

ATTEST: A TRUE COPY

Kathleen G. Gibson
Clerk of the Supreme Court
of the State of New Mexico

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IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

October 29, 2008

NO. 31,386

STATE OF NEW MEXICO ex rel.,
LEAGUE OF WOMEN VOTERS OF
NEW MEXICO,

Petitioner,

vs.

Honorable MARY E. HERRERA, in her
official capacity as SECRETARY OF STATE
OF NEW MEXICO,

Respondent.

WRIT OF MANDAMUS

TO: Honorable Mary Herrera
Office of the Secretary of State
325 Don Gaspar Avenue, Suite 300
Santa Fe, New Mexico 87501

GREETINGS:

WHEREAS, the petitioner applied to this Court on October 23, 2008,
for a writ of mandamus requiring respondent to enforce NMSA 1978,

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Section 1-9-4.2(B)(4) (2007) and to modify her interpretation of what marking on hand-tallied paper ballots is sufficient for the mark to count as a vote;

WHEREAS, the Supreme Court gave notice to respondent in compliance with Rule 12-504 NMRA of the Rules of Appellate Procedure that a petition for writ of mandamus had been filed in the above entitled cause;

WHEREAS, a copy of the petition for writ of mandamus has been served on respondent in the above entitled cause; and

WHEREAS, this Court hereby FINDS that the provisions of NMSA 1978, Section 1-9-4.2(B)(4) (2007) are constitutional.

NOW, THEREFORE, IT IS ORDERED that respondent hereby is directed to instruct the appropriate authorities that, for purposes of counting hand-tallied paper ballots, election judges shall follow NMSA 1978, Section 1-9-4.2 (2007) in its entirety;

IT IS FURTHER ORDERED that respondent shall include in her instructions, as aforementioned, Instruction 2008-10 (attached to the petition as exhibit B) to be used by election judges in counting hand-tallied paper ballots under the provisions of follow NMSA 1978, Section 1-9-4.2(B)(4) (2007), with Instruction 2008-10 being illustrative, but not

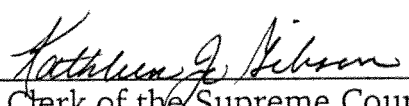
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exhaustive, standards for discerning clear voter intent.

IT IS SO ORDERED.

WITNESS, Honorable Edward L. Chávez, Chief Justice
of the Supreme Court of the State of New Mexico, and
the seal of said Court this 29th day of October, 2008.

(SEAL)



Chief Clerk of the Supreme Court of the
State of New Mexico