

IN RE GALVAN, S.Ct. No. 28,609 (Filed May 17, 2004)

**IN THE MATTER OF REUBEN GALVAN,
Magistrate Court Judge, Dona Ana County, New Mexico**

NO. 28,609

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

May 17, 2004, Filed

INQUIRY CONCERNING A JUDGE
NO. 2003-48

COUNSEL

James A. Noel, Randall D. Roybal, Albuquerque, New Mexico, For Judicial Standards Commission

Jose Luis Arrieta, Las Cruces, New Mexico, For Respondent

FORMAL REPRIMAND

Per Curiam.

{1} This matter came before the Court upon recommendation of the Judicial Standards Commission to approve a plea and stipulation agreement entered into between the commission and Honorable Reuben Galvan.

{2} The commission issued a Notice of Preliminary Investigation to respondent on November 4, 2003. On November 19, 2003, respondent filed a response to the Notice of Preliminary Investigation. On January 6, 2004, the commission issued a Notice of Formal Proceedings, and, on February 13, 2004, respondent filed his response to the Notice of Formal Proceedings. On April 8, 2004, respondent agreed to enter into a Plea and Stipulation Agreement with the Commission, which was accepted and filed on April 16, 2004. In the agreement, respondent admitted the factual and legal conclusions and agreed to receive discipline. On April 20, 2004, the commission filed a verified petition for discipline upon stipulation with this Court. The stipulated factual and legal conclusions are set forth below.

{3} Respondent presided over and/or took judicial action in several cases in which an assistant district attorney appeared on behalf of the State of New Mexico. Respondent had been engaged in a personal relationship with the assistant district attorney during the time he presided over the matters and/or took the judicial actions. In cases where

this particular assistant district attorney appeared before him, respondent did not inform all counsel or parties of record of his relationship with the assistant district attorney.

{4} Respondent failed to be patient, dignified, and courteous to counsel by making inappropriate remarks to the assistant district attorney about his rulings in front of defendant(s), defense counsel, and co-counsel. In one particular case, it is alleged that during a hearing on a motion to suppress breath test evidence, respondent would not allow the assistant district attorney to call the officer who administered the breath test to testify, and, subsequently, granted the motion to suppress. He then commented from the bench something to the effect of "Let's see you prove your case now" or "Good luck trying to prove your case now."

{5} Respondent's conduct violated the following Canons of the Code of Judicial Conduct: 21-100 NMRA (judge shall uphold integrity and independence of judiciary); 21-200(A) and (B) NMRA (judge shall avoid impropriety and appearance of impropriety in all activities); 21-300(B)(2), (B)(3), (B)(4), (B)(5), and (B)(8) NMRA (judge shall perform duties of office impartially and diligently); 21-400(A)(1) NMRA (disqualification); and 21-500(A) NMRA (a judge shall so conduct the judge's extra-judicial activities as to minimize the risk of conflict with judicial obligations).

{6} Respondent's conduct constitutes willful misconduct in office.

{7} WE HEREBY FIND that the recommended disciplinary measures for respondent's violations of the Code of Judicial Conduct are appropriate. Respondent shall comply fully with the requirements of the discipline imposed by this Court and with the Code of Judicial Conduct.

{8} NOW, THEREFORE, IT IS ORDERED that Honorable Reuben Galvan hereby is disciplined as follows:

1. Respondent shall receive a thirty-day suspension without pay. Imposition of the thirty-day suspension without pay shall be deferred upon the condition that respondent successfully completes six months of supervised probation (May 4, 2004 through November 4, 2004);
2. Respondent shall be supervised by Hon. Jerald A. Valentine during the term of probation. Respondent shall meet with Judge Valentine at the time(s) and place(s) selected by the supervising judge for counseling and assistance with the requirements of the Code of Judicial Conduct;
3. Judge Valentine shall file a report with this Court and the Judicial Standards Commission concerning the results of respondent's probation program;

4. Respondent hereby is reprimanded. Respondent shall receive a formal reprimand and appear before this Court on Wednesday, May 19, 2004, at 9:00 a.m. The formal reprimand also shall be published in the Bar Bulletin;

5. Respondent shall be summarily and temporarily suspended without pay upon the filing of any of the following in this Court:

a. A report from Judge Valentine or from the Judicial Standards Commission indicating that respondent has failed to cooperate with Judge Valentine, failed to participate materially in the meetings with Judge Valentine, or otherwise failed to comply substantially with the terms of the probation; and/or

b. Notice from the Judicial Standards Commission that it is conducting formal proceedings against respondent concerning violations of the Code of Judicial Conduct that may constitute willful misconduct in office, failure to perform judicial duties, or habitual intemperance.

The temporary suspension shall continue until this Court issues an order lifting the suspension after reviewing the results of the Commission's formal investigation and/or formal proceedings concerning these matters. Respondent agrees not to contest the summary temporary suspension; and

6. Respondent shall abide by all terms and conditions of this order, the plea agreement, and the Code of Judicial Conduct; and

{9} IT IS FURTHER ORDERED that the parties shall bear their own costs and expenses incurred in this matter; and

{10} IT IS FURTHER ORDERED that the Commission shall initiate contempt proceedings in this Court concerning violations of the terms and conditions of probation.

{11} IT IS SO ORDERED.

Chief Justice Petra Jimenez Maes

Justice Pamela B. Minzner

Justice Patricio M. Serna

Justice Richard C. Bosson

Justice Edward L. Chávez