

IN RE ROBLES, S.Ct. No. 32,854 (Filed May 31, 2011)

**IN THE MATTER OF ROBERT E. ROBLES
New Mexico Court of Appeals Judge, Albuquerque, New Mexico**

NO. 32,854

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

May 31, 2011, Filed

INQUIRY CONCERNING A JUDGE
NO. 2011-022

COUNSEL

Randall D. Roybal, Robin S. Hammer, Albuquerque, NM, for Judicial Standards Commission

Sheehan & Sheehan, P.A., Briggs F. Cheney Albuquerque, NM, for Respondent

FORMAL REPRIMAND

PER CURIAM.

{1} This matter came before this Court by motion to accept a stipulation to permanent retirement from judicial office effective June 1, 2011 and consent to discipline (consent to discipline) filed by the Judicial Standards Commission (Commission) concerning the Honorable Robert E. Robles (Respondent), formerly a Court of Appeals Judge in Albuquerque, New Mexico. We accepted the Commission's stipulated facts, Respondent's permanent retirement as set forth in the consent to discipline, and issue this formal reprimand.

{2} Judge Robles has entered into the consent to discipline with the Commission resulting from his plea of guilty to driving under the influence of intoxicating liquor or drugs, first offense. In the consent to discipline Respondent agrees to (1) permanently retire from the bench, (2) never again hold any judicial office in the State of New Mexico, and (3) receive a formal reprimand from this Court. We have accepted all of the terms of the consent to discipline and issue this formal reprimand.

{3} Respondent has admitted that on February 16, 2011, he was driving a vehicle in Albuquerque, New Mexico under the influence of intoxicating liquor. Respondent's alcohol concentration was greater than eight one-hundredths within three hours of driving the vehicle and the alcohol concentration resulted from alcohol consumed before or while driving the vehicle. Respondent was arrested on that date and charged with

aggravated driving under the influence of intoxicating liquor or drugs pursuant to NMSA 1978, Section 66-8-102 (2010), and reckless driving pursuant to NMSA 1978, Section 66-8-113 (1987). On March 28, 2011, Respondent entered a plea agreement and was convicted of driving under the influence of intoxicating liquor or drugs, first offense.

{4} On February 16, 2011, Respondent notified the Chief Judge of the Court of Appeals that he was taking leave without pay until the pending charges were resolved. Two days later Respondent and the Commission filed a joint stipulation to temporary suspension with this Court. We entered an order temporarily suspending Respondent without pay until further order of the Court.

{5} Following his guilty plea, Respondent has admitted that his actions in driving under the influence of intoxicating liquor constitutes willful misconduct in office, giving rise to this Court's authority to impose discipline on him pursuant to Article VI, Section 32 of the New Mexico Constitution. Specifically, Respondent has admitted that his conduct violates Code of Judicial Conduct Canons 21-100 (upholding the integrity and independence of the judiciary), 21-200(A) (requiring that a judge shall "act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary"), 21-300(B)(2) ("[a] judge shall be faithful to the law"), and 21-500(A)(1)-(4) (requiring a judge to conduct extra-judicial activities to minimize conflict with judicial obligations). For the following reasons, we agree with Respondent's admissions.

{6} We are all too familiar with the public's growing concern about individuals driving while under the influence of alcohol. Every day in courts throughout this state, judges are called upon to pass judgment and make rulings regarding driving while intoxicated (DWI) cases. As an example, for calendar year 2010, 17,827 DWI cases were adjudicated in New Mexico courts. *Sixth Annual Statistical Report on DWI Court Dispositions in New Mexico, April 2011*. Without belaboring the details, in 2004 two judges resigned their positions because of their convictions for driving under the influence of intoxicating liquor or drugs. On June 16, 2004, this Court issued Order 04-8200, *In the Matter of Reporting Judicial Misconduct Involving Unlawful Drugs*. In that order we emphasized that "public confidence in the integrity and impartiality of the judiciary depends on a judge's respect for and compliance with the law *at all times*." In the same order we encouraged any judge, employee of the judiciary, or lawyer who has a good faith basis to believe that a judge is abusing alcohol to report such belief to the Lawyer Assistance Committee hotline. Since then we have worked to create the Lawyer and Judges Assistance Committee and have worked with the State Bar of New Mexico to prepare a digital video titled "Who Takes Care of Those Who Take Care?" which is available on both the New Mexico judiciary and State Bar web sites. The video is intended to offer advice in the detection of alcohol abuse and to explain how this important committee operates. Our purpose in encouraging such reporting is to also encourage members of the judiciary to seek appropriate help for alcohol and/or substance abuse problems before such abuse affects judicial performance or diminishes the public's confidence in the judiciary.

{7} The public's confidence in the judiciary should not be trivialized, inasmuch as deference to the judgments and rulings of courts depends upon public confidence in the integrity and independence of judges. We reject any implication that matters in one's personal life that legitimately reflect upon a judge's professional integrity cannot erode public confidence, and therefore are immune from discipline. A citizen who serves as a member of the New Mexico judiciary is charged with the responsibility of conforming to a higher standard of personal behavior than the ordinary citizen. *In re Romero*, 100 N.M. 180, 183, 668 P.2d 296, 299 (1983) ("The conduct prescribed for judges and justices is more stringent than conduct generally imposed on other public officials."). A judge's conduct of personal behavior must be beyond reproach. Improper conduct which may be overlooked when committed by the ordinary citizen, or even a lawyer, cannot be overlooked when it is committed by a judge. By conforming their behavior to the highest societal standards, judges fulfill their obligations to uphold the integrity of the judiciary and promote the public's confidence in our justice system. We agree with Respondent's assessment that it would be difficult for the public to repose this confidence in a judge who has been convicted of driving under the influence of alcohol. *In re Garza*, 2007-NMSC-028, ¶ 17, 141 N.M. 831, 161 P.3d 876 ("Citizens appearing before a judge who is known to have used illegal drugs while serving as a judge would be unable to avoid feeling the subjects of hypocrisy and, consequently, respect for the judiciary would be diminished.").

{8} Accordingly, despite Respondent's impeccable job performance history, we accept his permanent retirement and issue this formal reprimand as discipline in this matter. The purpose of disciplining a judge who has willfully violated a Judicial Canon is to reaffirm and restore, when necessary, public confidence in the administration of justice and to preserve the integrity and independence of the judiciary. The discipline must be designed to recognize publicly that there has been misconduct that is neither permitted nor condoned. It must be sufficient to deter the judge from repeating such conduct and must discourage others from engaging in similar conduct. The discipline we impose here is not intended as retribution. Instead, it is calculated to inform the public and all judges, ourselves included, of the importance of the function performed by judges in a free society. The consent to discipline in this case satisfies each of these criteria.

{9} For the foregoing reasons, we accept the consent to discipline. Respondent shall permanently retire as a judge of the New Mexico Court of Appeals effective at the close of business on June 1, 2011. Upon his retirement, Respondent shall never again hold, become a candidate for, run for, or stand for election to any New Mexico judicial office in the future. Respondent shall never seek, accept appointment to, or serve *pro tempore* for any New Mexico judicial office in the future. "New Mexico judicial office" includes the positions of judge in municipal court, probate court, magistrate court, metropolitan court, district court, and the Court of Appeals, and justice of the Supreme Court.

{10} IT IS SO ORDERED.

CHARLES W. DANIELS, Chief Justice

PATRICIO M. SERNA, Justice