

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

IN THE MATTER CONCERNING
JUDGE PAUL M. BRYANT, JR.

DECISION AND ORDER IMPOSING
PUBLIC ADMONISHMENT

This disciplinary matter concerns Judge Paul M. Bryant, Jr. (hereafter “Judge Bryant”), a retired judge of the San Bernardino County Superior Court. Judge Bryant and his counsel, Heather L. Rosing, have stipulated to issuance of this public admonishment, as set forth in a Stipulation for Imposition of Public Admonishment. Pursuant to stipulation, and good cause appearing, the Commission on Judicial Performance issues this public admonishment pursuant to article VI, section 18, subdivision (d) of the California Constitution, based on the following Statement of Facts and Reasons.

STATEMENT OF FACTS AND REASONS

Judge Bryant was appointed to the San Bernardino County Municipal Court in 1988 and was elevated to the San Bernardino County Superior Court in 1989 by appointment. Judge Bryant retired on January 26, 2008.

The matters which caused the commission on Judicial Performance to issue its preliminary investigation letter on February 26, 2008 all concern improper demeanor. Judge Bryant has failed to be patient, dignified and courteous toward individuals with whom he dealt in an official capacity, contrary to canon 3B(4), as follows:

1. WFS Finacial v. Dimas Ugalde

On or about July 14, 2005, attorney LaVonna Hayashi appeared before Judge Bryant in a civil case, *WFS Finacial v. Dimas Ugalde*, No. RCV085110. The case was on calendar for a motion and for a case management conference. Judge Bryant granted Ms. Hayashi's motion and an attendant request for sanctions. Judge Bryant then began to call the next case on the calendar. Ms. Hayashi said, "It's also on for -- I'm sorry, Your Honor." Judge Bryant stated the name of the next case. Ms. Hayashi again said, "Your Honor, I'm sorry." In a harsh and threatening manner, Judge Bryant ordered Ms. Hayashi to sit down, "or we'll address it in another fashion." When Ms. Hayashi attempted to say that the case was also on for a case management conference, Judge Bryant yelled at her, "Will you have a seat." After hearing the next brief matter, Judge Bryant recalled Ms. Hayashi's case, vacated his prior orders granting Ms. Hayashi's motion and request for sanctions, and recused himself from the case. In open court, Judge Bryant told Ms. Hayashi that he had found her to be "rude and obnoxious" on this, and previous occasions.

In this matter, in addition to failing to be patient, dignified and courteous, Judge Bryant vacated orders he had issued in favor of Ms. Hayashi's client after becoming annoyed with Ms. Hayashi and immediately before recusing himself; this created the impression that the judge was not impartial and was vacating his orders out of pique.

Judge Bryant has acknowledged the impression created by his conduct in vacating his rulings after becoming annoyed with Ms. Hayashi and before recusing himself, and has expressed regret for his conduct.

2. People v. Devorah Echeverri

On or about July 11, 2007, attorney Rosa Sahagun appeared for an arraignment in *People v. Devorah Echeverri*, No. FMW700269, which had been added to the calendar. The defendant was present, and Ms. Sahagun and the

prosecutor had agreed on a proposed disposition. Prior to calling Ms. Sahagun's case, Judge Bryant had been conducting video arraignments. Before Judge Bryant could call Ms. Sahagun's case, a recess had to be taken to allow the bailiff to remove the video equipment, the clerk to retrieve the file for Ms. Sahagun's case, and the reporter to set up. After Judge Bryant left the bench to take recess, but before he had left the courtroom, Ms. Sahagun requested that he call her case before the recess. Upon returning to the bench, Judge Bryant asked Ms. Sahagun if she had a matter that she wished to call, and then, in the presence of her client, called Ms. Sahagun "obnoxious."

3. People v. Anderson

In late 2006 or early 2007, in *People v. Anderson*, No. FWV037306, Judge Bryant stated, in refusing to accept a plea agreement reached by Deputy District Attorney Mary Hosseini and defense attorney Sean Tabibian, words to the effect that DDA Hosseini must have "rocks for brains" to agree to the proposed disposition.

Judge Bryant has said that he does not recall using these precise words and does not recall this exchange, but has apologized if he did use words to this effect, and has stated his understanding that a judge should not use words even similar to those with counsel at any time.

4. People v. Gatica

On or about February 8, 2007, Judge Bryant heard Deputy District Attorney Kent Williams tell the bailiff that Williams had spoken with Judge Bryant's clerk that morning about having the judge review a box of discovery documents that were dropped off by the public defender's office earlier that day in preparation for a proceeding later that day in *People v. Gatica*, No. FWV039167. During the *Gatica* proceeding, Judge Bryant stated in open court, in reference to DDA Williams, "I heard him, when I was talking to my bailiff earlier, say one of the

dumbest things I ever heard a lawyer say, which is he thought sometime during the day when I was doing this other thing that I was actually going to go through that box.” DDA Williams responded that the clerk had told him Judge Bryant would review the documents prior to the proceeding. Judge Bryant had overheard the earlier communication, but did not hear the clerk tell DDA Williams that the documents would be reviewed by the judge. Judge Bryant then responded: “With all do [sic] respect – no she didn’t. I don’t know about your command of the English language or the lack thereof, what you hear and what you don’t want to hear, but I heard what the woman said. She didn’t tell you I was going to go through that.”

Judge Bryant has acknowledged that his comments on the record were harsh and sarcastic, and has stated that in retrospect, he would have handled the situation differently.

5. People v. Cano

On or about February 1, 2007, in *People v. Cano*, No. FWV039349, Judge Bryant, in explaining his unwillingness to sentence a defendant to prison and then continue the matter for two months, said, “I’m not going to sentence him to two years in state prison and have him come in 4-4 when there’s no penalty if he doesn’t show up other than the failure to appear, which the Government never seems to prosecute”; the judge later added that “the Government will undoubtedly wimp out and not go after the failure to appear because that’s been my observation over the last 21 years....”

Judge Bryant has conceded that his words, such as “wimp out,” were poorly chosen.

The commission determined that Judge Bryant’s conduct in these matters was, at a minimum, improper action.

In determining that a public admonishment was appropriate, the commission took into consideration the fact that Judge Bryant received an advisory letter in 1991 for making disparaging statements about an attorney in front of a jury.

Commission members Hon. Frederick P. Horn, Hon. Judith D. McConnell, Hon. Katherine Feinstein, Mr. Peter E. Flores, Mr. Marshall B. Grossman, Ms. Barbara Schraeger, Mr. Lawrence Simi, Ms. Maya Dillard Smith, Ms. Sandra Talcott and Mr. Nathaniel Trives voted for a public admonishment. Commission member Mr. Samuel A. Hardage did not participate.

Dated: October 27, 2008.

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Hon. Frederick P. Horn
Chairperson