

IN RE VINCENT, S.Ct. No. 27,266 (Filed March 22, 2002)

**IN THE MATTER OF WILLIAM A. VINCENT, JR., Magistrate Judge,
San Juan County, New Mexico**

NO. 27,266

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

March 22, 2002, Filed

INQUIRY CONCERNING A JUDGE
NOS. 2001-30, 2001-31, 2001-32, 2001-34, 2001-35 & 2001-36

COUNSEL

Peg A. Holguin, Randall D. Roybal, Albuquerque, NM, for Judicial Standards
Commission

William A. Vincent, Jr., Farmington, NM

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 Hon. William A. Vincent, Jr., that respondent be formally reprimanded, ordered to participate in a mentorship program, and ordered to complete a continuing judicial education course.

{2} The commission issued a notice of preliminary investigation to respondent on July 31, 2001. Respondent filed a response to the notice of preliminary investigation on August 15, 2001. On September 5, 2001, the commission issued a notice of formal proceedings to respondent. Respondent filed his response to the notice of formal proceedings on September 12, 2001. On December 4, 2001, respondent agreed to enter into a plea and stipulation agreement with the commission in which respondent stipulated to the factual and legal conclusions, and agreed to receive discipline from this Court. On December 13, 2001, the commission filed a verified petition for discipline. The stipulated factual and legal conclusions are set forth below.

{3} Respondent made inappropriate, age and/or gender-biased references to female attorneys who appeared before him. Specifically, respondent referred to two female attorneys from the Public Defender's Office by names which included, but were not necessarily limited to, the following: "little girl," "kiddo," "little sister," and "missy."

{4} After the State of New Mexico lost a six-month rule hearing on or about February 22, 2001, in State v. Billson Gordo, respondent threatened the Public Defender's Office and/or its employees. Immediately after the hearing, respondent was sitting in the hallway, and as the attorneys from the Public Defender's Office left the courtroom, respondent said to them, "Don't be so smug ladies." A short time later, respondent was in the clerk's office and told the court staff that the Public Defender attorneys were pointing and laughing at him. Respondent then said, "those ladies will rue the day."

{5} On or about October 2000, respondent abused the judicial process, failed to recuse from, and exhibited bias, prejudice, or an appearance thereof, during the arraignment in State v. Chester Mitchell (possession of crack cocaine). Respondent told Mr. Mitchell that respondent knew the crack cocaine was not his, but instead belonged to one of Mitchell's grandchildren and respondent wanted them to "fess up". Respondent then reduced the bond to a \$25,000 property bond and told Mr. Mitchell he could put up the deed to his house. Respondent later told a female supervisor from the Public Defender's Office, that the reason he allowed the property bond was that the State could get rid of Mr. Mitchell's house if there were any further complaints by Mr. Mitchell's neighbors. Within a month of this arraignment, the deputy district attorney ceased prosecution of Mr. Mitchell's case through a nolle prosequi notice.

{6} On or about October 2000, and after recusing himself from the matter of State v. Chris DeLeon, respondent physically and verbally interjected himself into the pretrial conference for the case and testified against a motion filed by a female attorney of the Public Defender's Office.

{7} While on the bench, respondent had telephoned various legislators to support or oppose various pieces of pending legislation and to discuss his political views on a variety of subjects.

{8} On or about March 2001, while on the bench hearing a matter in State v. Matilda George, respondent referred to a female magistrate court judge in an inappropriate, derogatory, gender-biased manner. Specifically, in response to a question by the defendant's female attorney of the Public Defender's Office concerning an order previously entered by the female magistrate court judge, respondent said that he did not know why that "stupid woman does anything the way she does and if you don't like it, appeal it."

{9} Respondent inappropriately criticized a female attorney of the Public Defender's Office concerning the nature of her employment. In response to hearing from the female attorney that her brother was a police officer, respondent told her, "how could your brother let you do this type of work? What kind of police officer is he?" Respondent further compared the same female attorney to another attorney, stating, "[She] was a good attorney. She used to get through one hundred of these a day. Remember little sister, a good attorney stays out of the courtroom."

{10} Respondent illegally and verbally modified a judgment and sentence and order of eligibility in State v. Anthony Stallings after the defendant's female attorney of the Public Defender's Office filed a notice of appeal from his ruling. Respondent told the monitor to keep Mr. Stallings on monitoring for a total of thirty days and not allow either pre-sentence or post-sentence confinement credit. This modification was not made in writing, was made with no notice to the parties, and was made ex parte with the monitoring agent after the notice of appeal was filed.

{11} Respondent's 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) and (B) NMRA 1991 (judge shall avoid impropriety and appearance of impropriety in all activities); 21-300(A), (B)(1), (B)(2), (B)(3), (B)(4), (B)(5), (B)(7) and (B)(8) NMRA 1995 (judge shall perform duties of office impartially and diligently); 21-400(A)(1) and (A)(5)(d) NMRA 1995 (disqualification); and 21-500(A)(1), (A)(2), (A)(3), (A)(4) and (C)(1) NMRA 1995 (judge shall conduct extra-judicial activities to minimize risk of conflict with judicial obligations).

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

{13} 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.

{14} NOW, THEREFORE, IT IS ORDERED that Hon. William A. Vincent, Jr., is hereby disciplined as follows:

- A. Respondent shall be and hereby is formally reprimanded;
- B. Respondent shall participate in a mentorship program;
- C. Respondent shall attend and successfully complete the next administration of the "Building a Bias-Free Environment in Your Court" course sponsored by the National Judicial College. Respondent shall bear at his own expense the tuition and all costs required to attend and complete this course, including travel, accommodations, meals, and all other expenses incurred in relation to completing this requirement. Respondent shall provide this Court and the commission with written proof of his attendance and successful completion of this course;
- D. Respondent shall abide by all terms and conditions of this order, the plea agreement, and the Code of Judicial Conduct; and
- E. The parties shall bear their own costs and expenses incurred in this matter.

{15} IT IS FURTHER ORDERED that Hon. William C. Birdsall, District Judge of the Eleventh Judicial District Court, is appointed to serve as mentor to respondent, and shall report in writing to the commission and this Court on respondent's participation in and successful completion of the mentorship program.

{16} IT IS SO ORDERED.

Chief Justice Patricio M. Serna

Justice Joseph F. Baca

Justice Gene E. Franchini

Justice Petra Jimenez Maes

Justice Pamela B. Minzner, recused