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Judge Richard W. Stanford, Jr.

FILED
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Commission on Judicial Performance

STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING JUDGE RICHARD W. STANFORD, JR. **No. 190**	**ANSWER OF JUDGE RICHARD W. STANFORD, JR.**

COMES NOW Respondent, Judge Richard W. Stanford, Jr., and answering the Notice of Formal Proceedings in the above-entitled inquiry, admits, denies and alleges as follows:

COUNT ONE

I. TO THE INTRODUCTORY PARAGRAPH, Judge Stanford:

A. ADMITS TO, AND APOLOGIZES FOR, his misconduct in the handling of the traffic infraction matters from 2003 to 2010 on behalf of the alleged people comprising friends and acquaintances, a spouse of a family member, and a member of court staff. Each sub-part of the allegations will be answered specifically below.

B. ADMITS that his actions were an improper use of his judicial office and were not the result of any regular administrative or adjudicative procedure, and were for a purpose other than for the faithful discharge of his judicial duties.

C. ADMITS that while his conduct may well include both wilful and prejudicial misconduct, DENIES that said conduct was done with actual malice, in that:

1. He did not direct or intend that any illegal act take place. All directions were done openly and with no intent to deceive or conceal.

2. No citations were dismissed. Each citation was intended to be reported accurately to the Department of Motor Vehicles, and as far as understood, was so reported. The intended benefit to be conferred on these individuals was to avoid having to come to court and wait in line. There was no intent to confer a monetary benefit different than if the person had come to court and pled guilty at an early stage before another judge. There is no question but that the benefit of convenience and time accorded preferential treatment and a two-track system, for which Judge Stanford has apologized, and does so again. These actions were done without the bad faith and actual malice exceeding mere volition and negligence, as delineated in *Inquiry Concerning Judge Spruance* 13 Cal.3d 778, 796, which examined the issue in the context of *Inquiry Concerning Judge McCartney* 12 Cal.3d 512, 539. *Id.* at 802.

3. At all times during the commission of these acts he did not manifest a consciousness of wrongdoing, and did not attempt to hide or cover up the acts. Nor did he attempt to influence any other bench officer regarding these matters.

4. The misconduct was limited to the alleged citations and to the conduct contained in the allegations, except where denied. No misconduct took place with any misdemeanor or felony cases or with any other type of matter. There was no attempt to influence other judicial officers or court personnel. There was no misconduct by demeanor or inappropriate attitude.

5. There was no refusal to change after Judge Stanford first became aware of the impropriety through contact by his presiding judge. There was no failure to learn from prior discipline for similar conduct as seen in *Inquiry Concerning Judge David E. Wasilenko, No. 170,* Decision and Order at 33.

6. Judge Stanford's attitude upon the initial contact by his Presiding Judge, Judge Kim Dunning, as she declared, was "receptive and very cooperative" and he "admitted in a straightforward manner" what he had done. Judge Stanford also openly "volunteered that he had done similar acts occasionally for persons he knew." He "quickly recognized the error in his thinking" that he was simply expediting the handling of these matters with results which those defendants could have obtained by themselves appearing. He "acknowledged that his actions afforded special treatment to the individuals by assisting them in avoiding court appearances and paying certain fines even if the end result was similar to what an attorney or they themselves could have achieved." He also recognized "the need to avoid even the appearance of special treatment." He "admitted that he had acted improperly in the past but would not do so in the future." Throughout the discussion with his presiding judge, his attitude was of "chagrin and embarrassment." Judge Stanford, in this first meeting was "open, receptive and very cooperative"; he was "neither defensive nor argumentative; his attitude in this matter was excellent."

7. Judge Stanford's reputation, attitude and character for the 26 years of his service as a judge, as will be attested to by virtually every judge on the 100+ bench of Orange County Superior Court, supports the absence of a knowingly improper or malicious state of mind at the time of the transgressions.

8. His continuing acceptance of responsibility, attitude of contrition and resolution to do the right thing are supported by the fact that within days of being advised by Formal Notice of the total amount of fines allegedly waived, he donated the full amount to the Orangewood Children's Foundation, a county charity. Further, within days of being notified of the formal public accusation, he made a public apology.

9. The absence of actual malice is supported by the many people from the community who will testify that for over ten years, Judge Stanford has donated one or two hours per day, every day, after work, at a nonprofit humanitarian agency, helping to feed and clothe the poor. His work is manual labor and also involves training volunteers for this work of the Good Samaritan Center. In addition, community witnesses will also testify that for over eight years he has taken the primary responsibility for caring for one particular unfortunate woman, blinded and disfigured in an acid attack in Jamaica, who presently lives in Orange County, that he has spent countless hours attending to her needs, and that he spends two hours each Sunday helping her get to church. This work, and his donation of vacation time, spending one week per year in an abused children's rustic camp, and his work with the disabled, will support the denial of a malicious or corrupt state of mind.

D. DENIES that there was a "pattern of conduct" in that:

1. Each citation alleged in this matter came to the attention of Judge Stanford in an incidental or casual fashion. These acts were not the product of someone asking for help or a favor. No one approached Judge Stanford with a mindset that he would assist them, nor was he viewed as a person who was likely to help.

2. The citations that he acted upon were infrequent, albeit there were nine. The citations numbered two in 2003; none in 2004; one in 2005; two in 2006 (plus one extension granted for a weight ticket); one in 2007; none in 2008; one in 2009; and one in 2010. For many of the citations, Judge Stanford became aware of an extenuating circumstance which spurred his "instinct to help" which was admittedly thoughtless. This instinct, and the admittedly wrongful response by Judge Stanford, does not excuse the misconduct, but it does diminish the evil implications of the allegation of "pattern." For example, in the first step on this slippery slope, in allegation A, Mr. Pennell was a juror in a case being tried before Judge Stanford who was ticketed racing to court to meet the court starting time. In allegation B, Mrs. Mooney was 82 years old and in ill health. In allegation C, Pastor Williams was known by Judge Stanford to have at the time been immersed in devoting thousands of hours to the poor. In allegation E, Mr. Neilson called in a self-described "panic" because he did not know how to deal with a travel conflict. In allegation H, Michael McGee (son-in-law of Judge Stanford) and his family were coping with the extraordinary expenses of caring for a 16-year-old gravely disabled autistic daughter who was unable to care for her most basic hygiene and feeding needs. Judge Stanford was aware of the dire circumstances because for over ten years he himself had taken on the responsibility for a significant part of the regular care of said granddaughter.

3. For much of Judge Stanford's 26 years as a judge, and for all of the last 12 years at North Court, he has been exclusively in a criminal trial court assignment. He has handled upwards of hundreds of traffic tickets in his department which were related to felony or criminal files. In such cases, his dispositions for people he did not know were similar to those meted out here. As is commonplace and accepted practice amongst virtually every judge who has such a calendar, said judges often accepted guilty pleas and waived fines and fees on infractions connected with criminal files as a means of saving the time of trial, administration costs, and collections, as well as taking into consideration other circumstances supporting waiver. Judge Stanford admits that his acts in these alleged instances allowed people to avoid coming to court and appearing, thereby conferring special preferential treatment, a clear violation.

4. The first citation alleged, in July of 2003 involving the juror Mr. Pennell, was not part of any pattern; it was the first one. The second citation alleged, for Pastor Williams in October of 2003, was likewise not part of any pattern. The circumstances were entirely different. Further, in all of the citations, there is no indication that these people spoke to or knew each other.

5. The third citation (allegation C) did not come about until November of 2005, two years later. Judge Stanford has no recollection of having direct contact with Mrs. Mooney six years ago.

6. Thereafter, in 2006, 2007 and later, the other citations became known to Judge Stanford, and he took action which he admits was improper.

7. The denial of a "pattern" does not excuse Judge Stanford's misconduct of ordering the files to his chambers, nor that he

took guilty pleas (or ordered traffic school if eligible) or granted an extension, for people in violation of 170.1(a)(6).

E. CODE OF JUDICIAL ETHICS – RESPONSE:

1. CANONS 1, 2A, 2B: ADMITS that he violated said Canons.

2. CANON 3B(7) (according a right to be heard, i.e., ex parte communication): ADMITS IN PART AND ALLEGES IN PART:

ADMITS the impropriety of calling the cases to his chambers which were not part of his duties, nor of his improper handling of these matters for persons he knew as described in the Notice of Formal Proceedings. ADMITS that the prosecution custom of non-appearance for traffic matters included an assumption that judges would disqualify themselves when appropriate. ADMITS that he failed to avoid an appearance of a lack of impartiality and that his actions failed to promote confidence in the judiciary.

ALLEGES that his violation was not intentionally corrupt in that he wrongfully but in good faith rationalized that it was the virtually unvarying custom for judges, commissioners and judges pro tem to preside over traffic tickets without the presence of the prosecution; that said accepted practice either has been, or will be, averred by multiple judges and commissioners, as well as lawyers sitting pro tem.

3. CANON 3B(8) (dispose of all matters fairly, promptly and efficiently ... in accordance with the law): ADMITS IN PART AND ALLEGES IN PART:

ADMITS that his conduct was improper in calling the cases to his chambers which were not part of his duties and was improper by his handling of these matters for persons he knew.

ADMITS that his conduct showed an appearance of favoritism even if his conduct was not illegal.

ALLEGES that he believed that he had the authority or discretion to waive fines and fees under California law, and that said waivers were within the range of accepted practice in the County of Orange, in that:

a. The fine and fee waivers and orders regarding traffic school were within Judge Stanford's legal discretion as confirmed in declaration by an experienced judge who reviewed the dockets for each allegation, stating: "where there was a waiver or suspension of fees and/or fines, there was nothing that appeared to prohibit a judge or commissioner from ordering such waiver, reduction or suspension in his or her discretion." Also, all orders to traffic school were similarly within the court's discretion to so order, as would have been the case even if the citee was ineligible.

b. The fine and fee waivers, as alleged, were in line with the standard practices for waiver by many jurists in the County of Orange who make such orders in consideration of early disposition and other circumstances. A comparison of the alleged citations with dozens of citations for strangers handled in the ordinary course of business by Judge Stanford reflects that there was no treatment of these alleged matters different than for others not known to Judge Stanford. Every person who was ordered to traffic school was eligible to so attend.

4. CANON 3E(1) (disqualify where required by law): ADMIT IN PART, DENY IN PART in that:

ADMIT: Count 1, H (McGee): Code of Civil Procedure Section 170.1(a)(4) required Judge Stanford to disqualify himself by reason of his relationship.

ADMIT: Count 1, B-G, required Judge Stanford to disqualify himself in that Code of Civil Procedure Section 170.1 includes a disqualification for any reason ... for a person who was aware of the facts might reasonably entertain a doubt that the judge would be able to be impartial.

DENY: Count 1, A: Code of Civil Procedure 170.1 would not require disqualification of Judge Stanford.

5. CANON 3E(2) (disclose on the record information relevant to disqualification under Code of Civil Procedure Section 170.1):

ADMIT: Count 1 paragraphs B-H in that:

a. Although Judge Stanford did not have a belief that his recusal would further the interests of justice (per C.C.P. 170.1(6)(A)(i)), he now recognizes (and did at his initial meeting with the presiding judge) that his failure to recuse violated C.C.P. 170.1(6)(a)(iii).

DENY: Count 1 paragraph A (Pennell) in that:

a. Judge Stanford was not required to disclose per 170.1.

b. Upon learning that Mr. Pennell was late returning to the jury trial session because he was hurrying to get to court on time and got a speeding ticket, Judge Stanford, in front of everyone and in open court, said he "can't do much, I can't make it go away, but as a judge I can waive certain things." Thereafter, Judge Stanford imposed the sentence as alleged. Judge Stanford did not fail to disclose in open court.

c. Judge Stanford did not believe that his recusal would further the interests of justice per C.C.P. 170.1(a)(6)(i), nor that

a reasonable person aware of the facts would so hold said opinion per C.C.P. 170.1(a)(6)(iii).

II. TO PARAGRAPH A, Judge Stanford:

ADMITS that on July 31, 2003 George Pennell was a juror in a case he was presiding over. ADMITS that Judge Stanford transferred the citation to his department and entered the plea of guilty, waiving the fines and fees.

DENIES that he knowingly waived any fine or fee which was outside of his discretion, and denies that he did so with a belief that another judge would have acted differently. DENIES that he would have been disqualified from handling this matter.

ALLEGES that Judge Stanford's current term of office began January 2011, and that six years before that date was January 2005.

III. TO PARAGRAPH B, Judge Stanford:

ADMITS that he transferred the Mooney citation dated November 30, 2005 to his courtroom, and entered a guilty plea and waived all fines.

ADMITS that the case would not have come before him in the ordinary course of his business, and that the plea was entered without the appearance of Mrs. Mooney.

DENIES that he knowingly waived any fine or fee which was outside of his discretion, and denies that he did so with a belief that another judge would have acted differently.

ALLEGES that he has no recollection of a conversation with Mrs. Mooney about the alleged citation, but does recall her ill health.

IV. TO PARAGRAPH C, Judge Stanford:

ADMITS that he transferred the citation to his department and ordered Pastor Williams to traffic school, after determining that he was

eligible, for the October 8, 2003 citation, and that he also waived the fines and fees except the county traffic school fee and another minor fee.

ALLEGES that Judge Stanford's current term of office began January 2011, and that six years before that date was January 2005.

ADMITS that he ordered Pastor Williams to traffic school, after determining that he was eligible, for the March 11, 2006 citation, and that he also waived the fines and fees except for the county traffic school fee and another minor fee.

DENIES that he knowingly waived any fine or fee which was outside of his discretion, and denies that he did so with a belief that another judge would have acted differently.

V. TO PARAGRAPH D, Judge Stanford:

ADMITS that he transferred the case to his department and entered the plea of guilty on the May 18, 2006 ticket for Gina Gonzales as alleged.

DENIES the inference that Gina Gonzales was the clerk who entered the minutes, in that another clerk was called in to do the minutes, and DENIES the inference that Judge Stanford did anything to hide or cover up the conduct.

DENIES that he knowingly waived any fine or fee which was outside of his discretion, and denies that he did so with a belief that another judge would have acted differently.

VI. TO PARAGRAPH E, Judge Stanford:

ADMITS that he offered to and did extend the appearance date for Mr. Neilson after transferring the case to his department, and that Mr. Neilson and Judge Stanford had the relationship as alleged.

ADMITS that he did nothing further with the ticket apart from granting the extension.

ALLEGES that extensions of appearance dates on such traffic citations were routinely granted by the clerk's office without the need for an appearance before a judge.

VII. TO PARAGRAPH F, Judge Stanford:

ADMITS that he transferred the case to his department and entered the plea of guilty for the April 27, 2007 ticket of Heidi Andrews without her appearance, and waived fines and fees as alleged.

ALLEGES that he has no recollection of the content of a conversation with Ms. Andrews about this matter.

DENIES that he knowingly waived any fine or fee which was outside of his discretion, and denies that he did so with a belief that another judge would have acted differently.

VIII. TO PARAGRAPH G, Judge Stanford:

ADMITS that he transferred the citation to his department and ordered Mr. Habbestad to traffic school after determining that he was eligible, and that he waived the fines and fees other than the county traffic school fee.

DENIES that he knowingly waived any fine or fee which was outside of his discretion, and denies that he did so with a belief that another judge would have acted differently.

IX. TO PARAGRAPH H, Judge Stanford:

ADMITS that he transferred the March 25, 2010 citation of Michael McGee, his son-in-law, to his department and ordered traffic school after determining that he was eligible and waived fines and fees other than the county traffic school fee.

ALLEGES that he has no clear recollection of a conversation with Gina Gonzales or statements of Gina Gonzales regarding this matter; also ALLEGES that he learned from Ms. Gonzales that she was

having her supervisor look at the matter, and told Ms. Gonzales that was fine.

DENIES that he knowingly waived any fine or fee which was outside of his discretion, and denies that he did so with a belief that another judge would have acted differently.

Respectfully submitted,

PAUL S. MEYER
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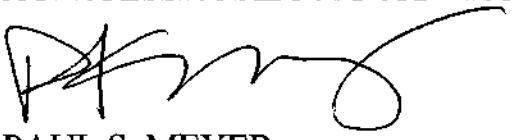


PAUL S. MEYER
Attorney for Respondent
Judge Richard W. Stanford, Jr.

VERIFICATION

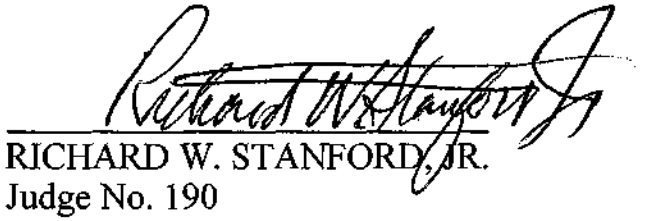
STATE OF CALIFORNIA, COUNTY OF ORANGE:

I, RICHARD W. STANFORD, Jr., declare that:

I am the respondent judge in the above-entitled proceeding. I have read the foregoing Answer of Judge Richard W. Stanford, Jr., and all facts alleged in the above document, not otherwise supported by citations to the record, exhibits, or other documents, are true of my own personal knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 13, 2011, at Fullerton, California.



RICHARD W. STANFORD, JR.
Judge No. 190