

PUBLIC ADMONISHMENT OF JUDGE ROBERT C. COATES

The Commission on Judicial Performance has ordered Judge Robert C. Coates publicly admonished pursuant to article VI, section 18(d) of the California Constitution and commission rule 115, as set forth in the following statement of facts and reasons found by the commission:

STATEMENT OF FACTS AND REASONS

Judge Coates has been a judge of the San Diego County Superior Court since 1982. His current term began in January 2005.

Judge Coates has persisted in a pattern of abuse of the prestige of his judicial office and misuse of court resources in connection with personal and non-court matters, notwithstanding his prior discipline by the commission for similar conduct, notwithstanding direction from his presiding judges that he cease such conduct, and notwithstanding advice he received from the California Judges Association (CJA) Ethics Committee to avoid such conduct. His conduct reflects a repeated refusal to comply with canon 2B(2), which prohibits judges from using the prestige of judicial office to advance the personal or pecuniary interests of the judge or others. Judge Coates' recalcitrance manifests indifference towards the erosion of public confidence in the judiciary that results from irresponsible behavior by judges. This repeated ethical indifference warrants another public rebuke.

I. Judge Coates' Prior Discipline and Guidance

In 2000, Judge Coates received a public admonishment addressing multiple acts of misconduct. The admonishment recounted that from 1993 to 1998, Judge Coates engaged in a pattern of abuse of the prestige of judicial office and misuse of court resources in connection with personal matters. The commission found that the judge's extensive use of court secretaries and other court resources to prepare more than 100 personal documents was inconsistent with canon 2A of the California Code of Judicial Ethics, which requires judges to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

In addition, Judge Coates received an advisory letter in 2000 regarding his use of court resources to prepare and send documents, many on court letterhead, connected to the judge's personal involvement in civic activities. The commission emphasized that the judge's involvement with such civic activities was not improper but the judge's extensive use of court resources in connection with these activities was improper.

In 2005, Judge John Einhorn, then Presiding Judge of the San Diego County Superior Court, requested that Judge Coates stop using the court's fax machine, employees and time to receive and/or send personal, non-court related material. Judge Coates responded that he would purchase a facsimile machine for use at home, sending personal items to his personal secretary. In 2006, Judge Janis Sammartino, then Presiding Judge, advised Judge Coates that court computers should be used only to conduct court business and all communications should promote public confidence in the impartiality of the judiciary; and that a communication he had

sent could be seen as an inappropriate endorsement. Judge Coates responded that he was “heartily sorry” and that he would be “much more careful.” In 2008, Assistant Presiding Judge Kevin A. Enright met with Judge Coates regarding his use of court email. Judge Coates stated to Judge Enright that he was not aware that he had done anything wrong but that he then understood.

In his correspondence to the commission in this matter, Judge Coates stated that he has asked the CJA Ethics Committee for opinions several times each year to avoid problems with improper use of court resources. The commission requested that Judge Coates provide copies of these opinions. The documents provided by Judge Coates show that while he was advised that minimal use of court resources for personal purposes under normal circumstances might be considered permissible, the judge was repeatedly advised that as he was being carefully scrutinized by his presiding judge he should avoid the use of court resources for anything other than strict judicial business.

II. Judge Coates’ Abuse of the Prestige of Judicial Office and Misuse of Court Resources

Notwithstanding his prior discipline, counseling, and warnings from his presiding judges and cautionary advice from the judges’ association, Judge Coates abused the prestige of office and misused court resources as follows:

A. Personal Letters to Health Insurance Company and Financial Institution

On May 28, 2007, Judge Coates wrote a note to his judicial secretary asking her to type a letter he had handwritten and send it via facsimile to his health insurance company. The judge’s two-page letter, supported by 14 pages of attachments, sought the company’s approval of a medical procedure he had scheduled, and addressed his personal medical condition. His secretary prepared the letter, using plain paper and home address as directed, and sent it via facsimile on May 29, 2007.

On or about July 9, 2008, Judge Coates had his judicial secretary prepare and send a letter on judicial stationery (in addition to indicating it was from the Superior Court of the State of California, San Diego, the letter was from the “Chambers of Robert C. Coates”), as “Judge of the Superior Court,” to the judge’s financial institution, complaining of long wait times he had experienced when attempting to call to determine why a wire transfer he was expecting had not been deposited into his account.

These letters involved the misuse of court resources for personal purposes in violation of canon 2A. The judge’s letter to his financial institution, which was on court letterhead and refers to the judge by his judicial title, was also in violation of canon 2B(2), which prohibits judges from lending the prestige of their judicial office to advance the pecuniary or personal interests of the judge or others.

B. Memorandum to Undersheriff

On November 21, 2008, Judge Coates sent an email to his judicial secretary stating that “I’d like you to do, TODAY a Memo to our SD Co. Undersheriff, [Bill] Gore,” and providing the text of that memorandum. The judge’s email directed that the signature block for the memorandum should be as follows: “ROBERT C. COATES, Judge.” The judge’s secretary prepared and sent the memorandum via facsimile to William Gore, Undersheriff of the San Diego County Sheriff’s Department. The judge’s memorandum, prepared on court stationery, addressed his concerns regarding the field training of the judge’s former courtroom bailiff, who the judge stated “served me as my Departmental Bailiff, for over a year,” and “left here to follow his dream of serving ‘in the field’, but, as you see, this dream is about to be dashed.” The judge stated in his memorandum that, “given a good chance,” the deputy “will make a superb field Deputy,” and “just maybe, this is the occasion for you to take a harder look at what has gone on, and what might be going on, in your training function.” The memorandum was signed “Robert C. Coates, Judge of the Superior Court,” and provided the judge’s chambers phone number. Judge Coates attached to his memorandum email correspondence from another deputy sheriff related to the issue. The memorandum was sent under a San Diego County Superior Court facsimile cover sheet, indicating that the facsimile was from “Judge Coates.”

Judge Coates contends that he was merely providing a letter of recommendation, permitted activity under canon 2B(2)(e). However, such recommendations must be based on a judge’s personal knowledge. The judge’s memorandum went beyond expressing the judge’s personal observations as to his former bailiff’s qualifications, as the memorandum suggested that there were problems with the sheriff department’s training function and incorporated into the memorandum attached emails from another deputy sheriff expressing that deputy’s views. In addition, the judge’s memorandum was not written in connection with a job application, but evidently in connection with the sheriff department’s decision as to whether to keep the former bailiff in the field training program.

C. Letter From Judge Coates as President of an Organization with Court Address and Title

On or about December 10, 2008, Judge Coates sent a letter regarding global warming and climate change on plain paper to the director of a non-governmental organization. The judge described himself in the letter as President of Understanding Climate Change, Ltd., “a Project of the Mission Valley Rotary Club.” The address provided in the letter for Understanding Climate Change is “220 W. Broadway, Dept. 45,” Judge Coates’ department in the San Diego County Superior Court. Below his title as President of Understanding Climate Change appeared his judicial title, “Judge, San Diego Superior Court,” and his chambers telephone number.

Judge Coates contends this letter was most likely prepared by his personal secretary, that he has no recollection of instructing his personal secretary to insert the address of the court, and that he does not recall noticing that the court address had been used. However, the judge signed this letter and directed his judicial secretary to send it via facsimile. Judge Coates’ use of the court as the address for the judge’s project makes it appear that the judge is using his

court as the office for a private organization, and the use of the judge's title in the letter gives the appearance that the judge is lending the prestige of his office to advance the personal interests of others.

Judge Coates' conduct described above evidences a serious disregard of the principles of conduct embodied in the California Code of Judicial Ethics, including improper lending of the prestige of his judicial office and using his judicial title to advance his and others' pecuniary or personal interests (canon 2B(2)); and a failure to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary (canon 2A). Judge Coates' conduct was, at a minimum, improper action pursuant to article VI, section 18(d)(3) of the California Constitution.

In determining that a public admonishment was appropriate, the commission noted that Judge Coates has been the subject of prior discipline, including his related 2000 public admonishment and advisory letter, discussed above. The judge's 2000 public admonishment for similar conduct also addressed Judge Coates' pattern of demeaning and discourteous conduct toward court staff and persons appearing before him, in violation of canon 3B(4). The commission found that such conduct was exemplified by five incidents. In one such incident, Judge Coates yelled at a court administrative analyst, who had not yet forwarded the judge's materials to a state assemblyman because the analyst thought that the proper procedure was to meet first with the presiding judge and chair of a court committee. Judge Coates made statements to the effect of "[y]ou haven't done a goddamned thing for this court and cannot analyze legislation," "I'm going to get this in your personnel file," and "[l]et me tell you what another judge said to me about you. You are a piece of shit." The judge's prior discipline also includes an advisory letter he received in 1988 for shouting and screaming at a litigant in a TRO proceeding, and a private admonishment he received in 1991 for sentencing a defendant on a speeding case based on his subjective diagnosis that the defendant was "addicted to something," and for calling a "hearing" and requiring the attendance of several attorneys to inquire into the operation of the Alternate Defender's Office.

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

Dated: December 2, 2009