

IN RE CORNISH, S.Ct. No. 27,253 (Filed May 6, 2002)

**IN THE MATTER OF THOMAS G. CORNISH, District Court Judge,
Dona Ana County, New Mexico**

NO. 27,253

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

May 6, 2002, Filed

INQUIRY CONCERNING A JUDGE
NO. 2001-96

COUNSEL

Peg A. Holguin, Randall D. Roybal, Albuquerque, NM, for Judicial Standards
Commission

H. Vern Payne, Jarales, New Mexico, for Respondent

FORMAL REPRIMAND

Per Curiam.

{1} This matter came before the Court upon petition for discipline filed by the Judicial Standards Commission and upon stipulation for temporary suspension that the Court approved with modification on January 11, 2002.

{2} The commission issued a notice of preliminary investigation to respondent on December 3, 2001. The commission also filed a petition for temporary suspension with the Supreme Court on December 3, 2001. Respondent filed his response to the notice of preliminary investigation on December 6, 2001. On December 6, 2001, the Supreme Court issued an order requesting a response from respondent to the commission's temporary suspension petition. On January 3, 2002, the commission and respondent entered into and filed a stipulation agreement for temporary suspension with the Supreme Court. On January 11, 2002, the Court issued an order temporarily suspending respondent pending completion of the commission's proceedings. The order further provided that respondent's suspension shall be with pay for a period not to exceed 90 days (April 12, 2002) and thereafter shall continue without pay. On February 18, 2002, respondent entered into a plea and stipulation agreement with the commission concerning the substantive allegations pending against him. The stipulated factual and legal conclusions are set forth below.

{3} On or about November 25, 2001, respondent was arrested and charged with driving while under the influence of intoxicating liquor or drug ("DWI"), no headlamps, no insurance, and running a stop sign. The criminal matter was styled, City of Las Cruces vs. Thomas G. Cornish, Las Cruces Municipal Court Cause No. 2001-0190358-DU.

{4} On or about November 26, 2001, respondent appeared before the Las Cruces Municipal Court and pled nolo contendere to the charges of DWI, no headlamps, and running a stop sign.

1 The municipal court's completed arraignment form of November 26, 2002, erroneously included a charge of no seatbelts for which respondent was not cited. The form also mistakenly failed to include the no insurance charge.

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{5} On or about January 28, 2002, respondent appeared before the municipal court for sentencing. Respondent's pleas were accepted for the charges of DWI and no headlamps only

2 The running a stop sign and no insurance charges were dismissed. The erroneous no seatbelts charge was marked out on the judge's handwritten judgment and sentence form.

2 and the court convicted respondent for DWI (first offense) and no headlamps. Respondent was then sentenced to one year supervised probation on the following conditions: 1) DWI school in Albuquerque within 90 days; 2) Victim Impact Panel in Albuquerque; 3) no more use of alcohol/illegal drugs; 4) supervised telephonic probation the 26th of every month at 3:00 p.m.; and 5) AA meetings three times a week.

{6} 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 1991 (judge shall avoid impropriety and appearance of impropriety in all activities); 21-300(B)(2) NMRA 1995 (judge shall be faithful to the law); and 21-500(A)(1), (A)(2), and (A)(4) NMRA 1995 (judge shall conduct extra-judicial activities to minimize risk of conflict with judicial obligations).

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

{8} 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.

{9} NOW, THEREFORE, IT IS ORDERED that Honorable Thomas G. Cornish is hereby disciplined as follows:

- A. Respondent shall remain suspended from judicial office without pay;
- B. Respondent shall be and is hereby formally reprimanded.
- C. Respondent shall attend and successfully complete alcohol rehabilitation counseling and an in-patient alcohol rehabilitation program and provide proof thereof;
- D. Respondent shall abide by all terms and conditions of this order, the plea agreement and the Code of Judicial Conduct; and
- E. The parties shall bear their own costs and expenses incurred in this matter.

{10} IT IS SO ORDERED.

Chief Justice Patricio M. Serna

Justice Joseph F. Baca

Justice Gene E. Franchini

Justice Pamela B. Minzner

Justice Petra Jimenez Maes