

**IN RE GENTRY, S.Ct. No. 28,986 (Filed July 29, 2005)**

**IN THE MATTER OF FRANK W. GENTRY,  
Metropolitan Court Judge, Bernalillo County, New Mexico**

NO. 28,986

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

July 29, 2005, Filed

INQUIRY CONCERNING A JUDGE  
NO. 2004-46

**COUNSEL**

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

Clear & Clear, P.A., Thomas J. Clear, III, Albuquerque, New Mexico, 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 Frank W. Gentry.

{2} The commission issued a notice of preliminary investigation to respondent on July 8, 2004. On July 22, 2004, respondent submitted a response letter to the commission, which was treated as a response to the notice of preliminary investigation. On September 23, 2004, the commission issued a notice of formal proceedings to respondent. On November 16, 2004, respondent agreed to enter into a stipulation agreement and consent to discipline with the commission, which the commission accepted and filed on November 23, 2004. The stipulated factual and legal conclusions are set forth below. On January 13, 2005, this Court issued an order granting the commission's disciplinary petition. Respondent was on unsupervised probation from January 13, 2005 through July 13, 2005.

{3} Respondent is a full-time Bernalillo County Metropolitan Court Judge.

{4} In December 2003, respondent improperly used his judicial position to advance private interests, initiated ex parte communications with a special commissioner and district court judge and, thus, involved himself in, interfered with, and attempted to

influence child placement in a case involving respondent's nephew, a family member within the third degree of relationship. The matter was outside of respondent's jurisdiction and being handled by a higher court.

{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) and (B) NMRA 1995 (judge shall avoid impropriety and appearance of impropriety in all activities); 21-300(B)(2) and (B)(7) NMRA 1995 (judge shall perform duties of office impartially and diligently); and 21-500(A)(1)-(4) NMRA 1995 (judge shall so conduct the judge's extra-judicial activities as to minimize risk of conflict with judicial obligations).

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

{7} 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.

{8} NOW, THEREFORE, IT IS ORDERED that Honorable Frank W. Gentry hereby is disciplined as follows:

1. Respondent shall receive a one-week suspension without pay. Imposition of the suspension without pay shall be deferred on the condition that respondent successfully completes six months of unsupervised probation and that no other formal disciplinary proceedings are initiated against him during the probationary period.
2. During the period of unsupervised probation, respondent agrees that this Court may summarily and temporarily suspend him without pay upon the filing of a notice from the commission that it is conducting formal proceedings against respondent concerning violations of the Code of Judicial Conduct that may constitute willful misconduct in office, failure to perform judicial duties, persistent failure or inability to perform judicial duties, or habitual intemperance. The temporary suspension shall continue until this Court issues an order lifting the suspension after reviewing the results of the commission's formal investigation and/or formal proceedings concerning these matters. Respondent agrees not to contest the summary temporary suspension.
3. The Commission shall initiate contempt proceedings before this Court concerning any violations of the terms of the unsupervised probation.
4. Respondent shall receive a formal reprimand to be published in the Bar Bulletin after successful completion of the period of unsupervised probation.

5. Respondent shall abide by all terms and conditions of the plea and stipulation agreement and the Code of Judicial Conduct.

6. The parties shall bear their own costs and expenses incurred in this matter.

**{9} 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**