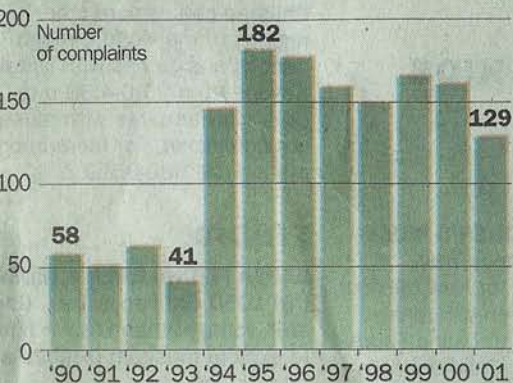


Some Judges Run Afoul of the Law

COMPLAINTS FILED AGAINST STATE JUDGES

from 1990 to June 2001

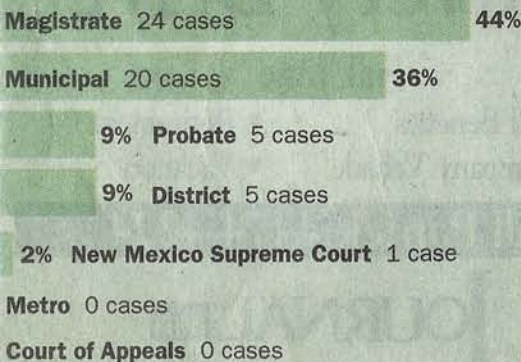


SOURCE: New Mexico Judicial Standards Commission

JOURNAL

JUDICIAL MISCONDUCT INVESTIGATIONS

Cases forwarded to the New Mexico Supreme Court for discipline from 1968 to June 2001



JOURNAL FILE

RESIGNED FROM POST: Santa Fe County Magistrate Angie Vigil-Perez and her attorney, Edmund Lang, gather their things in court after hearing of Vigil-Perez's suspension from the bench in November 1999 for a variety of charges. Vigil-Perez later resigned.

■ *Municipal and magistrate jurists make up most disciplinary cases in New Mexico's judicial system*

BY BRENDAN SMITH
Journal Staff Writer

Sex with a defendant, taking bribes to dismiss criminal charges, cursing in court, driving drunk, fixing tickets for friends or springing them from jail. Magistrates and municipal judges in New Mexico have done it all, and those are just the ones who got caught.

Magistrates and municipal judges, who fill the lower rungs in New Mexico's judicial system, are elected to office in a system that often has more to do with a candidate's popularity with voters than his or her qualifications.

Magistrates and most municipal judges need only a high school education to be elected, and they can sentence defendants to jail from six months to a year after receiving just five days of training.

Perhaps because their job qualifications are minimal, magistrates and municipal judges get in trouble more than any other types of judges, accounting for 80 percent of the judicial misconduct investigations forwarded to the New Mexico Supreme Court for discipline since 1968.

Those 44 cases involve a laundry list of crimes and ethical violations, including:

■ Secret surveillance videotapes allegedly showing Colfax County Magistrate Archie A. Valdez soliciting sexual favors from up to five women. The judge agreed to resign last year and never seek judicial office again. He also was convicted of three battery charges and sentenced to three months in jail.

■ A 121-count investigation against Santa Fe County Magistrate Angie Vigil-Perez alleging she improperly dismissed scores of criminal cases, cursed in court, made racist comments about Anglo employees and failed to work a 40-hour week. After being suspended without pay, she resigned in 2000.

■ The removal of Roswell Municipal Judge Richard T. Hoover from the bench in 1996 after he pressured court clerks to arrange dates for him, inappropriately touched a clerk and asked a female drunken-driving defendant and a domestic-violence victim for dates. He also refused to appoint attorneys for poor defendants and said he would use those funds to renovate his courtroom.

■ The removal of Bernalillo Municipal Judge Lorenzo "Larry" Casaus from office in 1991 after he accepted bribes from two defendants in exchange for dismissing criminal charges.

■ Former San Miguel County Magistrate Luis Martinez drinking beer and having sex with a female defendant in 1991 even though he ordered her not to drink alcohol as part of her release conditions on two pending felony charges. The woman said Martinez raped her, but he was not prosecuted because of a lack of evidence. He was suspended without pay for four months.

Most of the judges cited in this story either couldn't be reached for comment or refused to comment.

Few qualifications

Magistrates and municipal judges are on the front lines of the state's judicial system, disposing of more cases than most other types of judges. A resident with a traffic ticket, a drunken-driving charge or a small-claims lawsuit most likely would appear before one of these judges.

Magistrates, who earn \$58,655 a year, preside over misdemeanor criminal cases in a county and civil cases seeking up to \$10,000 in damages. They also set release conditions for some felony defendants before they are prosecuted in district court.

Municipal judges, who handle misdemeanor crimes and violations of municipal ordinances, can sentence a defendant to jail for up to 179 days, compared to 364 days for magistrates.

While magistrates and municipal judges account for 80 percent of serious judicial misconduct investigations, they make up only 53 percent of the state judges.

Politics and conflicts

In some states, municipal judges or magistrates are appointed. In New Mexico, would-be judges hit the campaign trail.

Since they must run for office and often come from rural areas, many magistrates and municipal judges see friends, relatives or political supporters appear before them. Judges are supposed to recuse themselves from hearing those cases, but that doesn't always happen.

Doña Ana County Magistrate A.L. "Happy" Apodaca was removed from the bench in 1978 after he presided over a lawsuit brought against his son. Apodaca never told the plaintiff that the defendant was his son nor that the plaintiff had a right to ask for another judge to hear the case.

The Supreme Court suspended former Taos County Magis-

trate Walter P. Herrera for two months in 1987 after he ordered his clerk to falsify a criminal complaint on behalf of Juan A. Duran Jr., a candidate for the Taos County Commission in 1986.

In 1990, Herrera resigned during another investigation for improperly freeing a drunken-driving defendant from jail.

Fixing tickets

In Española, former Municipal Judge Dolores Vigil admitted she altered former City Manager Max Sanchez's name, birth date and Social Security number on court records to cover up his DWI arrest in 1996. She then coerced a city police officer to drop the charges.

After the cover-up came to light, Sanchez was convicted of DWI and sentenced to DWI school in 1999. Both Vigil and the former police officer were convicted of public-records tampering, a fourth-degree felony, and each received 18 months of probation.

District Judge Michael Vigil rebuked Dolores Vigil, no relation, at her sentencing for doing "more damage than you can ever imagine" to the integrity of the system.

Get out of jail free

Valencia County Magistrate John "Buddy" Sanchez received a reprimand last year

after he pressured a State Police officer to not arrest a friend for drunken driving. When the man was arrested anyway, Sanchez went to the Valencia County jail with liquor on his breath, ordered the man's release and took him back to Sanchez's home.

Sanchez said he intervened in the case because his 11-year-old son was a passenger in his friend's truck during the traffic stop. He said the DWI charge was dismissed later because his friend was not driving drunk.

"I should not have called in and gotten involved in it, but I had to because my son was there," Sanchez said.

In 1999, Sanchez received a two-week suspension without pay and six months of proba-

tion after he misled the state Motor Vehicle Division about the disposition of a DWI case, agreed to withhold information from MVD in another DWI case and failed to impose the mandatory minimum sentence in a DWI case.

Problems with alcohol

Alcohol and drunken driving have been persistent problems for some judges.

The Supreme Court permanently removed Grants Municipal Judge William A. Hocker from office in 1998 after his third DWI conviction in a case where he also allegedly left the scene of an accident and lied to a police officer.

Hocker's case boomeranged on Valencia County Magistrate Toribio "Tody" Perea in 1999 and helped lead to Perea's own two-week suspension and six months of probation. Perea had improperly delayed the filing of judgment and sentence orders in three DWI cases, including one for Hocker.

In 1997, Cibola County Magistrate Milton J. Griego resigned from judicial office after he was charged with DWI and resisting arrest. He also was indicted on charges including aggravated battery, violation of a protection order, extortion and stalking. Most of those charges were dismissed, and he was sentenced to a year of probation.

The Supreme Court had suspended Griego for 30 days in 1993 for beating his female companion at the New Mexico State Fair and fleeing from a State Police officer.

In 1989, Rio Arriba County Magistrate Baltazar Archuleta was removed from office after his second DWI arrest. He had been suspended for six months without pay a year earlier for another DWI arrest where he was chased by police at speeds up to 100 mph. A jury acquitted the judge of that drunken-driving charge.

Former Taos Municipal Judge Joe C. Montoya was suspended for 30 days without pay in 1988 after being charged with causing a drunken-driving accident. Montoya said the charges were dropped later.

Finally, Clovis Municipal Judge Russell L. Muffley in 1990 bought a keg of beer for a party in his garage where minors drank beer to celebrate his son's entrance into military service. Muffley was convicted of giving alcohol to minors in a criminal case, and the Supreme Court suspended him without pay for 30 days.



SANCHEZ:
Drew reprimand last year for pressuring officer

Jurists Get Five Training Days

Some Judges Say More Education Is Needed

BY BRENDAN SMITH
Journal Staff Writer

In New Mexico, barbers must complete 30 weeks of training to cut hair, compared to one week of training for new magistrates and most municipal judges before they start sentencing people to jail.

Also called nonlawyer judges, magistrates and most municipal judges need only a high school education to be elected. They take the bench after five days of training and then face attorneys who have completed college degrees and three years of law school.

For Las Cruces Municipal Judge James T. Locatelli, the lev-

els of experience just don't add up on either side of the bench. Unlike most municipalities in New Mexico, Las Cruces requires that its judges be licensed attorneys.

"I think it's time New Mexico steps into the 21st century and requires any judge to have a law degree," Locatelli said.

Manipulating judges

For 11 years, Locatelli served as a prosecutor or defense attorney before being elected to the bench last year. During that time, he frequently saw magistrates manipulated by attorneys who knew much more about the legal system.

"Although there were individual magistrates who were possessed of uncommon good sense, most of them didn't know criminal

procedure if it came up and bit them on the hiney," Locatelli said. Judges "can deprive somebody of an awful lot of liberty and to do that without knowledge of the rules of criminal procedure I think is just criminal."

Locatelli also saw magistrates acquit defendants of criminal charges because they were confused.

"Criminals can be let free because the judge did not understand the law," he said. "I think they get overwhelmed and make bad decisions because of just plain ignorance."

In addition to barbers, cosmetologists, massage therapists, interior designers, funeral directors, private investigators, polygraph operators and real estate

appraisers all must meet more stringent training requirements than is required of new magistrates and most municipal judges.

Municipal and magistrate courts have been combined in Bernalillo County into Metro Court, which does require law degrees of its judges.

Week of training

After being elected to office, magistrates and municipal judges must complete five days of training conducted by the New Mexico Judicial Education Center.

Paul Biderman, director of the center, believes New Mexico's training requirements for nonlawyer judges are among the best in the country. During the trainings, Biderman shows newspaper articles describing how judges have been thrown off the bench for various infractions.

"It's a hard message, but it gets through," he said. "We have professionalized a great majority of the non-lawyer judges in New Mexico so that it is a pretty solid system."

But just because the training is available doesn't mean all judges listen. Biderman, an attorney for the past 30 years, remembered attending sexual-harassment training in 1994 with a group of new judges, including Roswell Municipal Judge Richard T. Hoover.

Two years later, the state Supreme Court removed Hoover from the bench after he pressured clerks to arrange dates for him and asked a female drunken-driving defendant and a domestic-violence victim for dates.

Hoover "ignored every word we said," Biderman said. "We can't drive it into their heads with a nail."

Hoover declined to comment about his removal from office.

Both Locatelli and fellow Las Cruces Municipal Judge Melissa Miller-Byrnes feel the five-day training does not adequately prepare non-lawyer judges for the job.

The training is only adequate "if you want a judge who is at the mercy of lawyers who know case law," Locatelli said.

Getting into trouble

Baudelio "Bobby" Ramirez, who served as Roswell municipal judge from 1980-94, said he could have avoided a reprimand from the Supreme Court in 1990 if he had received more legal training.

Ramirez had allowed two people to speak for defendants in his court even though they were not licensed attorneys. He didn't realize they had to be sworn in as witnesses.

"It's very complicated," he said. "The lower-court judges make a lot of mistakes because they are not trained, and they should get that training."

Training for new magistrates and municipal judges should be expanded to at least one month, said Ramirez, who has an associate's degree in business administration but no law degree.

Comparing attorneys to nonlawyer judges is "like comparing a chef to a McDonald's cook," Ramirez said. He thinks it would be a good idea to require non-lawyer judges to have law degrees, but their salaries aren't high enough to attract attorneys who can earn more in private practice.

"I don't think an attorney worth his salt would ever apply for one of these positions because the money is not there," he said.

Ramirez, who works now as a real estate agent in Roswell, said he also was unprepared to set release conditions for felony defendants when he was a Chaves County magistrate from 1976-79.

"They threw me in there, and I think I had a murder case and a stabbing and some serious crimes that they had before me," he said. "I had to stop the court and go seek advice from a higher-court judge as to the procedures."

"You know attorneys take advantage of judges who don't understand the system," Ramirez said. "You can easily screw up real fast and make a bad decision."

Continuing education

Each year, magistrates must complete 15 hours of continuing education, compared to 12 hours for municipal judges. Those classes

usually are completed at annual conferences for both types of judges.

Joe C. Montoya — a municipal judge in Taos for 25 years until he retired eight years ago — said the conferences kept him updated on changes in the law. Montoya, 72, graduated from high school and served in the Korean War before becoming a barber and later a judge.

"I was a full-time barber and a part-time judge, until I had to quit being a barber and be a full-time judge," he said. "Common sense to me is one of the best things in being a judge."

Montoya feels more community residents can be elected as municipal judge if a law degree is not required.

"The first time I went to court, I didn't have any experience, just what other judges would tell me," he said. "It was so slow and quiet you hardly had anybody in trouble."

Mentors and ethics

After the five-day orientation, a nonlawyer judge is assigned to an experienced mentor judge who gives advice and sometimes watches the new judge on the bench, Biderman said.

"We've had a very stable group of magistrate judges where we're able to train them over time," he said.

While nonlawyer judges can become confused, Biderman does not see a pressing need to require them to have law degrees.

Biderman said similar complaints about incompetence or ethical violations are filed against district judges who have law degrees. A law degree doesn't necessarily make a judge more ethical, although he or she would be more informed about some legal matters, Biderman said.

For Miller-Byrnes, the presiding municipal judge in Las Cruces, all judges in New Mexico should have law degrees so they can be on equal footing with attorneys who appear before them.

"It makes for a better judicial system," she said. "As an attorney, it's second nature to follow the rules and regs. I don't think nonlawyers grasp that."