
Joey D. Moya

IN THE SUPREME COURT
OF THE STATE OF NEW MEXICO

No. S-1-SC-36686

IN THE MATTER OF HON. PAMELA D. SMITH
Probate Judge, Sierra County, New Mexico

IN THE MATTER OF HON. PAMELA D. SMITH
Inquiry Nos. 2017-138 and 2017-139

FILED UNDER SEAL

PURSUANT TO 27-104(B) NMRA 2011

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

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The Judicial Standards Commission of the State of New Mexico (“the Commission”), through the undersigned counsel, hereby moves the Supreme Court for an order approving the *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* (“*Stipulation*”), attached hereto as Exhibit 1, in which Respondent, Hon. Pamela D. Smith, agrees to permanently resign effective at 5:00 p.m. on the same day this Honorable Court enters an order approving the *Stipulation*

and ordering Respondent's resignation. The Commission further requests that the Court unseal the entire file in this matter, pursuant to Rule 27-104(B) NMRA 2011.

The Respondent agrees to never again hold judicial office or exercise any judicial authority in the State of New Mexico. The Commission believes this stipulation agreement best serves the interest of justice and the integrity of the New Mexico Judiciary.

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, and the Court's power of superintending control under Article VI, Section 3 of the New Mexico Constitution.

2. On October 4, 2017, the Commission issued a *Notice of Formal Proceedings* to Respondent in Inquiry Nos. 2017-138 and 2017-139, attached hereto as Exhibit A to Exhibit 1.

3. On October, 4, 2017, the Commission filed its *Verified Petition for Immediate Temporary Suspension*, under seal, with the Supreme Court. (Attached hereto as Exhibit B to Exhibit 1 (without exhibits.))

4. On October 5, 2017, the Court issued its *Show Cause Order* ordering Respondent to file a written response on or before October 10, 2017 at 5:00 p.m., and setting oral argument for October 11, 2017, at 1:30 p.m.

5. The Commission's inquiry and proceedings concerning Respondent in these matters have been ongoing.

6. Upon the unanimous vote of the Commissioners, the Commission entered into a *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* ("*Stipulation*") with the Respondent on October 11, 2017 (attached hereto as **Exhibit 1**), which provides in pertinent part the following:

A. Respondent agrees to permanently resign as judge of the Sierra County Probate Court, effective at 5:00 p.m. on the same day that the Supreme Court enters an order approving this *Stipulation* and ordering Respondent's resignation. Upon acceptance of this *Stipulation* by the New Mexico Supreme Court, Respondent shall effect her permanent resignation by submitting duplicate original letters of resignation addressed to the Chief Justice of the New

Mexico Supreme Court and to the Board of County Commissioners for Sierra County, with a copy to the Judicial Standards Commission. 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 municipal court, probate 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, to include officiating at weddings.

B. Respondent agrees to admit that she engaged in willful misconduct and that she violated the Code of Judicial Conduct by committing the following acts:

- 1) Respondent initiated Sierra County Probate Court Case No. 2076, *In the Matter of the Estate of Dominic Domingo*, in the Court over which she presides, when Respondent was also the Field Deputy Medical Investigator for the Office of the

Medical Investigator who responded to the scene of the unattended death, pronounced the death, and subsequently used facts gathered in the death investigation to make judicial decisions and take judicial actions as the Sierra County Probate Judge.

2) In her capacity as Sierra County Probate Judge, Respondent appointed her husband, Randy Smith, as the Special Administrator with full powers of a Personal Representative in the Sierra County Probate Court Case No. 2076, *In the Matter of the Estate of Dominic Domingo*.

C. Respondent admits that this admitted conduct violates the following Rules of the Code of Judicial Conduct:

- 1) 21-101, Compliance with the law;
- 2) 21-102, Promoting confidence in the judiciary;
- 3) 21-103, Avoiding abuse of the prestige of judicial office;
- 4) 21-202, Impartiality and fairness;
- 5) 21-204(B), External influences on judicial conduct;
- 6) 21-205(A), Competence, diligence, and cooperation;
- 7) 21-211(A), Disqualification; and,
- 8) 21-305, Use of non-public information.

7. Respondent is currently under investigation by the Judicial Standards Commission and under criminal investigation by law enforcement officials.

8. The Judicial Standards Commission is investigating the issues detailed in paragraph 6B(1) and (2) above, as well as, but not limited to, the charges in the *Notice of Formal Proceedings*.

9. As set forth in the *Stipulation*, Respondent agrees that her admitted conduct and violations of the New Mexico Code of Judicial Conduct constitute willful misconduct in office and provide sufficient basis for the New Mexico Supreme Court to impose discipline against Respondent pursuant to Article VI, Section 32 of the New Mexico Constitution.

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

11. It is in the best interest of justice and integrity of the New Mexico Judiciary that the Supreme Court grant this Motion.

WHEREFORE, the Commission respectfully requests this Court issue an order granting the Commission's *Motion*, approving the *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary*

Proceedings, and ordering Respondent Hon. Pamela D. Smith's permanent resignation from judicial office effective immediately. The Commission also requests that this order unseal all documents filed in the Supreme Court in this case pursuant to Rule 27-104(B) NMRA 2011.

Respectfully submitted,

JUDICIAL STANDARDS COMMISSION



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was sent by e-mail on
this 11th day of October 2017, to Respondent's Counsel:

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