

RX Date/Time 04/02/2016 12:17 505 222 9358
 From:NM Judicial Standards Comm. 505 222 9358

P.002
 02/04/2016 11:28 #105 P.002/014

IN THE SUPREME COURT
 OF THE STATE OF NEW MEXICO

**FAXED
 ORIGINAL**

No. S-1-SC-35625

IN THE MATTER OF HON. CONNIE LEE JOHNSTON
 San Juan County Magistrate Court, New Mexico

INQUIRY CONCERNING HON. CONNIE LEE JOHNSTON
 JSC Inquiry Nos. 2015-058, 2015-059, 2015-060, 2015-061, 2015-062, 2015-063, 2015-098, 2015-143 & 2015-146

FILED UNDER SEAL
 PURSUANT TO 27-104(B) NMRA 2011

**PETITIONER'S SECOND SUPPLEMENT TO
 VERIFIED PETITION FOR IMMEDIATE TEMPORARY
 SUSPENSION WITHOUT PAY**

JUDICIAL STANDARDS COMMISSION
 Post Office Box 27248
 Albuquerque, NM 87125-7248
 Tel: (505) 222-9353
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Hon. Connie Lee Johnston
 c/o E. Justin Pennington, Esq.
 P.O. Box 50038
 Albuquerque, NM 87181-0038
 Telephone: (505) 842-9164
 Facsimile: (505) 842-0414

RANDALL D. ROYBAL
Executive Director & General Counsel

Respondent

PHYLLIS A. DOMINGUEZ
Investigative Trial Counsel

Counsel for Petitioner

SUPREME COURT OF NEW MEXICO
 FILED

FEB 4 2016



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PHYLLIS A. DOMINGUEZ
Investigative Trial Counsel

Counsel for Petitioner

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Respondent

IN THE SUPREME COURT
OF THE STATE OF NEW MEXICO

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**PETITIONER'S SECOND SUPPLEMENT TO
VERIFIED PETITION FOR IMMEDIATE TEMPORARY
SUSPENSION WITHOUT PAY**

The Judicial Standards Commission of the State of New Mexico ("Petitioner"), through the undersigned counsel, hereby supplements its *Petition for Immediate Temporary Suspension without Pay* in the above-referenced matter.

1. Specifically, the Commission provides this Court with the *Notice of Formal Proceedings* issued on February 3, 2016 and attached hereto as **Exhibit E**. The *Notice of Formal Proceedings* sets forth the full formal

charges of wrongdoing pending against Respondent, which provide additional grounds in support of the *Verified Petition for Immediate Temporary Suspension* pending before this Court.

2. The additional charges of wrongdoing also cause further concern that Respondent's return to judicial service would cause immediate and substantial risk of harm to the judiciary and staff of the San Juan County Magistrate Court, to law enforcement, to users of the court, and an erosion of public confidence in the integrity and impartiality of the judiciary, disruption of the San Juan County Magistrate Court's business and the orderly administration of justice.

3. Petitioner requests that the Court amend the Court's caption for this case to include the above listed matters which have been consolidated before the Commission and which are proceeding to trial. To reflect all matters pending before the Commission, the caption should read:

IN THE MATTER OF HON. CONNIE LEE JOHNSTON
San Juan County Magistrate Court, New Mexico

INQUIRY CONCERNING HON. CONNIE LEE JOHNSTON
JSC Inquiry Nos. 2015-058, 2015-059, 2015-060, 2015-061, 2015-062,
2015-063, 2015-098, 2015-143 & 2015-146

WHEREFORE, Petitioner prays for an Order from the Court for Respondent's continued suspension without pay pending completion of Petitioner's proceedings and the proceedings before this Court, and requests that the Court amend the Court's caption to include all matters consolidated and pending before the Commission.

Respectfully Submitted,

JUDICIAL STANDARDS COMMISSION


RANDALL D. ROYBAL
Executive Director & General Counsel

PHYLLIS A. DOMINGUEZ
Investigative Trial Counsel
Post Office Box 27248
Albuquerque, NM 87125-7248
Tel: (505) 222-9353
Fax: (505) 222-9358

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via facsimile and U.S. Mail on this 4th day of February 2016 to the Respondent as follows:

Hon. Connie Lee Johnston
c/o E. Justin Pennington, Esq.
P.O. Box 50038
Albuquerque, NM 87181-0038
Telephone: (505) 842-9164
Facsimile: (505) 842-0414


PHYLLIS A. DOMINGUEZ

BEFORE THE JUDICIAL STANDARDS COMMISSION
OF THE STATE OF NEW MEXICO

FILED

FEB 03 2015

NM JUDICIAL
STANDARDS COMMISSION

INQUIRY CONCERNING HON. CONNIE LEE JOHNSTON
San Juan County Magistrate Court

Inquiry Nos. 2015-058, 2015-059, 2015-060, 2015-061, 2015-062, 2015-063, 2015-098, 2015-143,
2015-146

NOTICE OF FORMAL PROCEEDINGS

TO: Hon. Connie Lee Johnston
c/o E. Justin Pennington, Esq.
P.O. Box 50038
Albuquerque, NM 87181-0038

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

COUNT 1

On December 1, 2015 you willfully held Ms. Amy Verhulst in contempt of court for performing her clerical duties that she was ordered by Presiding Judge Barry Sharer to perform. You sentenced Ms. Verhulst to thirty (30) days in jail, set bond at \$1,000 cash only, and ordered Ms. Verhulst to be immediately arrested.

Such conduct violates Rules 21-101, 21-102, 21-103, 21-204(B), 21-203, 21-205(B), and 21-208(B) NMRA of the Code of Judicial Conduct and constitutes willful misconduct in office.

COUNT 2

On December 1, 2015 you made statements to New Mexico State Police Sergeant James Rempe prior to taking the bench words to the effect of, "Stick around, I'm sure someone is going to jail." Sergeant Rempe asked, "Who, prisoners?" You told him, "Whoever." Sergeant Rempe then asked, "Judges?" You replied, "Whoever gives me lip." You subsequently ordered the arrest of San Juan County Magistrate Court Lead Worker Amy Verhulst.

EXHIBIT
E

Such conduct violates Rules 21-101, 21-102, 21-103, 21-202 and 21-204 NMRA of the Code of Judicial Conduct and constitutes willful misconduct in office.

COUNT 3

On December 1, 2015 you failed to follow the reasonable and lawful order of Presiding Judge Barry Sharer and undermined his authority when you twice ordered Amy Verhulst out of your courtroom after Presiding Judge Sharer personally informed you that, at his direction, two clerks would be in the courtroom with you at all times.

Such conduct violates Rules 21-101, 21-102, 21-103, 21-205(B) and 21-208(B) NMRA of the Code of Judicial Conduct and constitutes willful misconduct in office.

COUNT 4

On December 1, 2015 you failed to follow the reasonable and lawful order of Presiding Judge Barry Sharer and undermined his authority when you ordered court clerk Cruzita Garcia out of your courtroom after Presiding Judge Sharer personally informed you that, at his direction, two clerks would be in the courtroom with you at all times.

Such conduct violates Rules 21-101, 21-102, 21-103, 21-205(B), and 21-208(B) NMRA of the Code of Judicial Conduct and constitutes willful misconduct in office.

COUNT 5

On December 1, 2015 you failed to be patient, dignified and courteous to Presiding Judge Barry Sharer, failed to cooperate with Judge Sharer, and attempted to undermine his authority in open court when you were twice asked by Judge Sharer to step off the bench and you ignored him both times.

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

COUNT 6

On December 1, 2015 you continued to perform judicial duties without the presence of a clerk in your courtroom, which caused unnecessary cost and/or delay, resulted in litigants having to return to court on December 2, 2015 to sign and receive copies of their case disposition paperwork, and caused court clerks and AOC Statewide Operations Manager Georgia Sedillo to spend hours correcting your mistakes.

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

COUNT 7

On or about November 23, 2015 you failed to be dignified and courteous to Presiding Judge Barry Sharer when you lifted up your shirt revealing your undergarments and asked Judge Sharer if he wanted to pat you down.

Such conduct violates Rules 21-101, 21-102, 21-203(B) and 21-208(B) NMRA of the Code of Judicial Conduct and constitutes willful misconduct in office.

COUNT 8

On or about November 23, 2015 you failed to perform your judicial duties by leaving the courthouse and abandoning your docket, when you knew or should have known that Judge Trudy Chase was on vacation and that Presiding Judge Barry Sharer had an out of court appointment that afternoon.

Such conduct violates Rules 21-101, 21-102, 21-201, 21-205(A) and (B), and 21-207 NMRA of the Code of Judicial Conduct and constitutes willful misconduct in office.

COUNT 9

On December 2, 2015, after being ordered on December 1, 2015 by Chief Justice Barbara Vigil that you were not to carry out any acts as a magistrate judge, you called the San Juan County Adult Detention Center, and asked if you could go to the Adult Detention Center to review the cash bond receipt book.

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

COUNT 10

On or about December 1, 2015, you breached confidentiality imposed by Article VI, Section 32 of the New Mexico Constitution and Rule 8 of the Judicial Standards Rules, and falsely stated to Steve Garrison, a reporter for the Farmington Daily Times, that all complaints filed with the Judicial Standards Commission concerning you have been unfounded.

Such conduct violates Rules 21-101, 21-102 and 21-216(A) NMRA of the Code of Judicial Conduct and constitutes willful misconduct in office.

COUNT 11

You initiated prohibited *ex parte* communications with a plaintiff in the matter of *Calixto Cabrera, Bonnie Cabrera v. George Leroy Charles*, M-147-CV-2014-01200, a matter pending on appeal, and advised the plaintiff: (1) that the defendant's pleadings were insufficient; (2) who to contact at district court for help with forms; (3) how to appeal; (4) that not too many of your cases were appealed but that the plaintiff should be prepared to wait two to three months for a trial date; (5) to

talk to an attorney to help get a quicker setting; (6) that several motions were available to the plaintiff and recommended speaking to an attorney; (7) that the phone call was a courtesy because you knew the plaintiff was frustrated with the defendant; and (8) you were concerned about the situation with the other tenants.

Such conduct violates Rules 21-101, 21-102, 21-103, 21-202, 21-204(B) and (C), 21-206 and 21-209(A) NMRA of the Code of Judicial Conduct and constitutes willful misconduct in office.

COUNT 12

You created an appearance of impropriety, showed favoritism towards the plaintiff, and attempted to aid the plaintiff in the impending appeal in the matter of *Calixto Cabrera, Bonnie Cabrera v. George Leroy Charles*, M-147-CV-2014-01200, when you *sua sponte* released your case notes to the district court on May 1, 2015 prior to the district court's May 5, 2015 filing of a notice of appeal in the magistrate court.

Such conduct violates Rules 21-101, 21-102, 21-103, 21-202, and 21-204(B) NMRA of the Code of Judicial Conduct and constitutes willful misconduct in office.

COUNT 13

On or about March 3, 2015 in *State of New Mexico v. Philmore Clyde*, M-147-VM-2015-00032, you unlawfully ordered additional conditions to the defendant's sentence after you had accepted a plea and disposition agreement that was made in exchange for a guaranteed, specific sentence pursuant to Magistrate Court Rule 6-502(D)(3).

Such conduct violates Rules 21-101, 21-102, 21-202 and 21-205(A) NMRA of the Code of Judicial Conduct and constitutes willful misconduct in office.

COUNT 14

In *State of New Mexico v. Elvera Hoschain*, M-147-VM-2015-008, you refused to accept the prosecutor's *nolle prosequi* for lack of probable cause. You knew the case was going to be dismissed, but refused to accept the dismissal, told the prosecutor that the defendant should be supervised for something, and then told the defendant to get an attorney and to work out a deal with the prosecutor.

Such conduct violates Rules 21-101, 21-102, 21-103, 21-202, 21-205(A), 21-210(A) and 21-211 NMRA of the Code of Judicial Conduct and constitutes willful misconduct in office.

COUNT 15

On or between January 1, 2015 and September 21, 2015 you failed to follow the lawful directives of Presiding Judge Trudy Chase and undermined Judge Chase's authority by: (1) continued use of Judgment on the Pleadings forms when directed to stop using those forms until the matter could be discussed at a judge's meeting; (2) failed to cease your involvement in developing a Veteran's Treatment Court during your mentorship; (3) continued to contact litigants *ex parte* after being told multiple times to stop this behavior; and (4) continued to act as an investigator rather than an impartial jurist.

Such conduct violates Rules 21-101, 21-102, 21-103, 21-201, 21-202, 21-204(B) and 21-205(B) NMRA of the Code of Judicial Conduct and constitutes willful misconduct in office.

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

*Clerk of the Commission
Judicial Standards Commission
Post Office Box 27248
Albuquerque, New Mexico 87125-7248*

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

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

JUDICIAL STANDARDS COMMISSION

BY: _____

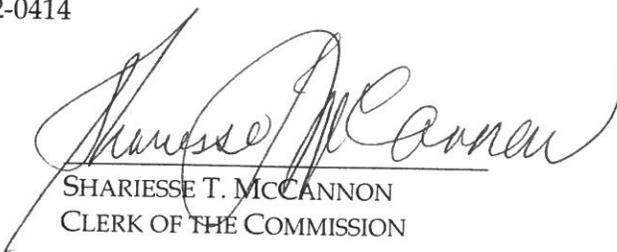


Joyce E. Bustos, Chair
Post Office Box 27248
Albuquerque, NM 87125-7248
(505) 222-9353

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was sent via facsimile and certified mail returned receipt requested on this 3rd day of February 2016 to the following:

Hon. Connie Lee Johnston
c/o E. Justin Pennington, Esq.
P.O. Box 50038
Albuquerque, NM 87181-0038
Facsimile: (505) 842-0414


SHARIESSE T. MCCANNON
CLERK OF THE COMMISSION