

STATE OF NEW MEXICO
COUNTY OF DONA ANA
THIRD JUDICIAL DISTRICT

Cause No.:

v.

Michael T. Murphy, Defendant

DOB: [REDACTED]
SSN: [REDACTED]
Address: [REDACTED]
Height: [REDACTED] Weight: [REDACTED]
Hair: [REDACTED]

*Appearance/Unsecured
Bond: \$10,000⁰⁰*

[Signature]
7/27/11

WARRANT FOR ARREST

THE STATE OF NEW MEXICO TO ANY OFFICER AUTHORIZED TO EXECUTE THIS WARRANT:

Based on a finding of probable cause, you are hereby commanded (1) to arrest the above-named defendant and bring the defendant without unnecessary delay before me to answer the charge of:

- 1. Bribery of Public Officer or Public Employee, contrary to Section: 30-24-1, NMSA 1978,

Dated this 27th day of July, 2011
@ 1427 hrs.

[Signature]

Judge

RETURN WHERE DEFENDANT IS FOUND

I arrested the above-named defendant on the _____ day of _____, 201____, and served a copy of this warrant on the _____ day of _____, 201____.

Signature

Title

(1) An arrest warrant may be directed to a full-time salaried state or county law enforcement officer, a municipal police officer, a campus officer, or an Indian tribal or pueblo law enforcement officer.

STATE OF NEW MEXICO
COUNTY OF DONA ANA
THIRD JUDICIAL DISTRICT

Cause No.:

v.

Michael T. Murphy, Defendant
[REDACTED]

CRIMINAL COMPLAINT

CRIME(S):

1. Bribery of Public Officer or Public Employee

The undersigned, under penalty of perjury, complains and says that on or about the 18th day of December, 2010 in the county of Dona Ana, State of New Mexico, the above-named defendant did:

See Affidavit for Arrest

Contrary to Section: 30-24-1, NMSA 1978.

I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT THE FACTS SET FORTH ABOVE ARE TRUE TO THE BEST OF MY INFORMATION AND BELIEF. I UNDERSTAND THAT IT IS A CRIMINAL OFFENSE SUBJECT TO THE PENALTY OF IMPRISONMENT TO MAKE A FALSE STATEMENT IN A CRIMINAL COMPLAINT.

If Probable Cause Determination Required:
Probable Cause Found ; Not Found
(If not found, complaint dismissed & defendant released)

Dan Blain
Dan Blain
Special Agent
9th Judicial DA Office

Date: 7/27/2011
Judge: [Signature]

*Telephonically approved,
subscribed in oaths to
by Dan Blain @
1427 hours.*

This complaint may not be filed without the prior payment of a filing fee unless approved by the District Attorney or a law enforcement officer authorized to serve an Arrest or Search Warrant. Approval of the District Attorney or a law enforcement officer is not otherwise required.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT
COUNTY OF DONA ANA

Cause No.:

v.

Michael T. Murphy, Defendant

DOB: [REDACTED]

SSN: [REDACTED]

Address: [REDACTED]

Height: [REDACTED]

Hair: [REDACTED]

AFFIDAVIT FOR ARREST WARRANT

The undersigned, being duly sworn, on his oath, states that he has reason to believe that on or about the 10th day of December, 2010, in the County of Dona Ana, State of New Mexico, the above-named defendant did commit the crime of:

1. Bribery of Public Officer or Public Employee

Contrary to the laws of the State of New Mexico: 30-24-2, 30-24-1, NMSA 1978.

The undersigned affiant further states the following facts on oath to establish probable cause to believe that the above-named defendant committed the crimes charged:

Affiant believes it is first necessary to lay a background that led to the discovery of the evidence of this crime. Accordingly, Affiant advises Your Honor that during the fall of 2010, Ninth Judicial District Attorney Matthew Chandler and his office were appointed by the Third Judicial District Attorney to conduct a criminal investigation into allegations of criminal misconduct within the Third Judicial District's judiciary.

The investigation into the criminal misconduct was focused towards allegation that in September of 2007, District Court Judge Michael Murphy, with another judge's knowledge, told a potential judicial candidate, Beverly Singleman, she would increase her chances of becoming a judicial appointee if she would start giving substantial money to the Democratic Party.¹

Ms. Singleman responded to Judge Murphy that she did not have a substantial amount of money. Judge Murphy then told Ms. Singleman that if she wanted the judicial

¹ To become a judicial district judge, a person, by law, must first go through a "vetting process" in front of a judicial nominating committee. The candidate must receive 50% of the votes or more to have his or her name sent to the governor for consideration. A district judge within the judicial district serves on the judicial nominating committee by law, usually the chief judge or his designee, and all district judges within the district, in their official capacity as a judge, have the potential of being on the judicial nominating committee either as the Chief Judge or his designee. This process is described as law in both the NM Constitution and NM Statute Annotated.

appointment she needed to start writing checks and giving them to Edgar Lopez in order to get the position.

The day after Judge Murphy told Ms. Singleman to start giving money to Edgar Lopez, Ms. Singleman relayed what Judge Murphy told her to Third Judicial District Court Judge Lisa Schultz. Ms. Singleman was disturbed about this strange and deeply inappropriate suggestion from Judge Murphy.

During the investigation Judge Schultz told investigators that shortly after Ms. Singleman told her about Judge Murphy's comments, he (Judge Murphy) entered into Judge Schultz's chambers to speak with her. Judge Murphy told Judge Schultz that he knew that she favored Ms. Singleman for the next judicial appointment, and then he said that "they" would designate Ms. Singleman as the next judge, if, in return Judge Schultz agreed to vote for "their" choice of Ms. Carolyn Baca-Waters when another (woman) judgeship became vacant. Judge Schultz felt this comment was inappropriate and expressed the same to Judge Murphy.

Judge Murphy then told Judge Schultz she did not understand the appointment process, and expressed that he and the other judges worked closely with Edgar Lopez to pick new judges in Dona Ana County. Again, Judge Schultz protested that what Judge Murphy was saying was not appropriate. Judge Murphy then said to Judge Schultz, "Look, I'm not joking. You tell Beverly she had better make weekly payments to Edgar Lopez if she wants the next judgeship." Judge Schultz said that at that point she was shocked and silent for a moment. Judge Murphy tried to reassure Judge Schultz that this is "just how things are done" and said she should call Beverly Singleman immediately to confirm what he'd told her. Judge Murphy then made it clear to her that the best advice she could give Ms. Singleman was to tell her to start putting "cash into an envelope and give it to Edgar Lopez every week right up until the time of the appointment." Judge Murphy explained that Mr. Edgar Lopez was a close friend with Governor Bill Richardson, and he would hand-deliver the cash filled envelopes to him.

During the course of the investigation it was alleged that a Judicial Standards complaint was filed against Judge Lisa Schultz, and supposedly Judicial Standards' investigators were interviewing employees in the Third Judicial District in late 2010 or early 2011 to either verify or dismiss the complaint. Judge Schultz would not reveal anything about the alleged complaint to investigators because of the Constitutional requirements that the complaints, if any exist, are to remain confidential. Therefore, initially, we did not press Judge Schultz on the veracity of the allegations that there was a complaint filed against her. Judicial Standard's complaints are in fact confidential according to Article VI, Section 32 of the New Mexico Constitution until verified and docketed.

Judge Schultz advised investigators that she had recorded several conversations and meetings with judges and others within the courthouse. Judge Schultz started personally recording certain conversations based upon advice from another judge in a different judicial district. Judge Schultz told investigators that all recordings were on her

computer, and investigators were welcome to the relevant recordings; however, she did not know how to separate the relevant recordings from the irrelevant recordings.

It was learned at that time Judge Schultz had a recording of Judge Murphy talking about the solicitation of money from judicial candidates, which would go to Edgar Lopez and then to Governor Richardson. The recording was highly relevant to the investigation because Judge Murphy was on record explaining to her that soliciting money from judicial candidates wasn't going to happen anymore because New Mexico was electing a new governor. During this interview, Judge Schultz also offered investigators additional information about some issues within the court that she had been dealing with and one of the issues was concerning a recent vote for the new Chief Judge of the Third Judicial District. Unbeknownst to investigators that a recording was evidence of another bribe, investigators informed Judge Schultz that law enforcement would revisit that issue in the near future, if necessary, but needed to focus on the allegation of the solicitation of money from judicial candidates.

During a subsequent meeting with Judge Schultz, in Las Cruces, Affiant asked to download the recording that Judge Schultz made of Murphy from her personal digital voice recorder. Judge Schultz said I could do so but she was not very familiar with the technical part of downloading the recorder. Judge Schultz also was not sure which one of the recordings was the Murphy recording that we wanted. Because of the nature of the recordings, and not wanting to destroy or alter them in any way, Affiant asked Judge Schultz if he could just download all of the recordings and listen briefly to them until the Murphy recording was located and copied.

Judge Schultz said she felt that most of the recordings were courthouse matters and that she would allow Affiant to do so but wanted the other recordings, if at all possible, to remain confidential. Affiant advised Judge Schultz that he would find the relevant recording and not listen to or use the others without her permission. She agreed and the recordings were downloaded at that time. (Subsequently Judge Schultz consented to allow the State to use any recording the State deemed relevant and evidence of a crime.)

Affiant listened to limited portions of the recordings provided by Judge Schultz, only listening for the relevant recording of Judge Murphy discussing his solicitation of money from judicial candidates.

During the pre-grand jury process, Michael Stout (Judge Murphy's criminal defense attorney) requested to obtain all discovery obtained by the State in the investigation. The State provided all items believed to be discoverable information, and disclosed to District Judge J.C. Robinson that it possessed discovery it did not believe was discoverable at the time of the pre-grand jury investigation. Of the items the State did not believe to be discoverable were the additional recordings provided by Judge Schultz. On the same day, Judge J.C. Robinson ordered the State send him all of the recordings in the State's possession for an *in-camera* review so he could decide, after listening to the recordings, if they were relevant to the case or not. A few days later,

Judge Robinson ruled that the additional recordings by Judge Schultz were not relevant and the recordings were not to be released by the State.

On May 13, 2011, a properly convened Grand Jury met to hear the facts of the investigation. The Grand Jury found probable cause that Michael Murphy committed the charges of (Count 1) Demanding or Receiving a Bribe by a Public Officer or Public Employee; (Count 2) Bribery of Public Officer or Public Employee; (Count 3) Criminal Solicitation and (Count 4) Bribery, Intimidation or Retaliation against a Witness.

After the indictment a new judge was assigned to the Michael Murphy case. Michael Stout, the criminal defense attorney, renewed his motion pleading with the court to learn what was on the recordings made by Judge Schultz. Newly appointed pro-tem Judge Leslie Smith ordered Ninth Judicial District Attorney Matthew Chandler to listen to all of the recordings Judge Schultz provided to investigators. Judge Smith further ordered DA Chandler to, after listening to the recordings, file court motions explaining if the recordings needed protective orders or not, and if not, ordered DA Chandler to release them to the criminal defense attorney.

After listening to the recordings, DA Chandler gave every recording to the criminal defense attorney and filed a Notice of Disclosure. Then, DA Chandler advised Affiant of two recordings Judge Schultz made on or about December of 2010. One recording was of a Third Judicial District Judge's Meeting and the second recording was of another conversation between Judge Schultz and Judge Michael Murphy that occurred shortly after the Judges' Meeting. DA Chandler advised Affiant to carefully listen to the two recordings.

In the recorded Third Judicial District's Judges Meeting, Judge Valentine announces he was going to retire at the end of the year. At the time, Judge Valentine was the Chief Judge of the Third Judicial District.

It is important to understand the Chief Judge's statutory and constitutional duties as well as the election process of a chief judge. New Mexico Constitution, Article VI, Section 38, states, "Each judicial district and metropolitan court district shall have a chief judge who shall have the administrative responsibility for that judicial district or metropolitan court district. Each chief judge shall be selected by a majority of the district judges or, in the case of the metropolitan court, by a majority of the metropolitan court judges in that judicial district or metropolitan court district. In the event of a tie, the senior judge shall be the chief judge.

Furthermore, NMRA Rule 23-109, states, in part, "Chief Judges: The duties of the chief judge, once elected, include, but is not limited to, ...administering policies for the court's internal operations, ...supervising other judges and the court's administrative office, ...supervise court finances, ...assign cases among the several judges, ...oversee juror management, ...and implement other administrative duties. The chief judge shall also advise the supreme court of the failure or refusal of any judge of such court to comply with the Code of Judicial Conduct or an established policy, rule or regulation of

such court or the supreme court.”

According to the New Mexico Constitution and New Mexico Rules Annotated, a new chief judge should be elected to serve for the following three (3) years with the duties outlined as above. The chief judge also receives an increase in salary.

Immediately following the announcement of Judge Valentine as described above, Judge Michael Murphy attempted to call for a vote for a new chief judge. A majority of the Judges disagreed with the urgency for an election of a new Chief Judge, as Judge Valentine’s suggestion that he was going to retire was merely an announcement, not an immediate resignation.

At the conclusion of the meeting, Judge Murphy can be heard on the recording explaining to Judge Lisa Schultz that she is the deciding vote for the upcoming election of the new chief judge. Judge Murphy suggested that he had secured enough votes for a tie, and told her he needed to talk to her about her vote, as she would be the tiebreaker.

On or about December 10, 2011, Judge Murphy presented himself to Judge Schultz’s chambers. Judge Schultz turned on her audio recorder when Judge Murphy showed up and made a full recording of the meeting.

Throughout the meeting, Judge Murphy talked to Judge Schultz about the upcoming vacancy of the chief judge position. Judge Murphy is clearly attempting to secure Judge Schultz’s vote for Third Judicial District Judge Doug Driggers.

Judge Murphy explained that if Judge Driggers were the Chief Judge it would allow her to work less from the Courthouse. Judge Murphy made comments at the time such as “this is dead man’s talk” and “this is between just us. the door’s shut here” – suggesting she not repeat anything he was telling her. Investigators learned that Judge Schultz continued to engage in the conversation as long as Judge Murphy was talking, even if it meant laughing at his derogatory comments.

During the conversation, Judge Murphy brought up an alleged Judicial Standards’ complaint filed against Judge Schultz. According to Judge Schultz, it was common knowledge amongst the judiciary that the investigators from Judicial Standards were in the process of interviewing all judges about the allegations against Judge Schultz to either substantiate or dismiss the complaint against her. Judge Murphy, while soliciting Judge Schultz’s vote, offered to “help her out” with the Judicial Standards’ investigation and suggests that Judge Driggers would do the same for her vote. Judge Schultz told Judge Murphy she did not expect anything from Judge Driggers.

Affiant listened to the recording of the conversation on December 10, 2010, and had the recording transcribed. A full reading of the transcribed recording, in its entirety, is necessary to support this Affidavit – as it shows in its completeness the entire solicitation by Judge Murphy. Affiant has attached the entire transcript to this Affidavit. However, Affiant will provide examples of the conversation of the recording that support

the crime charged in the Affidavit.

Within minutes of the conversation, Judge Murphy starts talking to Judge Schultz about being assigned only civil cases in the event Judge Driggers is elected Chief Judge. It is clear, with an entire reading of the transcript, that Judge Murphy believes a pledge to Judge Schultz that she will be assigned the civil docket will secure her vote for Judge Driggers. For example, Judge Murphy stated the following:

Murphy: Well here's the deal. Everybody wants you to go civilly if you wanted to.

Murphy: Uh, if you wanted to go civil, everybody would support that. Nobody ahead of you wants it.

Murphy: If you want to go civil -- the way is clear.

During the conversation, Judge Schultz asks Judge Murphy about other judges in the courthouse and Judge Murphy explains why they won't take the civil docket. Judge Schultz asks Judge Murphy a few other questions about other judges wanting the civil docket. For example:

Murphy: --to civil, that would force Doug to go back to--

Schultz: To the criminal.

Murphy: --Criminal.

Schultz: Got it.

Murphy: And we got a new DA. And the fact of the matter is, then we can protect the selection process from Susana because it will be very clear that whoever's coming over is going to go to divorce court and is going to be there for quite a while. So we might avoid thirteen Republican DA's apply -- do you see what I'm saying? Because they would be stuck. Maybe not. But I mean, and I don't know how many Republicans can get through -- too many. I'm pretty sure that Wellborn won't be able to and I'm pretty sure that uh, uh Reidel can't as long as Justice Bossum's around. After her big shit storm last time.

Schultz: I didn't even hear anything --

Murphy: Plus she was quoted in the newspaper saying that due process rights are mere technicality. And then repeated in the, in the thing--and Bossum, he went back in the back room and said you people out of your Goddamn mind if you ever appoint her. So --

Schultz: So, then —

Murphy: That better be that dead man's talk you know, but...

Judge Schultz and Judge Murphy talk further about Judge Murphy's proposed civil assignment and other assignments within the court. Judge Murphy does most of the talking and at one point Judge Schultz tells Judge Murphy she needed to sleep on it, referring to the civil assignment. When Judge Murphy realizes that this carrot does not cause Judge Schultz to commit to voting for Judge Driggers, he moves on to his next step of trying to convince her how her job will be much less stressful and her workload will decrease.

Judge Murphy begins to tell Judge Schultz that she could end up with easier assignments and cases being assigned to her if Judge Driggers is elected as Chief Judge. Judge Murphy even suggests a new case assignment means working shorter work hours, i.e. leaving at 3:00 p.m. in the afternoon like he does. (See pg 48 of the attached transcript).

Again, not yet getting a commitment out of Judge Schultz to vote for Judge Driggers, Judge Murphy starts attempting to solicit her vote by pitting her against Judge Valentine's choice by stating the following:

Murphy: Now, the one thing is though — is with you -- Doug is bullet proof to take over. And we need you. And then Jerry (Valentine) threw you under the fucking bus. So I mean, why would you—you know, run with his candidate—you know what I mean? Whoever that is. And I don't think that you trust Fernando, uh, Fernando's a great guy but I think he's more — he's more valuable doing what he did today at the Judge's meeting, bringing up points that refine.

As the transcript continues, Judge Murphy goes on telling Judge Schultz additional information about potential chief judge candidates that Judge Jerry Valentine might be supporting. At this point in the conversation Judge Murphy explains that she is a deciding vote as he already has secured enough votes for a tie.

Murphy: So, so what I'm saying—I would like to get a commitment out of you today that I've got five votes for...

Schultz: Oh...

Murphy: ...Doug.

Schultz: Doug.

Murphy: Because Martin. I've just confirmed. Then obviously, Doug's voting for himself. I'm voting for Doug. Martin's voting for Doug.

Arietta's voting for Doug.

Schultz: So definitely feel that Doug has – separate, separate apart from everybody else, what do you think? You feel that Doug needs to—

Murphy: He's the only one. Who else? Who else here could do it right now?

During the next part of the conversation Judge Murphy encourages Judge Schultz to buy Judge Driggers a cup of coffee and talk to him about the chief judge election, in order to get his views on the position. Judge Murphy explains to Judge Schultz why other local judges won't run for the position, and that if the vote is tied, that the senior judge is then selected as chief judge by law. As Your Honor reads the transcript, it is clear that Judge Murphy is concerned about a tie because he believes Judge Bridgeforth (referred to as "Bridge") will be selected as the chief judge because he is the senior judge. (See pg 16 of the transcript).

Once again, as Judge Murphy realizes that Judge Schultz will not take the bait, Judge Murphy continues to talk about the chief judge election. It is at this point Judge Murphy brings up Judge Schultz's pending Judicial Standards' investigation:

Murphy: What I'm saying is there's really no choice.

Schultz: Well and you know, Doug and I have never had a day's problem.

Murphy: Well he would not have thrown--

Schultz: He... he --

Murphy: --He would not have thrown you under the bus.

Schultz: --Under the bus like that.

Murphy: That's right. And of course, if they recommend something or whatever, you know, that doesn't involve Judicial Standards—it's just here, you know, that he's not gonna give you that time.

During this part of the conversation, Judge Murphy is clearly referring to a Judicial Standards' complaint against Judge Schultz, and that Judge Jerry Valentine had "thrown her under the bus" in the complaint. Judge Murphy then references that if the Judicial Standards complaint comes back to Judge Driggers, if he becomes chief judge, he would not give Judge Schultz "any time."

As Judge Murphy referenced that, Judge Schultz changed the conversation stating she and Judge Driggers used to work in the same office building as private attorneys. Judge Schultz tells Murphy again that she has not had any problems with Judge Driggers.

At that time Judge Murphy attempts to provide Judge Schultz a backup plan if she votes for Judge Driggers and she is not satisfied with what he has pledged will happen. Judge Murphy recommends she file a disability claim and simply walk away from the judiciary all together if things don't go her way.

Murphy: Well you wouldn't, and you wouldn't now. You know, if I thought there would be any problem, would I—

Schultz: --You would tell me?

Murphy: Yeah? I mean... if you thought there would be...

Schultz: --Right. Right.

Murphy: ...Uh, and, and here's the other thing you got coming. This one thing that you need to remember. Even though you're doing fine now, you are really holding a big freakin hammer over AOC. Because when you get your five years in, all you gotta do is take a couple of these doctors that have been – and say, 'she can not continue in this job because of her physical disability. And while it's true, that the physical disability has nothing to do with her job. She's been there more than five years, therefore she is disabled from doing that work' and like Laraby, you get your entire salary, a 100% until your retirement age and then you fully vested in your retirement. And you get that for the rest of your life. And if your partner survives you, she gets half of it for the rest of her life. So you always have the ability to say, 'tell you what hombre, you shit on me... and I'll be disabled next week.'

Schultz: Not, of course, that I would ever do that.

Murphy: Well, the door's shut here. I mean, I assume you're not gonna say anything. I mean--

Schultz: Right

The conversation goes on for some time between Judge Murphy and Judge Schultz on a variety of things, and by reading the attached transcript in its entirety it is crystal clear that Judge Murphy has not convinced Judge Schultz to vote for Judge Driggers, so Judge Murphy begins to try and relate with Judge Schultz's personal lifestyle and views in an attempt to gain her vote for the chief judge's election.

Near the end of the transcript of the recorded conversation Judge Murphy revisits the Judicial Standard's complaint and investigation of Judge Schultz in exchange for a commitment for her vote. Judge Murphy states:

Murphy: And there may be something in it for you too...

On the recording, Judge Schultz does not respond to this blatant quid pro quo comment. So, Judge Murphy continues, after giving Judge Schultz his phone number to call with questions, by saying the following:

Murphy --Yeah, I see a new day coming. I'm feeling better now.

Schultz: Really?

Murphy: Yeah, and the, and the thing is too is that uh, even if there has be a hearing with uh, with uh...uh...Judicial Standards? If you help Doug out, why wouldn't he go out of his way to help you out? I didn't say that. But that's my thinking.

Schultz: Oh...

Murphy: I certainly am going to go out of my way to help you out.

Schultz: Thank you. I really appreciate, I really appreciate it. This is just um...

Murphy: Well it's a big pain in the ass and it puts you off your feet.

Schultz: Right. And I, I just mean I really appreciate you, you like coming in and talking and is today the 10th? And um—

Murphy: -- Yeah. I'm always around. I mean, you know, it's uh—what I mean, or I'm always available on the phone. I'm always around. Cause ...

Schultz: I really—

Murphy: ...my attitude got so bad that as soon as I had all my work done and everything, I'll leave.

Schultz: Alright well...

Murphy: --I'm on the phone. And uh, you know, if you want to get me, fine and dandy. And if you don't, fine and dandy too.

Schultz: I really appreciate it. Not, not that I would ever have Doug do anything for me. I just—it's just nice that you came down to talk about it.

The conversation between Judge Schultz and Judge Murphy concluded shortly after this and the recording ends.

To recap, at the end of a Judges' Meeting where Chief Judge Valentine announces his plan to retire, Judge Murphy tells Judge Schultz he needs to talk to her about the vote for upcoming chief judge's position. Judge Murphy later makes a visit to Judge Schultz's chambers and starts the conversation. At the time Judge Murphy enters Judge Schultz's chambers he obviously is aware a Judicial Standards' complaint was filed against Judge Schultz and a Judicial Standards' investigation of the complaint is ongoing in which he believes he can influence as a witness of the alleged conduct. It is also obvious that he believes the outcome of the Judicial Standards' investigation is of value to Judge Schultz and her career. Judge Murphy makes a reference to Judge Schultz that "Jerry", referring to Judge Jerry Valentine, "threw her under the bus", which indicates that Judge Murphy believes that Judge Valentine filed the complaint on Judge Schultz. From the minute Judge Murphy enters into Judge Schultz's chambers he begins painting a bright picture of her taking over civil cases and tells Judge Schultz that her workload would be easier, trying to talk her into taking the civil docket, something only a chief judge can order in accordance to law. Judge Murphy continues in the conversation about how good "Chief Judge" Driggers would be as a chief judge and why would she should not show favor, support or vote for the person that Judge Valentine is supporting since he "threw her under the bus." Judge Murphy tells Judge Schultz that he has already talked to Judge Martin, Judge Arietta and Judge Driggers and he has their votes, plus his own, and that they need her vote to break the tie. Judge Murphy tells Judge Schultz that if things don't "go good" for her after Judge Driggers is Chief Judge, that she holds "a big freaking hammer over AOC" (Administrative Office of the Courts) and describes how she could fraudulently file for disability if things do not "go good" for her after the chief judge's election. Seeing that none of this has caused Judge Schultz to commit to his wants, Judge Murphy goes on to solicit Judge Schultz's vote by bringing up a Judicial Standards' complaint against her and saying, "If you help Doug out, why wouldn't he go out of his way to help you out? I didn't say that. But that's my thinking." Judge Murphy then immediately states, "I certainly am going to go out of my way to help you out." As Murphy states this, he is clearly implying that he will go out of his way to help Judge Schultz with her Judicial Standards' complaint if she votes for Judge Driggers, which would obviously benefit her reputation and career - both personally and financially - if the complaint was unsubstantiated.

As mentioned, a copy of the 52-page transcript of the recording between Judge Murphy and Judge Schultz is made a permanent part of this Affidavit in order to show Your Honor the accuracy of the conversation and to provide further examples of probable cause that Judge Murphy is bribing Judge Schultz for her vote for Judge Driggers by offering things of value to her, the most valuable of which is an offer to go out of his way to assist her in a Judicial Standards' investigation. By Judge Murphy offering to go out of his way to help Judge Schultz with her Judicial Standards' complaint and investigation, amongst everything else he pledges, in return for her vote for Judge Driggers is clearly a violation of New Mexico law.

It was learned by Affiant that at the next Third Judicial District Judges' Meeting, an election for the Chief Judge of the Third Judicial District was held pursuant to New Mexico Statute and the Constitution. Ballots were passed out with two names on the

ballot, Judge Driggers and Judge Macias. Concerned about the bribe and the lack of ethics behind the election, Judge Schultz voted for herself. The vote ended with 4 votes for Judge Macias, 4 votes for Judge Driggers, 1 judge declined to vote, and Judge Lisa Schultz received 1 vote – her own. According to NMRA, Rule 23-109, in the event of a tie, the senior judge shall be the chief judge. Judge Driggers was senior to Judge Macias; thus, Judge Doug Driggers won the election and assumed the position of Chief Judge.

Affiant believes that probable cause exists that Michael Murphy violated New Mexico statute by offering things of value to Judge Schultz, most specifically to go out of his way to give Judge Schultz assistance with her Judicial Standards' complaint, with intent to induce or influence Judge Schultz to be more favorable to Judge Driggers than to any other judge in the chief judge's election that was pending and going to be brought before Judge Schultz and the other Third Judicial District Court Judges or to procure her to vote or withhold her vote on the matter which was pending and to be brought before her in her official capacity as a judge.

The law of **Bribery of Public Officer or Public Employee**, Section 30-24-1, states, "Any person giving or offering to give, directly or indirectly, anything of value to any public officer or public employee, with intent to induce or influence such public officer or public employee to:

- (A) Give or render any official opinion, judgment or decree;
- (B) Be more favorable to one party than to the other in any cause, action, suit, election, appointment, matter or thing pending or to be brought before such person;
- (C) Procure him to vote or withhold his vote on any question, matter or proceeding which is then or may thereafter be pending, and which may by law come or be brought before him in his official capacity;
- (D) Execute any of the powers in him vested; or
- (E) Perform any public duty or otherwise than as required by law, or to delay in or omit to perform any public duty required of him by law.


Judge Murphy and Judge Schultz are public officers.

The findings of a Judicial Standards' investigation are of the utmost importance in a judge's career and are of great value to a judge's reputation and legal career. For example, the Judicial Standards' Commission investigates all complaints against a judge. In doing so, the Commission will review the complaint and research the allegations. Confidential hearings may be held to gather evidence; in this case it is clear that Judge Murphy believed he was going to be subjected to the hearings and interviews and could influence the investigation. Following an investigation, the Commission can propose professional counseling or assistance or recommend that the Supreme Court remove or

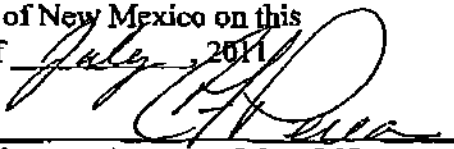
retire a judge. Should a recommendation be made to remove Judge Schultz, she would no longer be employed by the State or receive a salary as a judge. On the other hand, a complaint may be dismissed if the allegations are not substantiated by clear and convincing evidence; in this case Judge Murphy offered to help Judge Schultz's complaint. Judge Murphy, in the context of attempting to secure a vote in an election process, told Judge Schultz he was "certainly going to go out of his way help" Judge Schultz when the Commission interviewed him, and by doing so the Commission could possibly make a finding the complaint is frivolous, unsubstantiated, appellate, or extra judicial and dismiss the complaint. Affiant believes that any reasonable person in the same and similar circumstances would view this bribe as one of value. And, although a dismissal of any alleged Judicial Standards' complaint would certainly be valuable to Judge Schultz, she did not suggest nor want anyone to interfere with any investigation against her and she stated that she did not expect any superficial assistance.

New Mexico law is clear that a defendant's bribe need not be accepted nor completed to constitute a crime, it is enough that a bribe was made by and to a public officer to constitute a crime. By and through the training and experience of Affiant it is understood that the crime of bribery is complete once the defendant's offer is made, and it is irrelevant as to whether the bribe is accepted or not - as that would be a separate crime for the one that accepted and acted upon the bribe.

Wherefore, based upon the facts contained in this affidavit, the undersigned Affiant respectfully requests a finding of probable cause that Bribery of Public Officer or Public Employee was committed by Michael Murphy on or about December 10, 2011.



Signature of Affiant
Special Agent Dan Blair
9th Judicial District Attorney's Office

Subscribed and sworn to before
me in the above named county
of the State of New Mexico on this
27 day of July, 2011


Judge, Magistrate, Notary or Other Officer
Authorized to administer Oaths

*Telephonically subscribed
or sworn to by:
Dan Blair
@ 1427 hrs*

NOTE: Article II, Section 10 of the New Mexico Constitution provides that an Arrest Warrant may be issued on a sworn written statement of facts showing probable cause. This Affidavit is to be used only when the Complaint does not set forth sufficient facts to establish probable cause.