

NM Court of Appeals Position 3

There are ten judges on the New Mexico Court of Appeals. It is the intermediate court between the district courts and the Supreme Court. Judges sit in panels of three. The Court reviews appeals in all cases, except criminal cases involving sentences of death or life imprisonment, appeals from the Public Regulation Commission and cases involving habeas corpus. Judges must be at least 35 years old, have practiced law for ten years, and have resided in New Mexico for the last three years. Judges are elected statewide for eight-year terms.

Judicial vacancies are filled through appointment by the Governor from a list of nominees submitted by a judicial nominating committee. At the next regular election the judicial position is filled in a partisan election in which the appointed judge must participate and win the most votes to retain the seat. Judges serve for terms of a set number of years, after which they must win a 57% “yes” in retention elections to keep their seats.

Position 3



Thomas C Montoya
(Republican)

1. How have your training, professional experience and interests prepared you to serve on this court?

I have been qualified to be appointed district judge 3 times by the Judicial Nominating Commission. I have devoted my 39 year career to the field of family law, which covers a very wide variety of all the civil laws which arise in those cases. I have chaired Supreme Court Committees which promulgated statewide rules for family law and domestic violence cases. I have written, lobbied and obtained sponsors for over 30 statutory enactments in family law to address solutions to family law problems.

2. Do you believe that all persons in New Mexico have fair and equal access to legal assistance and the legal system? If not, what reforms do you support? Please explain.

In theory, all persons are equal before the Courts and the law. In practice, many people cannot afford a lawyer, which creates a great disadvantage, even if the opponent also does not have a lawyer. For this reason, the New Mexico Supreme Court should consider mandatory, rather than

voluntary, minimum legal services by lawyers to be provided to those who cannot afford a lawyer.

3. What changes, if any, would you recommend to the NM Court of Appeals practices and why?

The Court of Appeals is a hard working Court, but with a very high caseload and limited resources. To address this problem will require additional personnel and additional funding.

4. Do you favor nonpartisan elections for the judiciary? Why or why not?

I do not favor nonpartisan elections for the judiciary, because the party affiliation of a candidate is a public record in any event, and because the public has a right to know such party affiliation, as one factor in deciding for whom to vote. Nonetheless, in decision making, under the law, a judge may not permit political affiliation to influence the judge's judgment.

5. What policies are critical to keep the judiciary independent from political influence?

The Code of Judicial Conduct must be strictly followed. A judge may not be swayed by public opinion or fear of criticism; a judge may not permit family, social, political, financial, or other interests or relationships to influence the judge's judicial conduct or judgment; and a judge may not convey or permit others to convey the impression that any person or organization is in a position to influence the judge. The law must be followed as written, not as a judge would like to see it written.



Jane B. Yohalem
(Democrat)

1. How have your training, professional experience and interests prepared you to serve on this court?

I have been an appeals lawyer in New Mexico representing people from every corner of the State before our Court of Appeals and Supreme Court. My career began as a civil rights lawyer representing children with disabilities and have represented indigent families in termination of

parental rights cases for many years. I have been counsel in over 400 appeals, resulting in more than 100 published decisions advancing the law of New Mexico. I have been found qualified by the Judicial Selection Comm.

2. Do you believe that all persons in New Mexico have fair and equal access to legal assistance and the legal system? If not, what reforms do you support? Please explain.

We are not providing all persons in New Mexico fair and equal access to our legal system. Years ago, based on my briefs and arguments, our Supreme Court interpreted New Mexico's Children's Code to require the State to provide services to every New Mexico family whose children are taken into State custody, regardless of background. We need to better fund our hard-pressed legal services and public defender offices so they can meet the need for quality legal representation.

3. What changes, if any, would you recommend to the NM Court of Appeals practices and why?

I was recently appointed by the Governor to serve on the Court of Appeals. The number one concern has been the speed of decisions in the last few years. I am pleased to report that the Court has eliminated the backlog. I would like to look at the Court's priority system to be sure it is working as intended to effectively prioritize time-sensitive appeals, including those of incarcerated individuals and appeals which affect children.

4. Do you favor nonpartisan elections for the judiciary? Why or why not?

I believe that New Mexico has a good mix of an initial partisan election followed by a non-contested retention election. A judge must approach each case on its specific facts and apply the law fairly to those facts. At the same time, voters have a right to know whether a judge shares their values and their understanding of the role our courts play in our democracy. It is appropriate to have the initial vetting of judicial candidates be by the voters in a partisan election.

5. What policies are critical to keep the judiciary independent from political influence?

Public officials need to respect the special role of the judiciary and treat it as a separate, independent, and co-equal branch of government. A policy of avoiding accusations that the courts are acting out of political motives goes a long way toward ensuring that the judiciary remains independent. Our courts can promote respect for their unique role by treating all litigants with respect and by writing clear and thoughtful decisions which explain the court's reasoning in each case.