



1 **IN THE SUPREME COURT OF THE STATE OF NEW MEXICO**

2 **February 16, 2023**

3 **NO. S-1-SC-39571**

4 **COUY GRIFFIN,**

5 Defendant-Appellant,

6 v.

7 **STATE OF NEW MEXICO, ex rel.,**
8 **MARCO WHITE, MARK MITCHELL,**
9 **and LESLIE LAKIND,**

10 Plaintiff-Appellee.

11 **ORDER**

12 WHEREAS, this matter came on for consideration by the Court upon
13 Appellant’s amended motion for reconsideration, following the Court’s dismissal
14 of this matter on November 15, 2022;

15 WHEREAS, this matter was opened on September 20, 2022, on Appellant’s
16 notice of appeal, following the district court’s entry of its findings of fact,
17 conclusions of law, and judgment in quo warranto, removing Appellant from office
18 and permanently enjoining him from seeking or holding public office;

19 WHEREAS, Appellee filed an unopposed emergency motion for expedited
20 briefing and argument schedule on October 6, 2022, which in addition to seeking
21 expedited review of this matter, noted that Appellant “should be bound by all

1 applicable deadlines under the Rules of Appellate Procedure, including but not
2 limited to his October 20, 2022 deadline for filing a statement of issues”;

3 WHEREAS, an entry of appearance on behalf of Appellant was filed on
4 October 7, 2022, by Melody F. Everett, a licensed New Mexico attorney;

5 WHEREAS, thereafter, the time for filing a statement of issues as required
6 by Rule 12-208 NMRA lapsed;

7 WHEREAS, this matter was dismissed on November 15, 2022, under Rule
8 12-312(A) NMRA as a result of Appellant’s failure to file a statement of issues
9 under Rule 12-208 NMRA;

10 WHEREAS, Appellant filed a motion for reconsideration on November 16,
11 2022, that failed to comply with the requirements of Rule 12-309(C) NMRA, and
12 the Clerk’s Office, therefore, filed a notice of non-conforming pleading, requiring
13 that Appellant file a conformed pleading within two (2) days to correct the
14 deficiency;

15 WHEREAS, Appellant timely filed an amended motion for reconsideration,
16 wherein he asserts that the dismissal was due to this Court’s “[m]isapplication of
17 the Rules of Appellate Procedure” since his appeal is taken under Rule 12-604
18 NMRA, which is expressly exempt from the requirement to file a statement of
19 issues under Rule 12-208 NMRA;

20 WHEREAS, Rule 12-604 NMRA does not authorize a public official who

1 has been removed from office by the district court to appeal from a judgment in
2 quo warranto; rather, Rule 12-604 governs original actions filed in the Supreme
3 Court to remove a public official upon presentment of constitutional or statutory
4 charges by the governor, attorney general, or any regularly empaneled grand jury;

5 WHEREAS, even if Appellant mistakenly and in good faith believed this
6 matter was governed by Rule 12-604 NMRA, his notice of appeal did not
7 reference Rule 12-604, and Appellant has not filed an amended or corrected
8 pleading to clarify the purported basis for this appeal;

9 WHEREAS, given that Appellant did not oppose Appellee's emergency
10 motion for expedited briefing and argument schedule, filed on October 6, 2022,
11 which notes that Appellant "should be bound by all applicable deadlines under the
12 Rules of Appellate Procedure, including but not limited to his October 20, 2022,
13 deadline for filing a statement of issues," the Court affords little weight to
14 Appellant's contention that he believed that this appeal was exempt from the
15 requirements of Rule 12-208 NMRA;

16 WHEREAS, Appellant's motion for reconsideration does not seek relief on
17 equitable grounds such as excusable neglect or exceptional circumstances beyond
18 Appellant's control, and Appellant has not sought leave to file, for example, a
19 proposed, untimely statement of issues;

20 WHEREAS, to date, and since the dismissal of this matter ninety-three (93)

1 days ago, Appellant has done nothing to cure the stated reasons for dismissal other
2 than argue that this Court misapplied its own Rules of Appellate Procedure; and

3 WHEREAS, the Court having considered the foregoing and being
4 sufficiently advised, Chief Justice C. Shannon Bacon, Justice Michael E. Vigil,
5 Justice David K. Thomson, Justice Julie J. Vargas, and Justice Briana H. Zamora
6 concurring;

7 NOW, THEREFORE, IT IS ORDERED that the motion for reconsideration
8 is DENIED.

9 IT IS SO ORDERED.



WITNESS, the Honorable C. Shannon Bacon, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 16th day of February, 2023.

Elizabeth A. Garcia, Clerk of Court
Supreme Court of New Mexico

By *Luzette Romero Córdova*
Chief Deputy Clerk of Court

I CERTIFY AND ATTEST:
A true copy was served on all parties
or their counsel of record on date filed.
Luzette Romero Córdova
Chief Deputy Clerk of the Supreme Court
of the State of New Mexico