



IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

STATE OF NEW MEXICO, ex rel.
MARCO WHITE, MARK MITCHELL,
And LESLIE LAKIND,

Plaintiffs-Appellees,

v.

No. S-1-SC-39571

COUY GRIFFIN,

Defendant-Appellant.

MOTION FOR RECONSIDERATION OF ORDER DISMISSING APPEAL

Appellant Griffin, through his counsel, moves the Court to reconsider its Order, dated November 15, 2022, dismissing Griffin’s appeal. The Order concluded that Griffin had failed to comply with the Court’s 30-day docketing statement rule. Given that his appeal is from a quo warranto proceeding below, the Order was mistaken. The Court should reinstate Griffin’s appeal, consistent with the plain meaning of the New Mexico Rules of Appellate Procedure.

An appellant is required to file a docketing statement or a statement of the issues “[w]ithin thirty (30) days after filing the notice of appeal in all appeals except those under Rules 12-203, 12-203.1, 12-204, 12-603, and 12-604. N.M. R. App. P. 12-208(B) (emphasis added). In turn, Rule 12-604 “governs all

proceedings for removal of public officials where jurisdiction is conferred on the Supreme Court by the constitution or statute.” N.M. R. App. P. 12-604. A New Mexico statute confers jurisdiction on the Supreme Court for appeals of judgments entered in quo warranto proceedings. N.M. Stat. § 44-3-16 (“In case of an appeal [in a quo warranto proceeding] the Supreme Court shall advance the case on the docket of said court so as to obtain the most speedy hearing possible.”). Such proceedings concern “removal of public officials.” N.M. Stat. § 44-3-14. The New Mexico Constitution also explicitly confers jurisdiction on the New Mexico Supreme Court for quo warranto proceedings. N.M. Const. Art. VI, § 3.

Accordingly, the Court’s dismissal Order was entered in error. Griffin’s appeal may not be dismissed pursuant to New Mexico Rule of Appellate Procedure 12-208 because the appeal is expressly exempt from the docketing statement and statement of the issues rule. N.M. R. App. P. 12-208; 12-604.

Misapplication of the Rules of Appellate Procedure to Griffin’s appeal prejudices his due process rights. Griffin’s appeal should be reinstated.

Respectfully Submitted:

/ss/ Melody F. Everett

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Request for Service of Notice was filed, on November 15th, 2022, through the New Mexico Odyssey File & Serve system, which caused all counsel of record to be served by electronic means.