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2/24/2020

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PRESS RELEASE

State Ethics Commission files motion to participate as friend of the court in State v. Padilla

Albuquerque, NM, February 24, 2020 – The State Ethics Commission filed a motion to participate as a friend of the court (“amicus curiae”) and proposed amicus brief with the New Mexico Court of Appeals in *State v. Padilla*, No. A-1-CA-38283 (N.M. Ct. App.). The State Ethics Commission’s proposed *amicus* brief argues that the Governmental Conduct Act creates enforceable duties on legislators, public officials, and public employees that prohibit them from using the powers and resources of public office to obtain personal benefits and from abusing their public offices. The Governmental Conduct Act also requires legislators, public officials, and public employees to disclose real and potential conflicts of interest and to avoid undue influence while in public service. The Commission’s *amicus* brief explains how the Governmental Conduct Act plays a critical role in efforts across the state to address and deter public corruption and official misconduct.

In *State v. Padilla*, the Attorney General filed felony embezzlement and Governmental Conduct Act counts against former Taxation and Revenue Department Secretary Demesia Padilla. The Attorney General also charged several misdemeanor counts under the Governmental Conduct Act against Ms. Padilla for alleged undue influence and abuse of office in public service. In district court, Ms. Padilla argued that the Governmental Conduct Act subsections she was charged with

violating are not criminally enforceable, and the First Judicial District Court Judge Mary Marlowe Sommer agreed. The Attorney General appealed. The State Ethics Commission takes no position on the truth of the Attorney General's allegations.

State v. Padilla is the fourth in a line of cases pending in the Court of Appeals that concern the enforceability the Governmental Conduct Act's prohibition of undue influence and abuse of office. The other cases concern a former Doña Ana County Treasurer, the Sixth Judicial District Attorney, and a former San Juan County magistrate judge. In each case, state district court judges ruled that provisions in Section 10-16-3 are not criminally enforceable. In *State v. Padilla*, the Court of Appeals can clarify that Subsections 10-16-3(B) and (C) create real and enforceable duties for legislators, public officials, and public employees, thereby restoring and further defining New Mexico's public corruption laws.

The State Ethics Commission seeks to participate in this case as a friend of the court and takes no position on the truth of the allegations in the criminal information against Ms. Padilla. To read the Commission's motion for leave or the Commission's proposed amicus brief, please visit sec.state.nm.us/category/press-release/

For additional information, please contact the State Ethics Commission at (505) 827-7800 or at Ethics.Commission@state.nm.us.