

SANTA FE—After being accused of filing criminal charges against Secretary of State Dianna Duran based on a personal bias, the Attorney General's office fired back with a response Oct. 2.

The Attorney General's Office countered claims of a conflict of interest with their own claims that Duran is "prosecutor shopping" by trying to have Attorney General Hector Balderas removed from the case.

Earlier this week, Attorney General Hector Balderas announced that he would no longer provide counsel to the Secretary of State's office. He returned 31 cases of potential campaign finance violations to her office and said she should work with district attorneys on the cases.

According to the motion by the AG, "The law affords criminal defendants many rights. The right to pick the prosecutor is not one of them."

The AG's office also argued that Duran did not provide enough proof that she and Balderas have any kind of contentious relationship that would create a conflict.

According to the response AG's office said, "Duran has simply not produced sufficient evidence to justify the extraordinary remedy of disqualifying the state's chief law enforcement officer. This court should deny her motion."

Further the motion stated, it is the Attorney General's job to represent those in public office, "but

when the person who holds that office commits a crime, the Office of the Attorney General has duty to prosecute the office-holder."

Duran's attorney, Erlinda Johnson, told New Mexico Political Report on Oct. 2 that she had not seen the motion yet.

The motion filed by Johnson earlier stated that a conflict would be perceived since Balderas is tasked with both representing and prosecuting Duran.

The motion from Duran's attorney, Johnson said, "The acrimony between Ms. Duran and AG Balderas has continued for months, now giving rise to questions about this prosecutorial agencies bias against Ms. Duran."

A spokesman for Balderas' office denied the allegations at the time. The motion from Duran's attorney mentioned the case against former Secretary of State Rebecca Vigil-Giron. In that case, former Attorney General Gary King was removed from the case. That case was eventually dismissed after a district court judge ruled repeated delays violated her right to a speedy trial.

But, the Oct. 2 motion says the circumstances are not the same. A court ruled the basis of the conflict in the Vigil-Giron case was "the AGO's office approving the contracts associated with how these [Help America Vote Act] funds were dispersed" and that the Attorney General's office "was inextricably involved with the SOS's approval of these contracts."

In this case the Attorney General's office motion stated, "the Office of the Attorney General's theory for prosecution centers on Defendant in her personal capacity, namely as a private citizen seeking political office."

NMPolitics.net outlined how a drawn out court battle led to the dismissal of charges in the housing authority scandal; one of the attorneys for bond attorney Robert Strumor, a defendant on that case, was Erlinda Johnson.

In all, Duran is facing dozens of charges, including new charges related to identity theft filed Friday afternoon.

Duran also faces impeachment by the state House, which could lead to removal from office by the state Senate.

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