

IN RE MARTINEZ, S.Ct. No. 29,309 (Filed October 19, 2005)

**IN THE MATTER OF HON. ERMINIO MARTINEZ,
Magistrate Judge, Taos County, New Mexico**

NO. 29,309

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

October 19, 2005, Filed

INQUIRY CONCERNING A JUDGE
NO. 2005-024

COUNSEL

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

Hon. Erminio Martinez, Taos, New Mexico, Pro Se

FORMAL REPRIMAND

Per Curiam.

{1} This matter came before the Court upon recommendation of the Judicial Standards Commission to approve a petition for discipline upon stipulation entered into between the Commission and Honorable Erminio Martinez.

{2} On June 2, 2005, the Commission issued to respondent a notice of formal proceedings, notice of trial and pretrial scheduling order, and discovery order. On June 16, 2005, respondent agreed to enter into a stipulation agreement and consent to discipline with the Commission, which the Commission accepted and filed on June 28, 2005. On June 28, 2005, the Commission filed a petition for discipline upon stipulation with this Court. The stipulated factual and legal conclusions are set forth below.

{3} During the months of January, February, and March of 2005, while employed as a full-time magistrate court judge for Taos, County, New Mexico, and while receiving a salary from the State of New Mexico as a full-time magistrate court judge for Taos County, respondent served as tribal judge *pro tempore* for Taos Pueblo Tribal Court at times when he was being paid by the state to serve as magistrate court judge for Taos County.

{4} 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) NMRA 1995 (judge shall avoid impropriety and appearance of

impropriety in all activities); 21-500(H) NMRA 1995 (judge shall not hold any other paid position, judicial or otherwise, that conflicts with the hours and duties the judge is required to perform); and 21-500(I) NMRA 1995 (no full-time judge may hold any other judicial position, elected or appointed).

{5} Respondent's conduct constituted willful misconduct in office.

{6} 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.

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

A. Respondent hereby is formally reprimanded. This reprimand shall be published in the *Bar Bulletin*.

B. Respondent shall pay a \$840.00 fine on or before August 24, 2005. Payment shall be by certified check made payable to the State of New Mexico and tendered to this Court. Respondent shall promptly file proof of payment with this Court and the Judicial Standards Commission.

C. Respondent shall be placed on suspension without pay for three and one-half days to be scheduled and arranged with the Administrative Office of the Courts as soon as practicable.

D. Respondent shall abide by all terms and conditions of the stipulation agreement and consent to discipline and the Code of Judicial Conduct. Any failure to comply shall constitute contempt of the Commission.

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

{9} IT IS SO ORDERED.

Chief Justice Richard C. Bosson

Justice Pamela B. Minzner

Justice Patricio M. Serna

Justice Petra Jimenez Maes

Justice Edward L. Chávez