STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL QUALIFICATIONS

Your "Inquiry Concerning a Judge"

No. 12

2/9

Answer of Respondent Judge Leland W. Geiler

Comes now the respondent Judge Leland W. Geiler, and answering the inquiry dated January 21, 1972 in the above entitled matter, denies that he has been guilty of willful misconduct or any misconduct in office, or conduct prejudicial to the administration of justice, or conduct that brings the judicial office into disrepute, as alleged in said inquiry or otherwise, or at all, and further answering the specifications alleged in said "inquiry" admits, denies and alleges as follows:

COUNT ONE

A. Respondent denies the allegations of subparagraph A, jointly and severally, generally and specifically, except that respondent admits that on one occasion in 1971 or thereabouts, the exact date of which he does not now recall,

a device somewhat fitting the description of the device described in said Count, was introduced in evidence in a criminal case pending in his court. During a recess there were present in his chambers several of the men connected with his court, including the prosecuting and defense attorneys and his bailiff, and they were examining the said device and engaged in horseplay pertaining to it, and were laughing and indicated the feeling that the device was hilariously funny, and that the horseplay among the men pertaining to the device was likewise hilariously funny. Respondent particularly denies that he assaulted Deputy Public Defender David A. Elden as alleged in the inquiry or at all, or that he rammed said object into Mr. Elden or any portion of his anatomy. Furthermore, respondent alleges that the said Mr. Elden at no time during the incident in the presence of himself or any of the other men in his chambers, indicated any indignity or criticism of the jokes that took place or the acts of the respondent. He further denies that he thereafter or at any other time ever threatened the said Mr. Elden with "other assaults". The respondent admits that later on that day in colloquy in court the reference was made to the foregoing incident, but the same was done jokingly and with obvious levity and could not possibly have been construed in good faith by the said Deputy Public Defender David A. Elden, or anyone else, as a threat of assault upon him in any manner whatsoever, other than as a

well intended and well understood joke.

B. Respondent denies the allegations of subparagraph B, jointly and severally, generally and specifically. Further answering said subparagraph respondent denies that he at any time ever created "a scene" in public which was in any way improper or reflected upon the judiciary or any party.

COUNT TWO

Respondent denies that he has engaged in a course of conduct in the courthouse involving the subject of sex which brought the judiciary into disrepute. Further answering the specifications in said Count, respondent admits, denies and alleges as follows:

A. Respondent denies each and every allegation in said paragraph, jointly and severally, generally and specifically. Respondent further alleges that he has at all times while he has sat on the bench, had a standing order in effect in his courtroom with the bailiff that in any of the sex cases that came up in his court, the bailiff should forthwith exclude from the courtroom any minors who might be present on any such occasion, and this instruction to the bailiff has been regularly carried out and discharged, and under no circumstances would respondent proceed with the trial or hearing of any kind of a salacious case while there were minors in the courtroom,

except in the case where such person was a witness or otherwise required to be present. Without limiting the generality of the foregoing denial, respondent further alleges with respect to the handling of sex cases in his court, that on occasions he was assigned sex cases to hear where the offenses complained of were vulgar and uncouth and involved unnatural sexual acts not within the knowledge or comprehension of the average refined person. In some of such cases parties involved were ignorant and unrefined persons who used vulgar and uncouth language according to the standards of educated and refined people, in describing abnormal sexual acts, and while such acts, as well as the description of them, are deplored, they have been on some occasions an unavoidable part of the trial of such sexual offenses for which respondent is in no way responsible.

B. Answering the allegations of subparagraph B, respondent denies each and every allegation therein, jointly and severally, generally and specifically. Further answering said subparagraph respondent alleges that he has never been robed without trousers under his robe. He has changed his clothes alone, in his chambers, but if any female entered his chambers while he was changing his trousers, it was without his invitation or his knowledge. Specifically, respondent denies that he ever invited Mrs. Flack into his chambers on any such occasion and if she ever saw him without his trousers on it was without his knowledge and

without his invitation and without notice to him or any complaint to him or any intentional act on his part. He certainly made no explanation or apology to Mrs. Flack because he never committed any such act in her presence so far as was ever known to him.

C. Answering the allegations of subparagraph C, respondent denies each and every allegation therein jointly and severally, generally and specifically.

D. Answering the allegation of subparagraph D, respondent denies each and every allegation therein jointly and severally, generally and specifically.

E. Answering the allegations of subparagraph E, respondent has no information or belief pertaining to the allegations therein contained, and further answering said subparagraph alleges:

If any such request was ever made by the Public Defender's office or the District Attorney's office, not to send to him cases involving sex for hearing, such information was not made known to respondent and is unknown to respondent. Furthermore, neither the District Attorney nor the Public Defender, nor any of the deputies of said offices, have ever complained to respondent pertaining to his handling of such cases, or ever informed him that there was any objection to his hearing them or

the manner in which he tried them. Respondent has had, according to the best of his recollection and belief, with respect to the year 1971, sex cases assigned to him on occasions, and it has been his practice to handle the cases that are assigned to him, regardless of the nature of them, according to the best of his ability, and the highest standards of cooperating with the presiding judge and others responsible for the assignment of cases among the members of the judiciary.

COUNT THREE

Respondent denies that he has engaged in a course of conduct of addressing counsel and court attaches in disparaging, or vulgar, or unjudicial terms.

A, B, C, D, E, G. Answering the specified subparagraphs, respondent denies each and every allegation in said paragraphs, jointly and severally, generally and specifically.

F. Answering the allegations of subparagraph F, respondent alleges that he has no recollection of ever making the remark therein attributed to him, but respondent alleges that he has on occasions used "kidding" remarks in talking to attorneys in his courtroom, and if any such remark was ever made as is stated in said subparagraph, respondent alleges that the said was made

as a joke, and would have been so understood by any normal person, and was not intended as an insult, and would not have been understood as an insult by any normal person. Further answering said paragraph, if the Presiding Judge ever ordered any preliminary hearings previously scheduled for his court, removed therefrom, the same was never called to the attention of this respondent and is unknown to this respondent, and is accordingly denied on lack of any information or belief pertaining thereto.

H. Answering the allegations of subparagraph H, respondent alleges that the true facts pertaining to the incident therein alleged are as follows:

During the holiday season of 1970, respondent was a guest in the law office of Attorney Richard Fusilier on Hollywood Boulevard. At that time he was introduced to Mrs. Jeanette Christy, a member of the bar, who had her office in the suite of offices with Mr. Fusilier, respondent's host. Mr. Fusilier introduced respondent to Mrs. Christy, and asked him to help her with respect to assistance in how to handle a preliminary hearing. Mrs. Christy also informed respondent that she would appreciate an opportunity to talk to him and get some advice with respect to how to handle preliminary hearings. Respondent agreed to talk to her and give any assistance that he could as he would do to any other inexperienced member of the bar. Respondent did not hear from Mrs. Christy

further with respect to her desire to communicate with him until on or about the date specified whereupon she did appear in his court and did act as attorney in a preliminary hearing in the first case called that morning. Respondent recognized Mrs. Christy, and at the conclusion of her preliminary hearing there were no further cases ready for hearing, invited Mrs. Christy to come in for the purpose of visiting with her and further pursuing any inquiry that she might have to make with respect to assisting her in acting as an attorney. Mrs. Christy then came into respondent's chambers and brought with her Mrs. Diane Wayne, who was introduced to respondent as a member of the bar and a friend of Mrs. Christy, but who was not previously known to respondent, Respondent did visit with them and did make some observations pertaining to preliminary hearings in an effort to instruct them concerning problems in such matters and the handling of them. All of such advice was done in a professional way and with the intent and for the purpose of trying to do a friendly act to another member of the profession. At all times during the conversation respondent assumed that the two ladies were professional women and familiar with criminal cases and were interested in respondent's comments pertaining to them and more particularly in accordance with Mrs. Christy's professed desire to obtain information from the judge with respect to problems in handling preliminary

hearings. Respondent alleges that by no means did the conversation in his chambers take as much as 45 minutes or any more than a small fraction thereof, and that the conversation was terminated and he resumed the bench as soon as the balance of the calendar was ready to be heard. That no one was discommoded or inconvenienced by the small amount of delay that took place during the time that he was talking to these two women.

COUNT FOUR

Respondent denies that he has engaged in a course of conduct of addressing members of ethnic minorities in derrogatory terms.

A. and B. Answering the allegations of subparagraph A and B, respondent has no recollection concerning the remarks, but if the transcript for the days in question and the cases in question reflect that such statements were made then respondent alleges that said remarks were descriptive of the persons involved and were not meant to be derrogatory nor are they derrogatory.

C. Answering the allegations of subparagraph C, respondent denies said allegations and further denies that he at any time called Mr. Pang a "chink". Respondent alleges that he is very fond of Mr. Pang, who is a responsible, able court reporter of Chinese nationality, and may have

been referred to as "Chinese" but never with the intent to be derrogatory, and respondent denies any term used with respect to Mr. Pang was ever meant to be or was derrogatory or was understood by Mr. Pang to be offensive in any way to him. If it was it was never made known to respondent and under no circumstances would respondent make any remarks that were offensive to Mr. Pang pertaining to him.

D. Answering the allegations of subparagraph D, respondent denies each and every allegation therein contained, jointly and severally, generally and specifically.

COUNT FIVE

Respondent denies that he unlawfully ordered court reporters to delete material from preliminary hearings. Respondent alleges that he has on occasions ordered material to be deleted from preliminary hearing transcripts, but to the best of respondent's information and belief, the same was lawful and proper when done, and was done either because the remarks were, in fact, ordered to be off the record before uttered or were believed to be prejudicial to the defendant, and the removal of them from the record thought to be in the best interest of the defendant and the administration of justice. With respect to the cases referred to in the subparagraphs thereof, respondent admits, denies and alleges as follows:

A. Respondent alleges that the facts pertaining to the preliminary hearing in the case of People v. Byron Edward Smith, therein alleged, are in part true, and in other parts exaggerated and untrue. For that reason and for the purpose of clarifying the true facts, respondent denies each and every allegation in said paragraph except as follows. Respondent alleges that the preliminary hearing did take place on January 18th, 1971. Prior to the commencement of the hearing respondent was informed by his bailiff, that he, the bailiff, had been informed by the investigating officer in the case, and also by some of the witnesses in the case, that they, the witnesses, had been threatened by the defendant or by persons acting on behalf of the defendant, and that they were afraid to testify in the case. Respondent having been warned of this was on the lookout for any overt act that seemed to threaten or prejudice the witnesses. During the course of the proceeding, respondent observed defendant's mother in the courtroom with a pad and pencil or pen in her hand, and when the witnesses were called, she put down the names and addresses of the witnesses in a menacing manner that seemed to indicate that she was making a note with respect to them and that they might hear from someone later with respect to their testimonies. Respondent concluded that this was infringing on the free prosecution and presentation of the case and he thereupon admonished the defendant's mother, but in a thoroughly judicial and proper manner, to

refrain from doing anything which attempted to intimidate the court or the witnesses. The remarks were not made "explosively" nor did they constitute an "outburst," but defendant's mother did become hysterical and started to scream and said "you can't do this to me". It is true that the defendant then stood up and stated that he did not have to stand for what respondent was doing, and said remark was made in a threatening and menacing manner towards the court, and in a loud and boisterous manner and he further shouted and yelled at the court making insulting and offensive remarks that made it impossible for the court to proceed, and which, furthermore, demeaned the court and judicial process. Respondent thereupon ordered the defendant to cease and desist such conduct, but he refused to do so and continued in such a loud and hostile manner as to interrupt the procedure in the courtroom. Respondent thereupon stated that it would be necessary to gag and bind the defendant unless and until he would become quiet and respectful in the courtroom. He thereupon ordered the bailiff to remove the defendant from the courtroom and bind and gag him and to keep him so bound and gagged until there was guarantee that he would be quiet and permit the court to operate. This was done by the bailiff and the defendant was thereupon returned to the courtroom immediately, bound and gagged. It is true that the Deputy Public Defender moved to have the gag removed so that he could communicate with his client, whereupon respondent

stated that it could not be done at that time because he didn't have adequate assurance that the defendant would remain silent, but when it appeared that the defendant would remain silent, which was after a matter of only a few minutes, respondent ordered the gag removed, but he continued to have the defendant confined during the balance of the hearing. He also moved to have the statements and the details of the binding made part of the record. Respondent was of the opinion that the fact that the defendant had been guilty of such conduct toward the court that he had to be bound and gagged could very well be prejudicial to the defendant if it were made part of the record, and before the incident with the defendant's mother took place, which was not a part of the proceedings against the defendant, respondent had raised his hand to the reporter as a signal generally understood between him and the reporter indicating that what was about to take place should not be made a part of the record, because respondent considered, as afore alleged, it was not part of the criminal record and was, as previously stated, prejudicial to defendant. After it was suggested that that proceeding be made part of the record, respondent stated that he did not wish to prejudice the defendant and that was why that phase of the proceeding was off the record. However, in any event, most if not all of what took place was in fact reported by the reporter, whether included or not included in the transcript, respondent does not know, but if the

Deputy Public Defender considered it to be proper and a part of the case and he wanted it made a part of the case, he could very easily have moved to augment the record to include any portion thereof. However, respondent insists that nothing pertaining thereto went to prove or disprove the criminal proceeding against the defendant, and in respondent's opinion was properly deleted from the criminal record, and the act was done by respondent in good faith for what he felt was for the protection of the defendant. With respect to the allegation that he also moved "to transfer this case to another court", respondent has no recollection of said motion having been made, but respondent further answers the said contention as follows:

In the first place, this was a preliminary hearing and there was evidence to bind the defendant over in any event, so the question of who completed the preliminary hearing was of no importance as far as the substantial rights of defendant were concerned. In the second place, the proceeding had been handled in part and respondent would not have been disposed to incur the expense of sending the balance of the proceeding to another court.

B. Answering the allegations of subparagraph B, respondent denies each and every allegation therein contained, jointly and severally, generally and specifically.

C. Respondent admits that Deputy Public Defender

Mrs. Leslie Abramson did appear in his court one time wearing what is described in this proceeding as "granny gown" which was a garment that covered her from her shoulders to the floor and was unattractive and calculated to attract attention to Mrs. Abramson. Respondent considered the garb to be extremely improper garb for a member of the bar to wear in court and in connection with court proceedings and considered that the garb reflected upon the standing of a member of the profession, and so informed Mrs. Abramson, however, the said remarks were made to Mrs. Abramson personally, and respondent did not at any time seek to have any such remark removed from the record because, according to respondent's best information and belief it was never a part of the record. If, however, the reporter did make some notation pertaining to it, then respondent contends that the same was not and should not have been a part of the record and that respondent would have considered that such a remark, being personal, should not be in the record in order to avoid any personal embarrassment of Mrs. Abramson by making a public record of such a matter, and also to avoid any possible prejudice to the defendant by virtue of her unprofessional attire and the court's suggestion to her that it was not in keeping with appropriate garb for an attorney on legal business in court.

COUNT SIX

Respondent denies that he has arbitrarily or capriciously

removed the Public Defender and appointed private counsel for or on behalf of defendants appearing in his court. Respondent admits that there have been cases, including the nine cases described, where the defendant was represented by Public Defender's office, but the Public Defender was removed and private counsel was appointed, but in each of such cases the following facts existed:

First, the cases were all cases that would have been reduced to a misdemeanor if the defendant had been bound over to the Superior Court.

Second, they were all cases in which the defendant had been confined to jail or had otherwise been held for a period of time, and would have been faced with the necessity of being held over to the Superior Court before he could be sentenced and earnestly requested that he be given the right to plead guilty to a misdemeanor and to be sentenced at that time in the Municipal Court.

Third, in each such case the penalty to be given the defendant for the misdemeanor to which he pleaded guilty in the Municipal Court, was approved by the District Attorney, and the defendant.

Fourth, in each such case the Public Defender has refused to permit the defendant to plead guilty to a misdemeanor in the Municipal Court and had insisted upon having the case transferred to the Superior Court, but in no case did the Public Defender ever give any substantial explanation or reason for attempting to remove the case in that

way, except perhaps to perpetuate the activities of the Public Defender in connection with the case.

Fifth, in each such case respondent had arranged with private counsel to accept appointment to represent the defendant without any compensation of any kind or nature whatsoever for the sole purpose of permitting the defendant to enter a plea of guilty in accordance with his choice, and in each such case, private counsel was given opportunity to confer with the defendant to satisfy themselves that the plea was proper and was for the best interests of the defendant.

Sixth. Respondent is informed and believes that and alleges that his acts in accepting pleas of the defendants in these cases have been for the best interests of the defendants and the administration of justice, and it saved the county thousands and thousands of dollars of unnecessary expense in taking the case up to the Superior Court for the purpose of having the same or substantially the same plea and penalty imposed, but after considerable delay and expense to the defendants. Both the office of District Attorney and the office of sheriff have congratulated respondent on his judgment and acts in accepting pleas in such cases and the defendants have been sometimes pathetically appreciative of this opportunity to expedite their removal from jail and to rehabilitate themselves. In fact, no one so far as respondent knows, has ever criticized him for this with the possible exception of the

Public Defender's office, which for personal reasons seems to have resented the court's activities in administering justice in accordance to what he believes and has believed was for the best interests of the courts, the defendants and the administration of justice.

In conclusion, respondent alleges that as long as he has been on the bench he has been dedicated to the job in an effort to be a good judge and a hard working judge, fair to all parties and cooperative with all officers with whom he has to do the administration of justice. He opens his court as soon as the parties are ready to proceed and arrives at the court as early as any other member of the judiciary. He handles as many cases as any other judge in the Municipal Court in connection with matters of this kind, and more than most judges. He has been diligent in the performance of his duties, and as far as his honesty and integrity are concerned has been unimpeachable in the discharge of his duties.

Leland V. Gibson
Respondent

HUTCHINSON & IRWIN

By Paul R. Hutchinson
Paul R. Hutchinson
Attorneys for Respondent

VERIFICATION BY PARTY (446, 2015.5 C. C. P.)

STATE OF CALIFORNIA, COUNTY OF

*I am the* Respondent

*in the above entitled action; I have read the foregoing* Answer of Respondent Judge Leland W. Geiler

*and know the contents thereof; and I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon my information or belief, and as to those matters I believe it to be true.*

*I declare, under penalty of perjury, that the foregoing is true and correct.*

*Executed on* February 8, 1972 *(date)* *at* Los Angeles *(place)*, *California*

Leland W. Geiler
*Signature*

PROOF OF SERVICE BY MAIL (1013a, 2015.5 C. C. P.)

STATE OF CALIFORNIA, COUNTY OF Los Angeles

*I am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is:*

411 West Fifth St., Suite 800, Los Angeles, Calif. 90013

*On* February 9, 1972, *I served the within* a copy of ANSWER OF RESPONDENT JUDGE LELAND W. GEILER

*on the* Examiner, James H. Kline *in said action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at* Los Angeles, California *addressed as follows:*

James H. Kline
Deputy Attorney General
600 State Building
217 West First Street
Los Angeles, California 90012

*I declare, under penalty of perjury, that the foregoing is true and correct.*

*Executed on* February 9, 1972 *(date)* *at* Los Angeles *(place)*, *California*

S/
*Signature*
Christine M. Barnes