

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

IN THE MATTER CONCERNING
JUDGE ANTHONY C. EDWARDS

DECISION AND ORDER IMPOSING
PUBLIC ADMONISHMENT

This disciplinary matter concerns Judge Anthony C. Edwards, a judge of the Trinity County Superior Court. Judge Edwards and his attorneys, Joseph P. McMonigle and Kathleen M. Ewins, appeared before the commission on March 18, 2010, to contest the imposition of a public admonishment, pursuant to rule 116 of the Rules of the Commission on Judicial Performance. Having considered the written and oral objections and argument submitted by Judge Edwards and his counsel, and good cause appearing, the Commission on Judicial Performance issues this public admonishment pursuant to article VI, section 18(d) of the California Constitution, based on the following statement of facts and reasons.

STATEMENT OF FACTS AND REASONS

Judge Edwards has been a judge of the Trinity County Superior Court since 1998. His current term began in January 2007. Judge Edwards was elected as a justice court judge in Trinity County in 1994; he took the bench in January 1995 as a municipal court judge, pursuant to a constitutional amendment converting justice courts to municipal courts.

The matters addressed here concern acting while disqualified (*Floris, Castellanos*), improper dismissal (*Brown, Dunn*), decisional delay, the staffing of the

Hayfork court, a discourteous comment regarding the Office of the District Attorney, and courtroom decorum.

1. *People v. Floris*, No. 08F032

On March 19, 2008, defendant Corrie Floris was charged with a felony violation of Penal Code section 245(a)(1) (assault with a deadly weapon) for stabbing her boyfriend on March 12, 2008. Judge Edwards and his wife Cynthia Edwards, an attorney, have a personal relationship with defendant Floris and her family. Her parents are longtime Weaverville residents, her grandfather is a priest at the church Judge Edwards and his wife attend, and the judge and his wife are the godparents of Floris's child.

Shortly after the March 12 incident for which she was charged, defendant Floris arrived at the judge's house as he was leaving for work. She looked like she had been involved in a physical altercation. The judge escorted her inside to his wife and went to work. Later that day, the sheriff called Mrs. Edwards and told her that Floris's boyfriend was in the hospital with a knife wound. Mrs. Edwards advised the sheriff that Floris was at her house. Mrs. Edwards subsequently drove Floris to Redding and checked her into a motel. Floris later left the area.

On March 20, 2008, Judge Edwards and Judge Woodward, the other Trinity County Superior Court judge, signed separate minute orders recusing themselves from the *Floris* case. The minute order as to Judge Edwards states that the recusal was based on "his acquaintanceship with the parties and counsel for defendant," by which he was referring to his wife.

Defendant Floris was arrested in Riverside County on April 3, 2008. She was transported to the Trinity County jail on the afternoon of April 9, 2008.

On April 10, 2008, defendant Floris appeared before Judge Edwards in custody for arraignment. The judge's wife was present. She stood-up when Floris's case was called. Judge Edwards asked his wife what should be done next, or words to that effect. Mrs. Edwards replied that Floris should have the public defender. Judge

Edwards then arraigned Floris, appointed the public defender (who was present), set bail and set the matter for bail review and preliminary hearing on April 18.

As Judge Edwards walked out of the courtroom after arraigning defendant Floris, he walked by the jury box where she was sitting and hugged her. Another in-custody defendant was also sitting in the jury box, and several people were present in the audience. Court staff and attorneys also were present.

The April 10 minute order provides that Judge Edwards and Judge Woodward were “previously disqualified pursuant to CCP 170.1,” and that “Court to attempt to get Visiting Judge.” Later on April 10, a visiting judge from Siskiyou County was assigned by the Judicial Council; he presided over a telephonic bail review hearing on April 11.

It was improper for Judge Edwards to preside over proceedings involving defendant Floris, including an inquiry to his spouse, when he was already disqualified and where his disqualification was required by law. His actions exceed the scope of that permitted by Code of Civil Procedure section 170.4. In his response to the preliminary investigation, Judge Edwards contends that it was appropriate for him to preside over the arraignment because the only other judge in Trinity County was also disqualified, and the law requires that a felony defendant be arraigned within 48 hours of arrest. (Pen. Code § 825 [defendant to be taken before magistrate within 48 hours after arrest excluding Sundays and holidays]; see Pen. Code § 821 [pertaining to arrest in another county].) At his appearance before the commission, Judge Edwards argued that he was authorized to conduct the arraignment pursuant to Code of Civil Procedure section 170.4 which permits a disqualified judge to take any action necessary to maintain the jurisdiction of the court pending the assignment to another judge not disqualified. Judge Edwards explained that because of the difficulty in finding a judge from another county to conduct an arraignment on short notice, he believed he needed to conduct the arraignment to maintain jurisdiction. Judge Edwards has not provided any information as to what, if any, specific efforts were made to get a visiting judge to conduct the arraignment *before he presided over the matter*. The minute order of the

arraignment states, “Court *to* attempt to get Visiting Judge.” (Italics added.) Even assuming attempts had been made and an arraignment could not be conducted within the time prescribed by law by another judge, the court would not have lost jurisdiction. (*People v. Wilson* (1963) 60 Cal.2d 139; *People v. Valenzuela* (1978) 86 Cal.App.3d 427 [A violation of a defendant's right to be arraigned within the time specified by law does not require dismissal of the charges or reversal after conviction unless the defendant shows that through such wrongful conduct he was deprived of a fair trial or otherwise suffered prejudice as a result thereof.]) Judge Edwards also suggests that presiding over the arraignment was necessary to prevent the release of a person accused of a felony. However, at his appearance Judge Edwards acknowledged that in his county a person charged with a felony not arraigned within the time prescribed by law is not released to the community because, upon release, the Sheriff’s office immediately re-arrests the defendant at the jail.

Further, hugging Floris in open court created the appearance of bias and otherwise created the appearance of impropriety. The judge’s conduct was contrary to the Code of Judicial Ethics, canon 1 (judge shall observe high standards of conduct), canons 2 and 2A (judge shall avoid impropriety and the appearance of impropriety, shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary) and canon 3E(1) (judge shall disqualify himself in any proceeding in which disqualification is required by law).

2. *People v. Castellanos, No. 8M167*

In April 2008, Roberto Castellanos, who lives in Hayfork, was cited by the sheriff for two misdemeanors (DUI and failing to have a license in possession) and instructed to appear in Weaverville for arraignment on May 15, 2008. A complaint was thereafter filed by the district attorney for the same incident, charging Castellanos with three misdemeanors (DUI, being under the influence of methamphetamine in violation of Health and Safety Code section 11550, and failing to have a driver’s license in possession).

On May 15, 2008, defendant Castellanos failed to appear for arraignment. The district attorney had filed a peremptory challenge against Judge Edwards on May 13, pursuant to Code of Civil Procedure section 170.6. On May 15, Judge Edwards recused himself, but also ordered that the matter be set for arraignment on June 6 in Hayfork, a calendar that he knew he would be handling. The May 15 minute order also provides that the defendant was to be brought back to Weaverville before Judge Woodward, on an unspecified date.

A case against defendant's brother, Alfonso Castellanos, had previously been transferred to the June 6 Hayfork calendar. Judge Edwards knew that defendant Roberto Castellanos had accompanied his brother Alfonso and other family members to a hearing in Hayfork shortly before May 15. The judge set the *Roberto Castellanos* matter on the June 6 Hayfork calendar in order to tell defendant Roberto Castellanos that he must appear in Weaverville.

Defendant Roberto Castellanos appeared before Judge Edwards on June 6 in Hayfork. Proceedings were not reported; the minute order states that the matter was set for further arraignment before Judge Woodward in Weaverville on June 24.

It was improper for Judge Edwards to set the *Roberto Castellanos* matter before himself after he was recused. It exceeded the scope of action permitted after disqualification under Code of Civil Procedure section 170.4, and the apparent purpose for this irregular procedure was to help a defendant who had failed to appear, which at a minimum reflects the appearance of preferential treatment. The judge's conduct violates canons 2A and 3E(1).

3. Dismissing Cases

Judge Edwards has abused his authority by dismissing certain infractions and misdemeanors on the basis that the defendants live in Hayfork and were cited by law enforcement to appear in Weaverville rather than in Hayfork, and by threatening to do so in all such cases. There is no court order or legal requirement that a Hayfork resident's initial court appearance be in Hayfork, and the judge's decision to dismiss

rather than transfer cases creates an appearance of impropriety and appearance of bias against the prosecution, in violation of canons 2 and 2A.

This conduct is exemplified by *People v. Brown*, No. 08M321 and *People v. Dunn*, No. 08M524. In *Brown*, defendant John Brown, a Hayfork resident, was cited by the California Highway Patrol on July 8, 2008, to appear in Weaverville on August 14, 2008, for the misdemeanor of being an unlicensed driver and the infraction of not having a license in possession. The defendant was on parole. When he appeared in Weaverville for arraignment on August 14, Judge Edwards dismissed the case.

In *Dunn*, defendant John Dunn, a Hayfork resident, was cited by the California Highway Patrol on November 15, 2008, to appear in Weaverville on December 18, 2008, for the misdemeanor of driving on a suspended license. On December 4, the People filed a complaint alleging two prior convictions for driving on a suspended license. On December 18, Dunn failed to appear in Weaverville for arraignment and Judge Edwards dismissed the case. The People appealed. On October 6, 2009, the appellate division of the Trinity County Superior Court set aside the dismissal, ruling that it was an abuse of discretion.

Judge Edwards contends that his only error was failing to put on the record the factors pertaining to court administration he considered in dismissing *Dunn*. He maintains that the setting of misdemeanor matters in Hayfork recognizes the reality that Hayfork residents are generally impoverished and without transportation. The appellate division ruling directly addressed this issue. The decision observes that the record does not demonstrate any detriment to the defendant in having the charges filed in Weaverville since the defendant did not even appear. With respect to issues concerning court administration, the appellate decision states that court convenience and issues of court administration “are issues external to the case and, therefore, cannot be grounds for dismissal pursuant to Penal Code § 1385.”

4. Decisional Delay

The two judges of the Trinity County Superior Court have approximately a half-time caseload, which they supplement by presiding over calendars in other

jurisdictions. Despite the light caseload in Trinity County, Judge Edwards has sometimes unreasonably delayed ruling on submitted matters. Under California law, judges are expected to decide matters submitted to them within 90 days of submission, and are prohibited from receiving their salaries during times when they have undecided matters under submission for more than 90 days. (Cal. Const., art. VI, § 19; *Mardikian v. Commission on Judicial Performance* (1985) 40 Cal.3d 473, 477, fn. 4.) To implement this provision, the Government Code requires judges to regularly execute affidavits declaring they are in compliance with the law and entitled to receive a salary. (Gov. Code, § 68210.)

Between 2005 and 2008, Judge Edwards decided at least four matters that had been submitted for over 90 days before a decision was issued: (1) *People v. Brown*, No. 03F0119A/*People v. Floyd*, No. 03F0119B, decided June 16, 2005, at 119 days; (2) *Colburn v. Colburn*, No. 03FL0078, decided September 8, 2005, at 91 days; (3) *Young v. Brusatore*, No. 07SC006, decided July 18, 2007, at 99 days; and (4) *Katz v. Rolff*, No. 03CV0109, decided on September 11, 2007, at 91 days. The salary affidavit executed by Judge Edwards on May 26, 2005, was false, as the *Brown/Floyd* matter was over 90 days; however, the judge apparently was not aware of that fact when he signed the affidavit.

Unreasonable delay in deciding submitted matters is contrary to canon 3B(8), which provides that a judge shall decide matters fairly, promptly and efficiently. Submitting a false salary affidavit, even if not done intentionally, undermines public confidence in the judiciary and violates canons 1 and 2A.

5. Hayfork Absence

Court proceedings are held in Hayfork one Friday per month. The calendar typically is completed in the morning. After the calendar is concluded, the judge leaves for the day and the clerk remains in Hayfork until 4:00 p.m. to handle walk-in matters, with a lunch break between noon and 1:00 p.m. On Friday, June 8, 2007, the Hayfork calendar was handled by Judge Woodward.

Around noon on June 8, 2007, Judge Edwards flew to Hayfork and took the clerk and deputy marshal to lunch in his plane. They flew to the coast but did not locate an open restaurant, then returned to Hayfork and ate lunch at a restaurant there. The clerk did not return to the Hayfork court facility until approximately 2:45 p.m. to 3:00 p.m., during which time she was with Judge Edwards. The Hayfork court was locked during the clerk's absence.

Judge Edwards did not contact anyone at the court in Weaverville regarding the clerk's whereabouts during the interruption in the hours that the Hayfork court would normally be open to the public, and did not attempt to arrange for other court employees to staff the Hayfork courthouse during the extended lunch. (Cell phone service apparently was not available to Judge Edwards during this period; however, he did not attempt to call the Weaverville court using a land line.)

Judge Edwards had a few matters calendared in Weaverville at 1:30 p.m. on June 8, 2007. He did not return to Weaverville until approximately 3:30 p.m. and did not contact the court regarding his absence before then. His brief calendar was handled around 3:00 p.m. by Judge Woodward.

Court Executive Officer Donna Hanover spoke with the clerk very briefly on June 8, 2007. She later asked the clerk to meet with her on June 18 regarding the events of June 8. On June 19, Judge Edwards wrote a memo to CEO Hanover that stated as follows:

You were informed previously by [the clerk], on the 8th of June, that she and [the deputy marshal] were with me for what turned out to be an unattended [*sic*] extended lunch. It was also explained to you that the cell phone service was down on Friday.... If for some strange reason it is not absolutely clear, I am the one and the only one responsible for getting [the clerk] back to work by 1:00 p.m. The delay was unintentional but it doesn't really matter because I can take an employee to lunch, even an extended lunch, because I am the employer and I can do that. As soon as you found out on the 8th that [the deputy marshal] and [the

clerk] were with me, that should have been the end of it. You cannot place a letter in the personnel file because the individual went to lunch with their boss. It seems that should be painfully obvious. You are hereby directed to take anything having to do with June 8th out of [the clerk's] file and you are also directed to pay her overtime for calling her into your office last night past work hours.

Judge Edwards's conduct on June 8 reflects a disregard of the court's obligation to the public, undermines confidence in the integrity of the judiciary, and creates the appearance of favoritism, in violation of canons 1 and 2A. The June 19 letter to the CEO did not comport with canon 3B(4) (a judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity) and likewise creates an appearance of favoritism.

6. Comment

During an arraignment calendar in the second half of 2008, Judge Edwards commented in a crowded courtroom that a certain misdemeanor "was just another example of the DA overcharging." A deputy district attorney was appearing on the calendar and the district attorney was observing proceedings. The comment violates canon 3B(4) and creates an appearance that Judge Edwards is biased against the district attorney's office.

7. Potential Juror with Tinfoil on Head

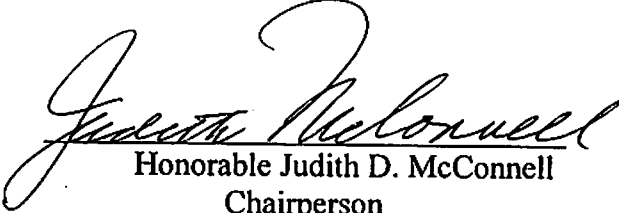
On October 21, 2008, a potential juror, whom Judge Edwards knows socially, reported for jury duty with a tinfoil hat on his head. (Several months before receiving the summons for jury duty, during a group conversation at which Judge Edwards was present, the potential juror had suggested that appearing for jury duty with tinfoil on his head would be a way to get out of jury duty. As the potential juror recalls, the judge responded "I dare you," not in a jovial or encouraging fashion, but in a discouraging manner that the potential juror believed was intended to convey disapproval of such action.)

The jury panel waited outside the courtroom. After the case settled, the panel was brought into Judge Edwards's courtroom and dismissed by the judge. The potential juror was still wearing the tinfoil hat. Judge Edwards saw the potential juror with the tinfoil hat on his head, but did not acknowledge him or ask him to remove the hat. It reflects a lack of decorum for Judge Edwards to have allowed the potential juror, who he knew was joking, to leave the tinfoil hat on his head during court proceedings. The judge's conduct is contrary to canon 3B(3) (judge shall require order and decorum in proceedings before the judge).

The commission determined that the conduct of Judge Edwards in these matters was, at a minimum, improper action.

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

Dated: April 12, 2010


Honorable Judith D. McConnell
Chairperson