

Bond Case Briefs

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MUNICIPALITIES - NEW MEXICO

Einer v. Rivera

Court of Appeals of New Mexico - February 2, 2015 - P.3d - 2015 WL 433648

Resident of San Miguel County, submitted a form petition to the County Clerk, requesting that she approve the form of the petition for circulation to qualified electors. The petition requested the San Miguel County Commission to appoint a charter commission providing for the “home rule” government of the county.

The San Miguel County attorney responded to the request, advising that the clerk declined to act on the petition because the petition seeking incorporation of the county and adoption of a charter was not authorized by law. Resident filed a writ of mandamus, requesting that the district court issue (1) a declaratory judgment that San Miguel County is a “municipality” under the Municipal Charter Act and that the form of petition met the requirements of Section 3-1-5(C); and (2) a peremptory or alternative writ of mandamus, compelling the clerk to approve the petition.

The Court of Appeals held that San Miguel County was not subject to the home rule charter process of the Home Rule Amendment of the New Mexico Constitution and the Municipal Charter Act. San Miguel County is not a “municipality” within the Municipal Charter Act or the Home Rule Amendment. The court further concluded that its holding did not violate the constitutional equal protection rights of resident.