

**IN RE BARNHART, S.Ct. No. 29,379 (Filed October 19, 2005)**

**IN THE MATTER OF CHARLES R. BARNHART,  
Bernalillo County Metropolitan Court**

No. 29,379

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

October 19, 2005, Filed

INQUIRY CONCERNING A JUDGE  
Inquiry Nos. 2004-126 & 2005-059

**COUNSEL**

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

Daniel Ivey-Soto, Albuquerque, New Mexico, for Respondent

**Formal Reprimand**

**Per Curiam.**

{1} This matter came before the Court upon Petition for Discipline Upon Stipulation filed by the Judicial Standards Commission against Respondent, Bernalillo County Metropolitan Court Judge Charles R. Barnhart. This reprimand addresses two disciplinary matters before the Commission and this Court, which were consolidated for purposes of resolution by this Court. Oral argument was presented on the sole issue of whether this formal reprimand should be published in the *Bar Bulletin*, with Respondent arguing that it should not, and the Commission arguing that it should. While this Court determined that this reprimand should be published, we expressed our opinion that the Commission's press release, considering the timing and manner of its premature release, was inconsistent with the Commission having negotiated with Respondent to preserve his right to request that the formal reprimand not be published in the *Bar Bulletin*.

{2} This matter arises out of a constant and continuing pattern of conduct on the part of Respondent in which he intentionally and knowingly undermined his judicial colleagues, berated court employees and contractors, and allowed his trial court administrative assistant to do the same. Respondent does not contest any of the findings of fact as enumerated below, and agrees to and admits that his behavior constituted willful misconduct in office, necessitating his retirement from office.

{3} The Commission filed its Findings of Fact, Conclusions of Law, and Recommendation for Discipline on July 29, 2005. This Court hereby adopts the Commission's Findings of Fact that are enumerated below:

1. Respondent took photographs of the interior of the Bernalillo County Metropolitan Court in violation of courthouse rules and policies. Respondent learned that a security officer reported him through proper administrative channels for violating court policies, and that this violation had been brought to Respondent's attention by court administration. On April 14, 2004, Respondent confronted the security officer in a rude, angry, and threatening manner, and threatened the officer's job because he had reported Respondent for taking photographs inside the courthouse.

2. Respondent engaged in a pattern of hostile conduct towards court security officers and employees and has used offensive language towards security officers and court employees.

3. On or about September and October 2003, Respondent was abusive to court employees when they properly withheld his assistant's paycheck pursuant to court rules and policies regarding submission of employee time reports. In challenging court personnel about this matter, Respondent tossed objects, yelled, pounded his fist on a desk, and asserted that only he could communicate with his assistant on matters pertaining to court business, including whether his assistant would be required to adhere to court guidelines on time reporting.

4. Respondent told court security personnel that his assistant was not required to comply with courthouse security guidelines and procedures that mandate all employees, including trial court administrative assistants, whether or not accompanied by a judge, walk through a magnetometer and have personal items x-rayed. Respondent prohibited courthouse security personnel from screening his assistant, and systematically and continuously challenged courthouse security personnel about established security procedures.

5. Since late 2002, Respondent refused to issue legitimate bench warrants during traffic arraignment court week when Defendants failed to appear because he did not want his assistant to have to process bench warrants during traffic arraignment dockets, a task that was completed by all other judicial assistants. Such refusal violated court policy and an agreement Respondent made with his colleagues as to how such cases should and would be handled. As a result of these acts and omissions, Respondent caused an increased workload for all of his colleagues.

6. Respondent permitted his assistant to behave in an unprofessional manner and condoned and assisted her in violating court policies by informing others that, as his assistant, she did not take direction from anyone but Respondent. As a result, his assistant refused to abide by court policies, was systematically rude to court employees, and incessantly complained about the chief judge, the presiding criminal judge, and court administration and policies.

7. During a domestic violence arraignment Respondent held on August 27, 2004, in which the defendant was charged with battery on a household member, Respondent asked what plea the defendant wanted to enter. Defendant answered that he wanted to plead guilty. Respondent then asked why, to which the defendant responded that he had hit his wife. Respondent said, "well did she have it coming?" and then Respondent laughed out loud. Respondent proceeded to ask the defendant if he thought his wife needed "a little help with parenting . . . ."

8. Respondent willfully and knowingly disregarded state law and Metropolitan Court policy by waiving *a priori* supervised probation costs for all criminal cases where supervised probation costs are statutorily imposed.

9. Respondent engaged in a pattern and practice of improperly disqualifying himself from traffic cases that originated on his traffic arraignment docket. When a defendant failed to appear during Respondent's traffic arraignment docket, Respondent refused to issue a bench warrant where proper and then reset those cases on his regular criminal docket. He subsequently would recuse himself on those cases. Such pattern and practice of improper recusal included at a minimum 233 cases, and resulted in additional work for court staff and other judges.

10. During the pendency of this inquiry before the Judicial Standards Commission, Respondent failed to adhere to almost all provisions of the Commission's Amended Scheduling Order, Discovery Order, and Order Granting Examiner's Motion to Compel Discovery. Respondent failed to appear for a duly noticed hearing before the Commission Presiding Officer. Respondent failed to appear for his deposition pursuant to a duly served and noticed deposition subpoena.

11. Respondent's conduct obstructed Commission proceedings and constituted contempt of the Commission.

{4} This Court hereby adopts the Commission's Conclusions of Law that are enumerated below:

1. The Judicial Standards Commission has jurisdiction to act herein under N.M. Const., art. VI, § 32 (amended 1998), and NMSA 1978, § 34-10-2.1 (1977).

2. During the pendency of this inquiry before the Judicial Standards Commission, Respondent's failure to adhere to almost all provisions of the Commission's Amended Scheduling Order, Discovery Order, and Order Granting Examiner's Motion to Compel Discovery, his failure to appear for a duly noticed hearing before the Commission presiding officer, and his failure to appear for his deposition pursuant to a duly served and noticed deposition subpoena constitute obstruction of Commission business in violation of Rule 4(D) of the Rules of the Judicial Standards Commission and constitute willful misconduct. Moreover, by committing willful misconduct in the presence of the Commission, Respondent violated Rule 4(E) of the Rules of the Judicial Standards Commission, constituting contempt of the Commission.

3. Respondent's conduct violated the following Canons of the Code of Judicial Conduct: 21-100 and 21-200(A) NMRA 1995, 21-300(A) and 21-300(B)(1-5) NMRA 2004, and 21-300(C)(1) NMRA 2004. In so doing, Respondent failed to participate in establishing, maintaining, and enforcing high standards of conduct; failed to personally observe those standards; failed to respect and comply with the law; failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary; by improperly recusing himself from cases, failed to hear and decide matters assigned to Respondent; failed to maintain order and decorum in judicial proceedings; failed to be patient, dignified and courteous with court staff, employees and contractors; through his words and conduct manifested bias and prejudice in the performance of his judicial duties; and failed to diligently discharge his administrative responsibilities without bias or prejudice, failed to maintain professional competence in judicial administration, and failed to cooperate with other judges and court officials in the administration of court business.

4. Respondent's conduct constituted willful misconduct in office.

{5} NOW, THEREFORE, IT IS ORDERED that Charles R. Barnhart is hereby disciplined as follows:

1. Respondent shall submit his letter of retirement from office to this Court, with a copy to the Judicial Standards Commission, with an effective date on or before September 30, 2005.

2. Respondent shall never again hold judicial office, whether by election or appointment, and which shall include never serving as judge *pro tempore*.

3. Respondent shall pay \$1,000.00 fine on or before September 15, 2005. Payment shall be by certified check made payable to the State of New Mexico and submitted to the Judicial Standards Commission. Upon receipt, the Commission shall promptly file proof of payment with this Court.

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

5. Respondent shall receive a Formal Reprimand from this Court, which shall be published in the *Bar Bulletin*.

**{6} 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**