

From:

06/05/2013 11:09

#907 P.003/019

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

**FAXED ORIGINAL**

IN THE MATTER OF HON. FREDERICK ARNOLD  
Portales Municipal Court

INQUIRY CONCERNING HON. FREDERICK ARNOLD  
Portales Municipal Court  
JSC Inquiry No. 2012-079

SUPREME COURT OF NEW MEXICO  
FILED

JUN - 5 2013

*[Signature]*

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

**PETITION TO ACCEPT STIPULATION TO  
PERMANENT RETIREMENT FROM JUDICIAL OFFICE  
AND CONSENT TO DISCIPLINE**

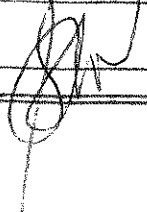
The Judicial Standards Commission of the State of New Mexico ("Petitioner" or "Commission"), through the undersigned counsel, hereby petitions the Supreme Court for an order approving the *Stipulation to Permanent Retirement from Judicial Office and Consent to Discipline* ("Stipulation") in which Respondent Hon. Frederick Arnold agreed to permanently retire from judicial office effective at 5:00 p.m. on June 30, 2013. (Attached hereto as **Exhibit 1**). The Respondent agreed to never again hold judicial office in New Mexico. Respondent further consented to receive a Public Censure from the New Mexico Supreme Court which shall be published in the *New Mexico Bar Bulletin*. The Commission

IN THE SUPREME COURT  
OF THE STATE OF NEW MEXICO

No.

IN THE MATTER OF HON. FREDERICK ARNOLD  
Portales Municipal Court

INQUIRY CONCERNING HON. FREDERICK ARNOLD  
Inquiry No. 2012-079

FAX FILED	
Date	6-5-13
Time	11:11 AM
By	

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

**PETITION TO ACCEPT STIPULATION TO PERMANENT  
RETIREMENT FROM JUDICIAL OFFICE AND CONSENT TO  
DISCIPLINE**

JUDICIAL STANDARDS COMMISSION  
Post Office Box 27248  
Albuquerque, New Mexico 87125-7248  
Telephone: (505) 222-9353  
Fax: (505) 222-9358

HON. FREDERICK ARNOLD  
Portales Municipal Court  
520 W. 2<sup>nd</sup> St.  
Portales, New Mexico 88130  
Telephone: (575) 356-4923  
FAX: (575) 359-1492

RANDALL D. ROYBAL  
*Executive Director & General Counsel*

*Respondent*

PHYLLIS A. DOMINGUEZ  
*Investigative Trial Counsel*

*Counsel for Petitioner*

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

IN THE MATTER OF HON. FREDERICK ARNOLD  
Portales Municipal Court

INQUIRY CONCERNING HON. FREDERICK ARNOLD  
Portales Municipal Court  
JSC Inquiry No. 2012-079

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

**PETITION TO ACCEPT STIPULATION TO  
PERMANENT RETIREMENT FROM JUDICIAL OFFICE  
AND CONSENT TO DISCIPLINE**

The Judicial Standards Commission of the State of New Mexico (“Petitioner” or “Commission”), through the undersigned counsel, hereby petitions the Supreme Court for an order approving the *Stipulation to Permanent Retirement from Judicial Office and Consent to Discipline (“Stipulation”)* in which Respondent Hon. Frederick Arnold agreed to permanently retire from judicial office effective at 5:00 p.m. on June 30, 2013. (Attached hereto as **Exhibit 1**). The Respondent agreed to never again hold judicial office in New Mexico. Respondent further consented to receive a Public Censure from the New Mexico Supreme Court which shall be published in the New Mexico *Bar Bulletin*. The Commission

believes this stipulation agreement best serves the interests of justice and the integrity of the New Mexico Judiciary.

1. Petitioner invokes its jurisdiction and files this *Petition to Accept Stipulation to Permanent Retirement from Judicial Office and Consent to Discipline* (“*Petition*”) 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; and Judicial Standards Commission Rule 38 NMRA 2010.

2. On October 9, 2012 in Inquiry No. 2012-079, the Commission filed and issued a *Notice of Preliminary Investigation* to Respondent, to which he responded on November 5, 2012. The Commission filed and issued a *Notice of Formal Proceedings* to Respondent on December 5, 2012 (Attached hereto as **Exhibit 2**), to which he responded on January 7, 2013.

3. The Commission’s inquiry and proceedings concerning Respondent in this matter has been ongoing.

4. The Commission’s jurisdiction continues in this matter pursuant to Judicial Standards Commission Rule 38 NMRA 2010.

5. Upon granting this *Petition* and in keeping with the Court's prior decisions in other matters, the Commission requests that the Supreme Court unseal the file in this matter pursuant to Rule 27-104(B) NMRA 2011, permitting the citizens and the Judiciary of New Mexico to be informed of the actions concerning Respondent, who is an elected official.

6. Upon a unanimous vote of the participating members, the Commission approved and entered into a *Stipulation to Permanent Retirement From Judicial Office and Consent to Discipline* with the Respondent on June 3, 2013 which provides in pertinent part the following:

A. Respondent agrees to permanently retire as judge of the Portales Municipal Court effective at 5:00 p.m. on June 30, 2013. Upon acceptance of this *Stipulation* by the New Mexico Supreme Court, Respondent shall effect his permanent retirement by submitting duplicate original letters of retirement addressed to the Chief Justice of the New Mexico Supreme Court and to the Portales City Council. 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 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.

B. Respondent consents to and shall receive a Public Censure from the New Mexico Supreme Court regarding his admitted conduct and violations of the Code of Judicial Conduct to be published in the *New Mexico Bar Bulletin*.

C. The Commission will file under seal with the New Mexico Supreme Court pursuant to Rule 27-104(B) NMRA 2011 a *Petition to Accept Stipulation to Permanent Retirement from Judicial Office and Consent to Discipline*, attaching a copy of the *Stipulation*.

D. Upon granting the *Petition*, the Commission requests that the Court unseal the Supreme Court file in this matter pursuant to Rule 27-104(B) NMRA 2011.

E. Upon execution of the *Stipulation* and acceptance by the Supreme Court, the Commission will abate and close this matter

pending against the Respondent before the Commission regarding Inquiry No. 2012-079.

F. Respondent admits that he engaged in willful misconduct and that he violated the enumerated Code of Judicial Conduct rules listed below by committing the following acts:

- i. On or about July 23, 2012, Respondent altered a time card for court clerk Suzanne Cherry to reflect that Ms. Cherry worked forty (40) regular hours the week of July 16-20, 2012 when in fact Ms. Cherry worked only thirty-five (35) regular hours as charged in Count One of the *Notice of Formal Proceedings* which was filed on December 5, 2012. Ms. Cherry took five (5) hours of vacation on July 17, 2012 and worked five (5) hours on July 20, 2012 to which she believed she would be paid overtime. Ms. Cherry noted on her time card that she had not been approved for payment of the five (5) hours she worked on July 20<sup>th</sup>. Ms. Cherry approached the Respondent and in order for Ms. Cherry to be paid for the hours she worked on July 20<sup>th</sup>, the Respondent whited out the annotation on the time card to reflect that she did not take five (5) hours of vacation as originally documented, but altered the time card to read that Ms. Cherry worked her regularly scheduled hours on July 17<sup>th</sup>.
- ii. As a result of Respondent's actions, Ms. Cherry was paid for five (5) hours of overtime accrued on July 20, 2012 to which she was not entitled.

iii. Respondent was informed by City of Portales Payroll Clerk, Cathy Kennedy, that pursuant to Portales's policy regarding compensation and employment, Ms. Cherry was not entitled to five hours of overtime pay because she did not work forty (40) regular hours the week of July 16-20, 2012. Ms. Kennedy stated, however, that Respondent was responsible for his own budget and could manage his budget however he saw fit.

G. Respondent admits that he violated the following provisions of the Code of Judicial Conduct: Rules 21-101; 21-102; and 21-205 NMRA 2012 and the violations constitutes willful misconduct in office.

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

8. It is in the best interest of justice and integrity of the New Mexico Judiciary that the Supreme Court issues an order accepting Respondent Hon. Frederick Arnold's permanent retirement from judicial office and issues a Public Censure to him, which shall be published in the *New Mexico Bar Bulletin*.

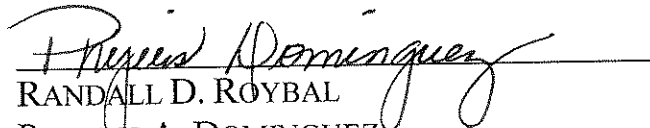
WHEREFORE, Petitioner respectfully requests this Court issue an order granting the Commission's *Petition* and enter an order approving the *Stipulation to Permanent Retirement from Judicial Office and Consent to Discipline*, accepting Respondent Hon. Frederick Arnold's permanent retirement from judicial office and



issuing a Public Censure to him, which shall be published in the *New Mexico Bar Bulletin*.

Respectfully submitted,

JUDICIAL STANDARDS COMMISSION

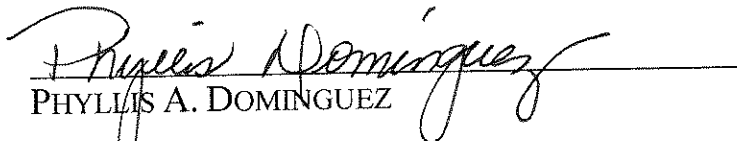
  
RANDALL D. ROYBAL  
PHYLLIS A. DOMINGUEZ  
Post Office Box 27248  
Albuquerque, NM 87125-7248  
TEL (505) 222-9353

*Counsel for Petitioner*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was sent by first class mail, on this 5<sup>th</sup> day of June 2013, to Respondent:

*Hon. Frederick Arnold  
Portales Municipal Court  
520 W. 2nd St.  
Portales, New Mexico 88130  
Telephone: (575) 356-4923  
FAX: (575) 359-1492*

  
PHYLLIS A. DOMINGUEZ  
7

**FILED**

JUN 03 2013

NM JUDICIAL  
STANDARDS COMMISSION

BEFORE THE JUDICIAL STANDARDS COMMISSION  
STATE OF NEW MEXICO

INQUIRY CONCERNING HON. FREDERICK ARNOLD  
City of Portales Municipal Court

Inquiry No. 2012-079

**STIPULATION TO PERMANENT RETIREMENT FROM JUDICIAL OFFICE  
AND CONSENT TO DISCIPLINE**

THIS MATTER is currently pending before the Judicial Standards Commission ("the Commission") pursuant to the *Notice of Preliminary Investigation* issued in Inquiry No. 2012-079 on December 5, 2012 (see attached **Exhibit A**).

This *Stipulation to Permanent Retirement from Judicial Office and Consent to Discipline* ("Stipulation") is entered into by and between the Judicial Standards Commission and Hon. Frederick Arnold ("Respondent"). Respondent is proceeding *pro se*. The parties hereby enter into the following *Stipulation*:

1. Respondent admits that he engaged in willful misconduct and that he violated the enumerated Code of Judicial Conduct rules listed below by committing the following acts:

- A. On or about July 23, 2012, Respondent altered a time card for court clerk Suzanne Cherry to reflect that Ms. Cherry worked forty (40) regular hours the week of July 16-20, 2012 when in fact Ms. Cherry worked only thirty-five (35) regular hours as charged in Count One of the *Notice of Formal Proceedings* which was filed on December 5, 2012. Ms. Cherry took five (5) hours of vacation on July 17, 2012 and worked five (5) hours on July 20, 2012 to which she believed she would be paid overtime. Ms. Cherry noted on her time card that she had not been approved for payment of the five (5) hours she worked on July 20<sup>th</sup>. Ms. Cherry

Exhibit

1

approached the Respondent and in order for Ms. Cherry to be paid for the hours she worked on July 20<sup>th</sup>, the Respondent whited out the annotation on the time card to reflect that she did not take five (5) hours of vacation as originally documented, but altered the time card to read that Ms. Cherry worked her regularly scheduled hours on July 17<sup>th</sup>.

- B. As a result of Respondent's actions, Ms. Cherry was paid for five (5) hours of overtime accrued on July 20, 2012 to which she was not entitled.
- C. Respondent was informed by City of Portales Payroll Clerk, Cathy Kennedy, that pursuant to Portales's policy regarding compensation and employment, Ms. Cherry was not entitled to five hours of overtime pay because she did not work forty (40) regular hours the week of July 16-20, 2012. Ms. Kennedy stated, however, that Respondent was responsible for his own budget and could manage his budget however he saw fit.

2. Respondent admits that he violated the following provisions of the Code of Judicial Conduct: Rules 21-101; 21-102; and 21-205 NMRA 2012 and the violations constitutes willful misconduct in office.

3. Respondent agrees to permanently retire as judge of the Portales Municipal Court effective at 5:00 p.m. on June 30, 2013. Upon acceptance of this *Stipulation* by the New Mexico Supreme Court, Respondent shall effect his permanent retirement by submitting duplicate original letters of retirement addressed to the Chief Justice of the New Mexico Supreme Court and to the Portales City Council. 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 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.

4. Respondent consents to and shall receive a Public Censure from the New Mexico Supreme Court regarding his admitted conduct and violations of the Code of Judicial Conduct. Public Censures are published in the New Mexico Bar Bulletin.

5. The Commission will file under seal with the New Mexico Supreme Court, pursuant to Rule 27-104(B) NMRA 2011, a *Petition to Accept Stipulation to Permanent Retirement from Judicial Office and Consent to Discipline ("Petition")*, attaching a copy of this *Stipulation*.

6. Upon granting the *Petition*, pursuant to the Supreme Court Rules, the matter will be unsealed.

7. Upon execution of this *Stipulation* and acceptance by the Supreme Court, the Commission will abate and close this matter pending against the Respondent before the Commission (Inquiry No. 2012-079).

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 any and all motions, defenses, objections, or requests that the Respondent has made or raised, or could assert hereafter in or concerning the Judicial Standards Commission proceedings.

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

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

12. If Respondent violates any terms or provisions of this executed *Stipulation*, Respondent agrees that all facts alleged in the *Notice of Preliminary Investigation* issued in Inquiry No. 2012-079, including those facts not admitted to in this *Stipulation*, shall be deemed admitted by the Respondent, will be used against Respondent in future proceedings before the Commission and the Supreme Court, and shall 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.

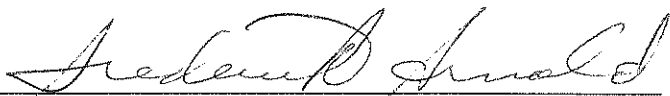
15. Respondent agrees that he shall not make or publish any false or misleading public statements about these proceedings, subject to being held in contempt by the Commission and the Supreme Court.

#### **RESPONDENT'S REVIEW & APPROVAL**

I have read and understand this *Stipulation to Permanent Retirement from Judicial Office and Consent to Discipline (Stipulation)*. I have had the opportunity to discuss this matter and my rights with a lawyer. 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 those issues. I stipulate that the Commission has sufficient evidence to prove the facts presented in this *Stipulation* and to conclude that individually and taken together the facts constitute willful misconduct in office, one or more violations of the New Mexico Code of Judicial Conduct, and provide sufficient basis for the New Mexico Supreme Court to impose discipline against me pursuant to Article VI, §32 of the New Mexico Constitution.

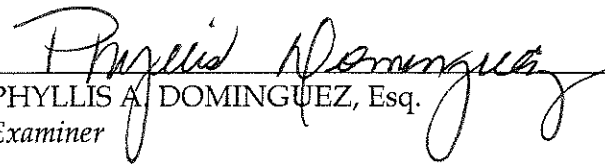
I know, understand, and agree that the provisions of this *Stipulation* are material to the Commission's deliberations and ultimate acceptance of it. I also understand and agree that by entering into this *Stipulation*, I am agreeing to never again hold judicial office or exercise judicial authority as defined in this agreement under any circumstances, 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 Judicial Standards Commission and the New Mexico Supreme Court. I further understand that if I violate any provision of this *Stipulation* in any other manner, I agree, acknowledge, and accept that all allegations 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 all matters pending before the Supreme Court and/or the Commission at the time this *Stipulation* was executed.

I know, understand, and agree that the enumerated facts to which I admit, my stipulated conduct, and my stipulated violations of the Code, are pursuant to Article VI §32 of the New Mexico Constitution, as agreed to in the *Stipulation*, are material to the Commission's deliberations and ultimate acceptance of this *Stipulation*.

  
Dated: 6-3-13  
HON. FREDERICK ARNOLD  
Respondent

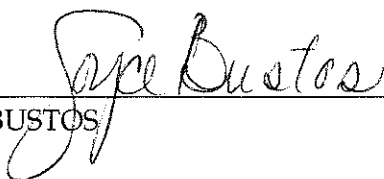
**EXAMINER'S REVIEW & APPROVAL**

I have reviewed this *Stipulation to Permanent Retirement from Judicial Office and Consent to Discipline* 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 to Permanent Retirement from Judicial Office and Consent to Discipline*.

  
Dated: 06/03/13  
PHYLLIS A. DOMINGUEZ, Esq.  
Examiner

**JUDICIAL STANDARDS COMMISSION REVIEW & APPROVAL**

The Commission has reviewed this *Stipulation to Permanent Retirement from Judicial Office and Consent to Discipline* and finds that it is in the best interest of justice and hereby accepts and approves this *Stipulation to Permanent Retirement from Judicial Office and Consent to Discipline*.

  
\_\_\_\_\_  
JOYCE BUSTOS  
Chair

Dated: 6/3/13

  
\_\_\_\_\_  
RANDALL D. ROYBAL, Esc.  
Executive Director & General Counsel

Dated: 6/3/13

BEFORE THE JUDICIAL STANDARDS COMMISSION  
OF THE STATE OF NEW MEXICO

**FILED**  
DEC 05 2012  
NM JUDICIAL  
STANDARDS COMMISSION

INQUIRY CONCERNING HON. FREDERICK ARNOLD  
City of Portales Municipal Court

Inquiry No. 2012-079

NOTICE OF FORMAL PROCEEDINGS

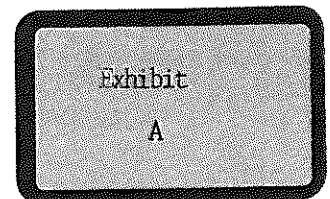
Hon. Frederick Arnold  
Portales Municipal Court  
1001 South Chicago Street  
Portales, New Mexico 88130

YOU ARE HEREBY NOTIFIED that the Judicial Standards Commission, pursuant to Rule 15 NMRA 2010 of the Judicial Standard Commission Rules, has instituted formal proceedings on the allegations set forth below.

COUNT I

On or about July 23, 2012 you falsified a timecard for court employee Suzanne Cherry to reflect that she worked forty regular hours the week of July 16-20, 2012 when Ms. Cherry worked only thirty-five regular hours that week and took five hours of vacation on July 17, 2012. Your actions allowed Ms. Cherry to be paid with public funds for forty regular hours, allowed Ms. Cherry to be paid with public funds for five hours of overtime, and allowed Ms. Cherry to accrue five hours of vacation time to which she was not entitled. You were informed by the City of Portales Payroll Clerk that Portales city employees are not eligible for overtime if an employee did not work forty regular hours in a given week.

Such conduct violates Rules 21-101; 21-102; and 21-205 NMRA 2012 of the Code of Judicial Conduct and constitutes willful misconduct in office.



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2012-079

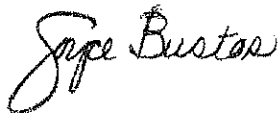


PLEASE BE ADVISED that in accordance with Rule 16 of the Judicial Standards Commission Rules, you shall file a written answer to this notice within twenty-one (21) days of its service upon you. Your answer shall be filed with:

*Clerk of the Commission  
Judicial Standards Commission  
P.O. Box 27248  
Albuquerque, New Mexico 87125-7248*

Article VI, § 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.

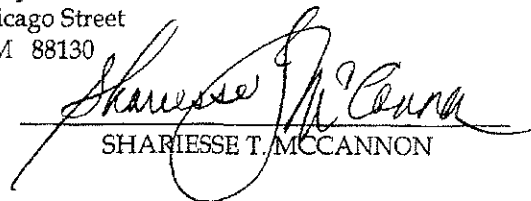
JUDICIAL STANDARDS COMMISSION

By:   
Joyce Bustos, Chair  
Post Office Box 27248  
Albuquerque, NM 87125-7248

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was sent via certified mail, return Receipt requested on this 5<sup>th</sup> day of December, 2012, to the following:

Hon. Frederick Arnold  
Portales Municipal Court  
1001 South Chicago Street  
Portales, NM 88130

  
SHARIESSE T. MCCANNON

BEFORE THE JUDICIAL STANDARDS COMMISSION  
OF THE STATE OF NEW MEXICO

**FILED**  
DEC 05 2012  
NM JUDICIAL  
STANDARDS COMMISSION

INQUIRY CONCERNING HON. FREDERICK ARNOLD  
City of Portales Municipal Court

Inquiry No. 2012-079

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Such conduct violates Rules 21-101; 21-102; and 21-205 NMRA 2012 of the Code of Judicial Conduct and constitutes willful misconduct in office.

Exhibit


2

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Judicial Standards Commission  
P.O. Box 27248  
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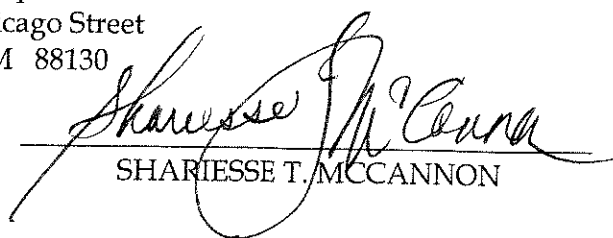
JUDICIAL STANDARDS COMMISSION

By:   
Joyce Bustos, Chair  
Post Office Box 27248  
Albuquerque, NM 87125-7248

CERTIFICATE OF SERVICE

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Portales Municipal Court  
1001 South Chicago Street  
Portales, NM 88130

  
SHARIESSE T. MCCANNON