follow. Respondent believes that a presumption of innocence governs, and it is unfair and incorrect to assert the complained conduct violates the Code of Judicial Conduct.

2. The circumstances surrounding Respondent's vehicle leaving the roadway is being investigated and other circumstances may explain the cause of the Respondent losing control.

3. Because the Formal Charges herein raise questions relating to impairment related to alcohol, NMRA 21-214(A) should be asserted by way of defense.

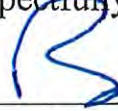
**WHEREFORE**, for all the reasons stated herein, Respondent, the Honorable Dev Atma S. Khalsa, requests:

A. The Judicial Standards Commission dismiss these proceedings in accordance with Rule 33 of the Judicial Standards Commission; or

B. In the alternative, enter a non-disciplinary disposition in accordance with Rule 35 of the Judicial Standards Commission; and

C. For any other or further relief, at law or in equity, to which this Commission deems Respondent to be justly entitled.

Respectfully Submitted:



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Dixon•Scholl•Carrillo•P.A.  
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I hereby certify that a copy of the foregoing pleading was filed and served via the Judicial Standards e-mail filing system, [forfilingnmjsc@nmjsc.org](mailto:forfilingnmjsc@nmjsc.org), this 22<sup>nd</sup> day of March, 2023.



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Briggs Cheney



1                   **IN THE SUPREME COURT OF THE STATE OF NEW MEXICO**

2  
3   **April 07, 2023**

4                   **NO. S-1-SC-39802**

5  
6                   **INQUIRY CONCERNING A JUDGE,**

7  
8                   **IN THE MATTER OF**  
9                   **HON. DEV ATMA S. KHALSA**  
10                  **Santa Fe County Magistrate Court**

11  
12   **ORDER**

13                  WHEREAS, this matter came on for consideration by the Court upon the  
14                  Verified Petition for Immediate Temporary Suspension Without Pay, the Verified  
15                  Response in Opposition to the Judicial Standards Commission’s Verified Petition  
16                  for Immediate Temporary Suspension Without Pay, and the Court being  
17                  sufficiently advised; Chief Justice C. Shannon Bacon, Justice Michael E. Vigil,  
18                  Justice David K. Thomson, Justice Julie J. Vargas, and Justice Briana H. Zamora  
19                  concurring;

20                  NOW, THEREFORE, IT IS ORDERED that the Judicial Standards  
21                  Commission’s Verified Petition for Immediate Temporary Suspension hereby is  
22                  GRANTED;

23                  IT IS FURTHER ORDERED Judge Khalsa is hereby suspended without  
24                  pay, effective immediately, until further order of the Court.

25                  IT IS FURTHER ORDERED that the Judicial Standards Commission’s  
26                  request to unseal is GRANTED; and

**EXHIBIT F**

1  
2  
3

IT IS FURTHER ORDERED that all documents filed in this Court are  
UNSEALED.


IT IS SO ORDERED.



WITNESS, the Honorable C. Shannon Bacon, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 7th day of April, 2023.

Elizabeth A. Garcia, Clerk of Court  
Supreme Court of New Mexico

I CERTIFY AND ATTEST:  
A true copy was served on all parties  
or their counsel of record on date filed.  
Elizabeth A. Garcia  
Chief Clerk of the Supreme Court  
of the State of New Mexico



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Elizabeth A. Garcia, Chief Clerk of the Supreme Court  
of the State of New Mexico