

**BEFORE THE NEW MEXICO BOARD OF LICENSURE FOR  
PROFESSIONAL ENGINEERS AND PROFESSIONAL SURVEYORS**

IN THE MATTER OF:      **Ralph Montoya**, PE License No. PE #15306

**Respondent**

**Case No. 11-11-42**

**DEFAULT ORDER OF REVOCATION**

THIS MATTER came before the Professional Engineering Committee of the New Mexico Board of Licensure for Professional Engineers and Professional Surveyors (“Board”) on November 13, 2014 for a decision in the above referenced case. The Committee reviewed and considered the administrative file in this matter, and makes the following findings of fact and conclusions of law, and enters the following order:

**Findings of Fact**

1.      Ralph Montoya, hereafter “Respondent” has been a licensed professional engineer in New Mexico with license number 15306.
2.      On November 7, 2011, Respondent was found guilty of two counts of Second Degree Murder and one count of Kidnapping in the Second Judicial District Court following a no contest plea.
3.      Respondent’s license expired on December 31, 2012.
4.      A Notice of Contemplated Action was issued by the Board on February 21, 2013.
5.      The NCA put Respondent on notice that the Committee had sufficient evidence of violations of the Act that if not rebutted or explained would justify revoking Respondent’s license. *See NCA*, pp. 1-2.

6. The NCA contained a summary of the evidence against Respondent, namely that Respondent had pleaded guilty and been convicted of at least one felony and was thus in violation of NMSA 1978, §61-23-24(A)(9).

7. The NCA contained a notice of Respondent's rights under the ULA, and in particular of the need to submit a written request a hearing to the Board of Licensure for Professionals Engineers and Professional Surveyors within twenty days of receipt of the NCA if he wished to have a hearing. See NCA, pp. 2-3.

8. The NCA was served on the Respondent by certified mail, return receipt requested in accordance with the Uniform Licensing Act, NMSA 1978, § 61-1-1 et seq., on February 25, 2013.

9. The Respondent did not submit a request for hearing within the time and in the manner required by NMSA 1978, § 61-1-4.

10. On April 1, 2013 the Board received a letter from Respondent acknowledging receipt of the NCA. Respondent expressly stated that “[t]he purpose of my letter is not request a hearing but to request that the Board consider my application for “Inactive Status”...”.

11. Respondent failed to submit an application and application fee as required for requests for inactive status within 60 days of the expiration of his license.

12. At its meeting on February 21, 2013, the PEC voted unanimously to deny Respondent's request for inactive status based on his failure to comply with the requirements of 16.39.1.17(D) NMAC.

13. The Board also finds, based on the severity of the crimes for which Respondent was convicted, and the fact that he remains in prison serving a sentence of more than twenty years, that Respondent has not been sufficiently rehabilitated to warrant the public trust.

### Conclusions of Law

1. The practice of engineering in New Mexico is governed by, inter alia, the Engineering and Survey Practice Act, NMSA 1978, Sections 61-23-1 -34 (the “Act”).
2. Under the Act, it is the duty of the Board to administer the provisions of the Act. NMSA 1978, § 61-23-10(A) (2005). Matters coming before the Board pertaining exclusively to engineering are referred to the engineering committee of the Board (the “Committee”). NMSA 1978, §61-23-9(A), (C) (2005). The action of the Committee with respect to such matters constitutes the final action of the Board. Id.
3. The Act’s Declaration of Policy states in relevant part that “[t]he legislature declares that it is a matter of public safety, interest and concern that the practice of engineering and surveying merit and receive the confidence of the public.” NMSA 1978, §61-23-2 (2003)
4. The Act expressly authorizes the Board to suspend, refuse to renew or revoke the license of any engineer who is found to have been convicted of a felony. NMSA 1978, § 61-23-24(A)(9) (1993 as amended through 2012) The Act provides that the Board may initiate disciplinary action against its licensees in conformity with and under the provisions of the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 -33 (2003) (the “ULA”). NMSA 1978, 61-23-24(G) (1993 as amended through 2012).
5. Under the Act and the ULA, the Board, through the Committee, has jurisdiction over Respondent and the subject matter of this proceeding. NMSA 1978, Sections 61-1-1 -33 and 61-23-1 -32 (2005).
6. The Board has complied with all notice and other procedural requirements as set forth in the ULA and the Act.

7. By failing to request a hearing, the Respondent waived his right to a hearing. *See* NMSA 1978, 61-1-4(E).

8. The ULA provides that “[i]f the licensee. . . does not mail a request for hearing within the time and in the manner required by this section, the board may take the action contemplated in the notice [of contemplated action] and such action shall be final and not subject to judicial review.” *Id.*

9. There is sufficient evidence which the Respondent failed to rebut or explain that Respondent was convicted of felony crimes and that such conviction warrants the revocation of his license pursuant to NMSA 1978, Section 61-23-24(A)(9).

10. The provisions of the Criminal Offender Employment Act (COEA), NMSA 1978, §28-2-1 -6, are applicable to the Board. NMSA 1978, 61-23-4 (1993 as amended through 2012).

11. Respondent was convicted of three felonies following a plea agreement in the Second Judicial District Court in 2011, specifically, two counts of second degree murder a one count of kidnapping. He was sentenced that year to serve more than thirty years in the custody of the Department of Corrections.

12. The Board has no evidence before it that Respondent’s felony conviction directly related to his work as an engineer. However, given the serious and violent nature of the crimes for which Respondent was convicted, and the fact that he was sentenced to the penitentiary where he currently resides and will remain for many more years to come, the Board finds that Respondent has not been sufficiently rehabilitated to warrant the public trust, and his license may be revoked based on his felony convictions without violating the COEA. NMSA 1978, §28-2-4(A)(2) (1997).

**ORDER**

Based on the findings of fact and conclusions of law, the New Mexico Board of Licensure for Professional Engineers and Professional Surveyors renders this order.

The Board finds that Respondent Ralph Montoya failed to request a hearing on the NCA as described above in the Findings of Fact and Conclusions of Law and, consequently, the Board may take the action contemplated in the NCA.

**IT IS THEREFORE ORDERED** that Respondent's license number 15306 is hereby **REVOKED**.

**IT IS FURTHER ORDERED** that the Board need not address Respondent's request to reconsider the Board's prior decision to deny his request for inactive status as the issue was rendered moot by the revocation of his license.

**IT IS SO ORDERED.**

Dated: August 11, 2016

NEW MEXICO BOARD OF LICENSURE  
FOR PROFESSIONAL ENGINEERS AND  
PROFESSIONAL SURVEYORS



Karl Tonander, PE, Chair  
Professional Engineering Committee  
Board of Licensure for Professional  
Engineering and Professional Surveyors

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