

Juan G. Burciaga
United States District Judge
for the District of New Mexico 1979-1995

Juan G. Burciaga was born in Roswell, New Mexico in 1929. The son of a Mexican immigrant, Judge Burciaga was appointed to the United States District Court for the District of New Mexico by President Jimmy Carter in 1979 and was one of few Hispanics to sit on the federal bench at that time. Burciaga served as Chief Judge for the District of New Mexico from 1990 - 1994. Before entering law school at the University of New Mexico, Burciaga attended the United States Military Academy and served as a fighter pilot in the United States Air Force for eight years.

Judge Burciaga was a stickler for courtroom decorum and acknowledged his reputation as a bit of an ogre. Some who appeared before him as young lawyers fondly recall that he was a “terror,” while more seasoned litigators often settle on “intimidating.” Whatever the label, Judge Burciaga demanded high quality work from all attorneys appearing before him and had little tolerance for anything less.

Burciaga was a member of the Mensa Society. He was an avid reader who enjoyed history and sociology, as well as a good mystery. Burciaga’s impassioned judicial opinions are replete with evidence of his keen intellect, sharp wit, and strength of both character and conviction.

As a widowed father of five, including two sets of twins, it was of necessity that Burciaga became a skilled chef, taking particular pride in his green chile. Dinner with Juan was always a special occasion with wonderful food, music, and conversation. In the evening, he might be found enjoying a good cigar under the stars.

Judge Burciaga presided over the landmark case of *Oklahoma v. NCAA*, an action in which the University of Oklahoma and the University of Georgia joined forces to bring suit as

private plaintiffs against the National Collegiate Athletic Association (NCAA).¹ The plaintiffs sought only injunctive relief, alleging that the controls the NCAA exercised over the televising of college football games violated the Sherman Antitrust Act. Burciaga ruled that the NCAA had acted like a “classic cartel,” indeed violating antitrust laws via its televised football regulations and contracts with broadcasters. Burciaga held that the regulatory scheme as it then existed constituted illegal price fixing and improper monopolization of the broadcasting market. Both the Tenth Circuit Court of Appeals and the United States Supreme Court affirmed.² The Supreme Court held that NCAA’s conduct violated the Sherman Act; the regulatory scheme was a horizontal restraint in trade; it decreased output and raised prices; televised football was a separate market that NCAA solely controlled and over which it had a monopoly, but held that the NCAA rules were not *per se* illegal because competition was fostered in other sports. As a result of Judge Burciaga’s dauntless ruling, then, the NCAA’s thirty-year monopoly over viewing rights to college football was nullified and NCAA institutions became free to negotiate television rights to their own football games for the first time.

What has become commonly known in New Mexico as the Duran Consent Decree arises out of additional high profile litigation over which Judge Burciaga presided. In *Duran v. Carruthers*, plaintiff prison inmates filed an action against defendant prison system seeking injunction halting staff layoffs and requiring that staff vacancies in prison hospitals be filled.³ *Duran* is credited as being the most enduring legacy of – and perhaps one of the few positive

¹*Bd. of Regents v. Nat’l Collegiate Athletic Ass’n*, 546 F. Supp. 1276 (W.D. Okla. 1982).

²*Bd. of Regents v. Nat’l Collegiate Athletic Ass’n*, 707 F.2d 1147 (10th Cir. 1983); *Nat’l Collegiate Athletic Ass’n v. Bd. of Regents*, 104 S.Ct. 2948 (1984).

³*Duran v. Anaya*, 642 F. Supp. 510 (D.N.M. 1986); *Duran v. Carruthers*, 678 F. Supp. 839 (D.N.M. 1988)

effects arising from – the infamous 1980 riot at the New Mexico State Penitentiary. In that case, Burciaga held that the prison system must not reduce the authorized compliment of security staff at any of the New Mexico penitentiaries or other correctional facilities unless the minimal staffing levels necessary to provide a constitutional level of safety and security for prisoners had been met.⁴ The Tenth Circuit affirmed.⁵ The Duran Consent Decree is itself a negotiated instrument between the inmate population and the New Mexico Department of Corrections in which more than a dozen areas of improvement are identified, including correspondence, attorney visitation, food service, legal access, staffing, and training. In furtherance of the Decree, a training academy was established and was the first of its kind to be accredited by the American Correctional Association.

In 1991 Judge Burciaga authored a lengthy opinion attacking the excess of the war on drugs, upholding the religious freedom rights of an Anglo member of the Native American Church who had been arrested for possession of peyote.⁶ “To us in the Southwest, this freedom of religion has singular significance because it affects diverse cultures,” he wrote.⁷ “It is as much of us as the rain on our hair, the wind on the grass and the sun on our faces. It is so naturally a part of us that when the joy of this beautiful freedom sings in our souls, we find it hard to conceive that it could ever be imperiled.”⁸

⁴*Id.*

⁵*Duran v. Carruthers*, 885 F.2d 1485 (10th Cir. 1989); *Duran v. Carruthers*, 885 F.2d 1492 (10th Cir. 1989).

⁶*United States v. Boyll*, 774 F. Supp. 1333 (D.N.M. 1991).

⁷*Id.* at 1335.

⁸*Id.*

Burciaga also handled a class-action lawsuit attacking the quality of care for children in foster care and dozens of lawsuits related to deaths and injuries of workers from asbestos poisoning. In another widely publicized opinion, he took on then-United States Attorney General Richard Thornburgh on the question of whether federal prosecutors could be disciplined by the states in which they are licensed or had only to answer to the Justice Department. Shortly before his untimely death, he was immersed in cases involving Roman Catholic priests and alleged sex abuse, a controversial selection of a site for the new federal courthouse in Albuquerque, and a civil rights case in which Hispanic meatcutters successfully challenged working conditions at Kirtland Air Force Base.

Burciaga once described serving as a federal judge as “a lonely role” -- one requiring independence and a certain amount of isolation. Burciaga was well-loved and respected by his family, his colleagues and his many friends. Judge Juan G. Burciaga is remembered as among the Court’s best and colorful characters, one of its most passionate advocates, and a truly caring and accomplished jurist.

By John Edwards Conway,
Senior United States District Judge,
a friend and colleague