

**IN RE PINEDA, S.Ct. No. 29,479 (Filed November 29, 2005)**

**IN THE MATTER OF HONORABLE HECTOR PINEDA,  
Municipal Judge, City of Roswell, New Mexico**

NO. 29,479

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

November 29, 2005, Filed

INQUIRY CONCERNING A JUDGE  
NO. 2005-025

**COUNSEL**

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

Atwood, Malone, Turner & Sabin, P.A., Steven Bell, Esq., For Respondent

**FORMAL REPRIMAND**

**Per Curiam.**

{1} This matter came before the Court upon recommendation of the Judicial Standards Commission to approve a stipulation agreement and consent to discipline that was entered into between the commission and Honorable Hector Pineda.

{2} The commission issued a notice of preliminary investigation to respondent on May 17, 2005. On May 24, 2005, respondent filed his response to the commission's notice of preliminary investigation. On June 9, 2005, the commission issued a notice of formal proceedings to respondent. Respondent filed his response to the notice of formal proceedings on July 14, 2005. On September 13, 2005, the examiner and respondent submitted a proposed stipulation agreement and consent to discipline for the commission's consideration. On October 3, 2005, the commission conducted a presentment hearing placing on record all matters contained in and related to the stipulation agreement and approved and entered into the stipulation agreement and consent to discipline. The commission filed a petition for discipline upon stipulation with this Court on October 4, 2005. On October 5, 2005, the commission filed the record of the presentment proceedings. On October 14, 2005, this Court issued an order granting the commission's disciplinary petition. The stipulated factual and legal conclusions are set forth below.

{3} Respondent is the full-time Roswell Municipal Court Judge. On March 15, 2005, respondent displayed improper demeanor towards a pro se defendant in the matter of *City of Roswell v. Herrera*, cause NO. 2005-702. Respondent failed to maintain order and decorum in a judicial proceeding and failed to be patient, dignified, and courteous to the pro se defendant.

{4} During a bench trial, respondent became agitated with and yelled at defendant Herrera. While yelling at defendant, respondent stood up from his chair and hit his gavel on his bench so hard that it caused debris, including but not necessarily limited to paper clips, to scatter across the room. Defendant and the prosecuting police officer reported that the debris and/or paper clips struck them. Respondent reported that he did not see the debris scatter or strike the men.

{5} Respondent's admitted conduct violated the following Canons of the Code of Judicial Conduct: 21-100 NMRA 1995 (judge shall uphold integrity and independence of judiciary), 21-200(A) NMRA 1995 (judge shall avoid impropriety and appearance of impropriety in all the judge's activities), and 21-300(B)(2), (B)(3) and (B)(4) NMRA 2004 (judge shall perform the duties of office impartially and diligently, maintain order and decorum in judicial proceedings, and be patient, dignified, and courteous).

{6} Respondent's conduct constituted willful misconduct in office. We hereby find that the recommended discipline for respondent's violations of the Code of Judicial Conduct is appropriate.

{7} Now, therefore, it is ordered that Honorable Hector Pineda hereby is disciplined as follows:

1. Respondent hereby is formally reprimanded. This reprimand shall be published in the *Bar Bulletin*;
2. Respondent shall pay a \$500.00 fine on or before October 31, 2005. Payment shall be by certified check made payable to the State of New Mexico and delivered to the Judicial Standards Commission. Respondent shall promptly file proof of payment with this Court and the commission;
3. Respondent shall successfully complete a formal mentorship (remedial training) concerning his obligations and responsibilities under the Code of Judicial Conduct and concerning proper judicial demeanor and temperament. The commission shall recommend to this Court the name of a New Mexico district court judge to serve as mentor. The mentor shall report on the progress and outcome of the mentorship to this Court and to the commission; and
4. Respondent shall be placed on supervised probation for six months. The commission shall recommend to this Court the name of a supervisor. Respondent shall meet in person or by telephone with the supervisor at

the times and places (if in person) that the supervisor designates for counseling and assistance with the requirements of the Code of Judicial Conduct. The supervisor shall file a written report with this Court and the commission concerning the results of respondent's probation program. The district court judge appointed to serve as a mentor may be used to supervise the probation.

**{8}** It is further ordered that should the commission initiate formal proceedings against respondent in any new matter, respondent shall be summarily temporarily suspended without pay until the new formal proceedings are terminated by the commission;

**{9}** It is further ordered that respondent shall abide by all terms and conditions of the plea and stipulation agreement and the Code of Judicial Conduct; and

**{10}** It is further ordered that the parties shall bear their own costs and expenses incurred in this matter.

**{11} IT IS SO ORDERED.**

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**Chief Justice Richard C. Bosson**

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**Justice Pamela B. Minzner**

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**Justice Patricio M. Serna**

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**Justice Petra Jimenez Maes**

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**Justice Edward L. Chávez**