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JUDGE NANCY BROWN

FILED
JUN 15 1998
Commission on
Judicial Performance

STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING JUDGE NANCY BROWN, No. 149	)	**VERIFIED ANSWER TO OF NOTICE OF FORMAL PROCEEDINGS**

This is Judge Nancy Brown's answer to the Notice of Formal Proceedings filed on May 26, 1998.

Preamble

1. Judge Brown has been a bench officer since 1969, when she became a Los Angeles County Municipal Court Commissioner. She served as a judge of the Los County Municipal Court from November 8, 1976 to December 21, 1984. She has been a judge of the Los Angeles County Superior Court since December 21, 1984.

2. Judge Brown denies any willful misconduct in office, conduct prejudicial to the administration of justice that brings the judicial office into disrepute, improper action, and dereliction of duty within the meaning of Article VI, section 18, of the California Constitution. This denial appplies to all of the charges brought against her.

Count One

3. Judge Brown admits that beginning in December 1994, she banned Criminal Court Coordinator John Iverson from her courtroom.

4. Judge Brown denies that this ban has interfered with Mr. Iverson's ability to obtain information about the status of her cases or the availability of her courtroom. This information is readily available to him, as it is to other court administrators, by telephone and by email. To her knowledge, Judge Brown denies that keeping Mr. Iverson out of her courtroom has made case assignment by the supervising judges more difficult, or that it has interfered with the efficient administration of court business.

5. Judge Brown denies that by banning Mr. Iverson from her courtroom, she "failed to cooperate with other judges and court officials in the administration of court business." She denies that her conduct violated the former Code of Judicial Conduct, canon 3C(1), and the Code of Judicial Ethics, canon 3C(1).

Count Two

6. Judge Brown admits the facts set forth in the first paragraph, which concerns the Menendez case. She admits that sentencing of the Menendez defendants was scheduled to take place before Judge Weisberg on July 2, 1996.

7. Judge Brown admits that: (1) she agreed to perform a marriage ceremony for defendant Lyle Menendez, at the request of Erik Menendez' attorney; (2) she issued an order directing that Lyle Menendez and Erik Menendez be transported from jail to her courtroom on July 1, 1996 for the marriage ceremony; and (3) she arranged for bailiffs to be present. She admits that the Menendez defendants did not, to her knowledge, have any other court

appearances scheduled on July 1. She admits that she intended to perform the ceremony during the lunch recess.

8. Judge Brown admits that shortly before July 1, 1996, upon her return from a scheduled vacation, she learned that Judge Reid had rescinded her order to bring the Menendez defendants to her courtroom for the marriage ceremony. She admits that on July 1, 1996, in her courtroom and on the record, she addressed media representatives who were there to cover the marriage ceremony. She stated that the marriage would not take place and that the media representatives were entitled to an explanation. She told them that Judge Reid had rescinded her order to bring the defendants to the court, and that the explanations he had given her were that only the judge assigned to the criminal case (Judge Weisberg) had authority to issue such an order, and that a defendant in custody should not be brought to court at taxpayer expense to be married. Judge Brown told the media representatives that she would go to the jail to perform the ceremony. She explained that persons convicted of crimes have a right to marry, and that for this reason, judges sometimes perform marriage ceremonies for persons who are in custody.

9. Judge Brown told reporters she would answer questions about the marriage incident, but could not comment on the pending Menendez case. In responding to those questions, she did say that she was "offended" by Judge Reid rescinding her order and that a reporter "may be right" in surmising that Judge Reid had other reasons for doing so. She also declined to speculate, however, about what those reasons might be.

10. Judge Brown admits referring to the Menendez case in her opening remarks as "a true American tragedy." She denies, however, that in making this remark or any other

comment to the press, she "publicly commented on a pending case" within the meaning of the Code of Judicial Ethics.

11. Judge Brown denies that she improperly used her judicial power, improperly authorized the use of public resources, or "publicly disparaged a fellow judge" as charged in Count Two.

Count Three

12. Judge Brown admits that she kept an artificial marijuana plant in her chambers. This plastic plant is a teaching tool used to show people what a marijuana plant looks like. A group of criminal defense attorneys and prosecutors gave it to the late Los Angeles County Superior Court Judge Kathleen Parker, who kept it in her courtroom and in her chambers for many years. When Judge Parker retired, she gave the plant to Judge Brown, who kept it in her chambers or in her courtroom as Judge Parker had done. Judge Brown keeps it in memory of Judge Parker, who was a friend and mentor. It also continues to serve as a teaching tool for those who have never seen a real marijuana plant.

13. Once a prosecutor requested that this artificial plant be removed from the courtroom. Judge Brown had it removed. To Judge Brown's knowledge, the plant has never been in the courtroom during the trial of any drug-related criminal case. Judge Brown denies that the presence of this plant gave the appearance that she might not take seriously matters that involved drugs, or might not be fair and impartial in drug cases.

14. Judge Brown denies that she violated the Code of Judicial Conduct by keeping this plastic marijuana plant in her chambers or in her courtroom.

Count Four

15. Judge Brown admits that she used to smoke in her chambers. Judge Brown advises the Commission that she no longer smokes or allows smoking in her chambers.

16. Judge Brown admits that in response to an October 27, 1997 preliminary investigation letter, which referred to her smoking in her chambers with the door open, she failed to assure the Commission that smoking in her chambers would cease. She believed that her chambers were not a "public area" and that therefore smoking in chambers was permissible if the door was kept shut. She denies willfully violating the no-smoking laws.

17. Judge Brown states that it is to be determined by the Commission whether her smoking in chambers violated the Code of Judicial Conduct and the Code of Judicial Ethics.

Dated: June 15, 1998.

Respectfully submitted,

LAW OFFICES OF EPHRAIM MARGOLIN

By: _____
EPHRAIM MARGOLIN, Attorney for
Judge Nancy Brown

VERIFICATION

I am the Respondent in the above entitled action; I have read the foregoing Verified Answer To Notice Of Formal Proceedings, know its contents, and believe them to be true.

I, Nancy Brown, declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Verification is executed this 13th day of June, 1998, at Los Angeles, California.

Nancy Brown

NANCY BROWN

PROOF OF SERVICE

I declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States and am employed in the City and County of San Francisco. I am over the age of eighteen (18) years and am not a party to the within above-entitled action; my business address is 240 Stockton Street, Third Floor, San Francisco, California 94108.

I served the Answer To Notice Of Formal Proceedings by delivering a true copy to a messenger service on the date set forth below, to be delivered to:

Jack Coyle, Chief Trial Counsel
Commission on Judicial Performance
101 Howard Street
San Francisco, CA 94105

Executed this 15th day of June, 1998, at San Francisco, California.

ERVILINDA MOLINA