

IN RE VINCENT, S.Ct. No. 27,266 (Filed May 19, 2004)

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

NO. 27,266

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

May 19, 2004, Filed

INQUIRY CONCERNING A JUDGE
NO. 2003-99

COUNSEL

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

Victor A. Titus, Farmington, New Mexico, For Respondent

CENSURE

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 William A. Vincent.

{2} On January 26, 2004, the commission issued a notice of preliminary investigation to respondent and filed in this Court a verified petition for temporary suspension. On February 5, 2004, this Court issued an order requiring respondent to file a response to the petition, which response was filed on February 6, 2004. The commission's reply was filed on February 16, 2004. On March 22, 2004, this Court issued an order denying the commission's petition for temporary suspension. On April 8, 2004, respondent agreed to enter into a no contest plea and stipulation agreement with the commission, which the commission accepted and filed on April 16, 2004. 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} On or about October 27, 2003, respondent presided over a jury trial State of New Mexico v. Ruybalid, cause numbered M-47-VR-2003-95-WV. After declaring a mistrial and excusing himself from the case, respondent displayed inappropriate behavior, made inappropriate statements, threatened, and yelled at defendant and counsel.

{4} Respondent came off the bench and around the witness box. He again yelled at defendant. The chief clerk of his court began to call to respondent repeatedly and in an increasingly concerned, louder voice. Respondent came around the podium and defense counsel stood in front of defendant and squared her body towards respondent, blocking his access to defendant. As respondent approached defendant and counsel, he still was yelling and threatening defendant. Respondent then passed through the swinging gates, turned, looked directly at defense counsel, pointed, and yelled, "You can write the longest letter you want to the Judicial Standards Committee and I will tell those [expletive] what I think of them."

{5} Respondent then went outside through the back door in the courtroom and brought the jury back into the courtroom. He explained that there had been a mistrial and then excused them. Once the jury was out of the courtroom and while counsel was preparing to leave, respondent attempted to make conversation with counsel. He told counsel that he was sorry if he "got a little upset."

{6} In a subsequent conversation with defense counsel, respondent again apologized for his actions. He agreed with counsel that neither she nor her law partner could appear before him. Respondent agreed to recuse himself from their cases for the time being.

{7} 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) NMRA (judge shall avoid impropriety and appearance of impropriety in all activities); 21-300(B)(2), (B)(3), and (B)(4) NMRA (judge shall perform duties of office impartially and diligently).

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

{9} 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.

{10} NOW, THEREFORE, IT IS ORDERED that Honorable William A. Vincent is hereby disciplined as follows:

A. Respondent shall submit to evaluation by a psychologist/psychiatrist selected by the Judicial Standards Commission. The psychologist/psychiatrist shall certify in writing to this Court and to the Commission whether respondent is psychologically fit for full and regular judicial duty. Respondent shall pay the provider's professional fees and expenses. Respondent shall provide this Court and the Commission with all waivers and releases necessary to authorize the Commission to receive all records, reports, and information from the selected

psychologist/psychiatrist, institution, or other facility regarding the judge's mental condition.

If the psychologist/psychiatrist determines that respondent is not psychologically fit for full and regular duty, the psychologist/psychiatrist shall notify this Court and the Commission in writing. Upon such notification, respondent, by stipulation, shall immediately, summarily, and temporarily suspend himself from the bench. During the period of temporary suspension, respondent shall receive ninety days pay, and, thereafter, the suspension shall continue without pay. Respondent shall comply with all recommendations, restrictions, and/or treatment suggested by the psychologist/psychiatrist, which are intended to enable respondent to obtain an unrestricted fitness for duty certification.

B. Respondent shall obtain a certificate of successful completion of an anger management program in San Juan County selected by the Judicial Standards Commission. Respondent shall pay all fees and costs associated with the program. Respondent shall file the original certificate with this Court and provide a copy to the Commission. Respondent shall provide this Court and the Commission with all waivers and releases necessary to authorize the Commission to receive all records, reports, and information from the selected counselor, program, institution, or other facility regarding respondent's anger management.

C. This censure order shall be published in the Bar Bulletin.

D. Following completion of the terms set forth above, respondent shall complete six months of supervised probation. Hon. Stephen Pfeffer hereby is appointed as the supervisor judge. Respondent shall meet with Judge Pfeffer at the time(s) and place(s) designated by Judge Pfeffer for counseling and assistance with matters of judicial demeanor, temperament, and performance as governed by the Code of Judicial Conduct. Judge Pfeffer shall file a written report with this Court and with the Commission concerning the results of respondent's probation.

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

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

{12} IT IS SO ORDERED.

Chief Justice Petra Jimenez Maes

Justice Patricio M. Serna

Justice Richard C. Bosson

Justice Edward L. Chávez

Justice Pamela B. Minzner recuses