

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING A JUDGE)
No. 45)
_____)

NOTICE OF
FORMAL PROCEEDINGS

TO: JUDGE MARIO P. GONZALEZ:

IT APPEARING THAT since May 15, 1972, and at all times herein, you have been a Judge of the Los Angeles Municipal Court, East Los Angeles Judicial District, County of Los Angeles; and

Preliminary investigation having been made pursuant to the provisions of Rule 904 of the California Rules of Court concerning censure, removal, retirement or private admonishment of judges, during the course of which preliminary investigation you were afforded a reasonable opportunity to present such matters as you chose, and this Commission as a result of said preliminary investigation, having concluded that formal proceedings to inquire into the charges against you shall be instituted pursuant to section 18 of Article VI of the California Constitution and

in accordance with Rules 901-922, California Rules of Court,

IT IS CHARGED that you have engaged in actions which constitute persistent inability to perform a judge's duties as alleged below:

COUNT I

You have acted unreasonably and arbitrarily in matters of bail setting and own recognizance release.

1. On or about August 28, 1973, in People v. Daniel Jimenez Juarez (M152696), you refused to allow argument on the merits by Deputy Public Defender Glenn Nolte on a motion for bail reduction, and stated that you would order that the bail be reduced only if Mr. Nolte issued his personal check payable to his favorite charity to be forfeited if the defendant failed to appear.

2. On or about December 17, 1975, in People v. Larry Williams (M175329), Deputy Public Defender Bruce Hoffman appeared before you to request an own recognizance release for defendant Williams, and, without allowing argument on the merits, you stated that the motion would be denied unless Mr. Hoffman was requesting the defendant's own recognizance release as a "special favor," in which event the motion would be granted.

3. On or about December 17, 1975, in the case of People v. Larry Williams (M175329), Stan Delnick, a private attorney appointed to represent defendant Williams, appear-

ed before you to request that his client be released on his own recognizance, and you informed Mr. Delnick that you would grant the motion only if Mr. Delnick posted \$50 of his own money as bail.

4. On or about February 26, 1976, in People v. Edward Frank Gandora (M176715), you ordered the defendant released on his own recognizance at arraignment. Approximately ten minutes later, you ordered defendant Gandora and Deputy Public Defender Ronald Rose to return to your courtroom where you then revoked the defendant's own recognizance release based on secret information from an undisclosed source which you refused to reveal, thereby denying the defendant his statutory right to a finding in open court.

5. On or about February 3, 1974, in the case of People v. Manuel Cruz Cerdo (M167759), following a motion to dismiss the case by the People, you questioned the defendant directly on the facts of the case, and when Deputy Public Defender Bruce Hoffman objected to his client being quizzed on factual matters relating to the question of guilt or innocence, you immediately set bail at \$500, set a pretrial date and refused to hear the defendant's own recognizance release motion.

COUNT II

You have behaved in an abusive and also sometimes

vindictive manner towards court officers and court personnel.

1. During the latter months of 1977, you threatened Judge Gilbert R. Ruiz with physical harm if he attempted to become presiding judge of the East Los Angeles court.

2. In or about February 1980, you yelled in open court at interpreter Elizabeth Cortes James when she explained that she was unable to interpret in a civil case and screamed that she was not to return either to your courtroom or the courthouse.

3. On or about October 31, 1980, during arraignment in People v. Sol Galindo (M214007), you sarcastically commented to the defendant in open court, that sometimes you wondered about Deputy District Attorney Wendy Widlus' "capacity," causing her public embarrassment; and, in open court during the period of May to August, 1980, you asked Ms. Widlus, in an insulting manner, if she knew why you disliked her so much.

4. On or about June 20, 1980, you spoke vituperatively to Deputy District Attorney Wendy Widlus for her alleged tardiness to another division that morning; you did not allow Ms. Widlus to speak in response on her own behalf; you called her supervisor to complain about her alleged tardiness; you threatened to report Ms. Widlus to

her office supervisor, and to District Attorney John Van de Kamp; and you further threatened that if any member of the court reported to you that Ms Widlus had not arrived in her office by 8:30 a.m. on any morning, you would call District Attorney Van de Kamp and insist that Ms. Widlus be transferred from the East Los Angeles court.

5. Following your receipt of the Notices of Preliminary Investigation in this action from the Commission on Judicial Performance, dated June 5, 1980, and August 18, 1980, you engaged in abusive, irresponsible and vindictive verbal and written accusations regarding the reputations of persons whom you knew, or believed, had furnished information to the Commission concerning your judicial conduct, including: Maria Rody Moreno, former Judge Manuel Q. Sanz, Bruce Hoffman, Joseph R. Martinez, Wendy Widlus, Kenneth Loveman, Judge Gilbert R. Ruiz, and Elizabeth Cortes James.

6. You have addressed Deputy Marshall Joe Rembold as a "lackey"; and you threatened to transfer him unless he agreed to relinquish to you a wagering selection he had made in a World Series "pool."

COUNT III

You have engaged in a continuous course of conduct of overreaching and abuse of your judicial authority.

1. You have conducted court proceedings in the

absence of counsel for one of the parties, thereby interfering with the attorney/client relationship, during the period from 1974-1978.

a. On one occasion when former Deputy Public Defender Vernon Putnam was assigned to the East Los Angeles court, from approximately late 1974 until the early months of 1976, you started a hearing to determine the constitutionality of his client's prior conviction before Mr. Putnam arrived at your courtroom.

b. On one occasion in or about 1974/1975 when former Deputy Public Defender Jim Tucker was assigned to the East Los Angeles court, you started a hearing on his client's motion to suppress evidence prior to Mr. Tucker's arrival at your courtroom.

c. Furthermore, in the case of People v. Espinoza (A341242) on or about June 30, 1978, the prosecution was ready to proceed with the preliminary hearing when you had the case transferred to your courtroom where, in the absence of counsel for the People, you granted defense counsel a continuance of over one month.

2. You have exerted undue and improper pressure on defendants to plead guilty or to stipulate to probable cause for their arrest in the following cases:

a. In or about January 1975, in the case of People v. Francisco and Laura Echevarria (M166848), without

appointing an attorney to represent the defendants, you spoke with the defendants in chambers, threatened them with deportation if they were convicted of theft (in violation of Penal Code section 484) and indicated that you would accept a guilty plea to trespassing (in violation of Penal Code section 602) and sentence them to a \$50 fine.

b. On or about January 22, 1975, in the matter of People v. Linda Lou Dilsaver and Raymond Negrete (M167492), you failed to advise defendant Dilsaver, who was in custody, that she had a right to an attorney and that one could be appointed to advise her. On your own motion, without an attorney for the prosecution present, you offered to allow the defendant to plead guilty to trespassing (in violation of Penal Code section 602j) and to sentence her to pay a \$50 fine.

c. On or about March 23, 1976, in the case of People v. Frank O. Ortega, the prosecution moved to dismiss the case against defendant Ortega, who had wrongfully been arrested and was being held in custody. You refused to dismiss the case unless the defendant agreed not to sue the county for false arrest. When Deputy Public Defender Bruce Hoffman complained that his client was being coerced because he was in custody, you replied that you were a taxpayer and that you were acting in the

taxpayers' and the county's best interests.

d. In or about February 1980, in the presence of Deputy District Attorney Kenneth Loveman, you urged a defendant to plead guilty and pay a \$25.00 fine; saying that it would be better for him than to obtain a dismissal with court costs that would be more expensive than the fine.

3. You have used your judicial office improperly in influencing, or attempting to influence, law enforcement officers and officers of the court concerning criminal matters.

a. During your campaign for Superior Court Office No. 3 in or about May 1978, Deputy District Attorney Joseph R. Martinez was contacted regarding a felony case, People v. Kasparian (A343101), by the Defendant's father, Mr. Semon Kesperoff, a financial contributor to your campaign, and another person, concerning an immediate disposition of the case. Mr. Martinez suggested that they seek the assistance of an attorney. Shortly thereafter, you contacted Mr. Martinez about the Kasparian case, which was not then pending before you, and asked if Mr. Martinez would discuss the matter with the above named persons in your chambers. It was Mr. Martinez's belief that you wanted him present in your chambers to discuss dismissing the case.

b. In the case of People v. Rebecca Hernandez (S.A.A.C. No. 6076), in or about May/June 1978, you contacted Deputy District Attorney Joseph R. Martinez and requested that the Los Angeles County District Attorney's office drop its appeal of your order dismissing the Hernandez case and declaring a county ordinance unconstitutional.

c. During your campaign for Superior Court Office No. 3 in or about March 1978, you summoned Deputy District Attorney Joseph R. Martinez to your chambers to discuss a dismissal in a case not then pending before you, the case of People v. Frank Jose Terrones (M191676), in which defendant was the son of a contributor to your campaign. Present in your chambers was Los Angeles County Deputy Sheriff Art Guerra, who previously had requested such a dismissal from Mr. Martinez and had been refused.

d. On or about May 15, 1980, in the case of People v. Mario Pedro Gallardo (M208640), you requested a dismissal simply because the defendant was a veteran.

e. On or about August 30, 1980, at approximately 2:00 a.m., Vardan Mosikian was arrested and taken into custody by officers of the Monterey Park Police Department for driving a vehicle while under the influence of alcohol, or alcohol and drugs (Vehicle Code, section

23102a). The police refused demands to release Mr. Mosikian/^{immediately}made both by his friends and by a telephone caller who stated he was a Montebello police officer. The caller was informed that Mr. Mosikian would be released on his own recognizance at 7:30 a.m. You arrived at approximately 5:00 a.m. with Mr. Mosikian's father at the police station which is located outside the jurisdiction of the East Los Angeles Municipal Court and secured Mr. Mosikian's release by use of your position as a judge of the East Los Angeles Municipal Court.

f. On or about October 30, 1980, in the case of People v. Antonio Perez Duran (M212953), you ordered the deputy district attorney to file an allegation that the defendant had suffered a prior conviction. When Deputy District Attorney Howard Wolf objected, you ordered on your own motion that an allegation charging the defendant with a prior conviction be deemed filed.

g. On or about November 17, 1980, following the timely and proper filings of affidavits of prejudice to disqualify you in all criminal cases, you summoned Deputy District Attorney Judy Abrams to the bench and asked if you could take a guilty plea and sentence a defendant on a leash law violation. When Ms. Abrams refused, you suggested that she could remain silent on

the matter and let it be "our secret."

COUNT IV

During the period of September 1976 through April 1980, you persistently made improper and unwanted sexual advances toward Maria Rody Moreno, an interpreter assigned to the East Los Angeles Municipal Court.

1. On or about April 10, 1980, you stated to Maria Moreno that you would consider her request to modify her work schedule only upon her agreement to engage in sexual intercourse with you.

2. In or about March 1979, you stated to Maria Moreno that you would provide her and her fellow interpreters with office space only upon her agreement to engage in sexual intercourse with you.

3. Throughout the period of Maria Moreno's assignment to the East Los Angeles Municipal Court, you harassed her by repeated telephone calls, visits, and offensive conversations, during which you persistently requested that she date you and engage in sexual intercourse with you.

COUNT V

You have persistently conducted your court business in a manner demonstrating ignorance of and indifference to procedures required by law which are essential to the fair, orderly, and decorous administration of justice.

1. In the case of People v. Pedro Guiterrez

(M201446), in or about May 1980, you at first approved, out of the prosecutor's presence, and then allowed, over the prosecutor's objection, an arrangement under which an employee of the defense served as a Spanish interpreter in front of the jury in lieu of a certified court interpreter: and you then repeatedly interrupted the testimony of the witness to dispute the interpreter's rendition of questions and answers.

2. On more than one occasion during the period of 1975 through March 1979, in the presence of Deputy Public Defenders Ronald Rose and/or Carlos Uranga, you have left the bench abruptly during testimony in criminal proceedings, instructing counsel for both sides to continue adducing testimony during your absence.

3. On or about May 25, 1978, in the case of People v. Rebecca Hernandez (S.A.A.C. No. 6076), you dismissed the charges and declared a county ordinance unconstitutional, in chambers, without notice to or appearance by the prosecution and without appearance by the defendant.

4. On or about October 22-23, 1980, in the cases of People v. Jesus Guerrero (M213859), and People v. Armando Lomelia (M213917), you scheduled the trials for dates so distant as to place the two prosecutions in jeopardy of dismissal, over the People's objections, for the purpose of making "test" cases of those prosecutions on the issue of

statutory time limits.

5. On or about December 8, 1975, you requested and allowed your courtroom bailiff, Bob Gil, to assist you at county expense in open view of others at the courthouse in the preparation of a private lawsuit for yourself.

6. On or about June 5, 1980, in the trial of People v. John Monroy (M207019), you extemporaneously declared from the bench that a witness scheduled to testify for the defense was biased and prejudiced in the defendant's favor, after which comment the defense made a motion for a mistrial, which you granted.

7. You have obtained pleas of guilty from defendants without full advisement and waiver of their constitutional rights in the cases of People v. Gallardo (M208640, May 1980): People v. Dilsaver (M167492, 1975): People v. Marzett (M166706, January 1975): People v. Valle (M166850, January 1975): ~~People v. Medina (January 7, 1975):~~ and People v. Alvarez (January 7, 1975).

8. You have engaged in plea bargaining with defendants in the absence of the deputy district attorney and without authority to do so from the deputy district attorney representing the People in People v. Dilsaver (M167492, 1975): People v. Francisco and Laura Echevarria (1975): and People v. Burbidge (M165815, November 1974).

9. Between 1972 and 1977, you have repeatedly ...

entered the jurors' room during their deliberations without valid legal cause.

10. Until recently, you arbitrarily have denied requests from both the Los Angeles County District Attorney's and Public Defender's offices to provide court reporters in criminal trials.

11. In 1979 you accepted telephone calls at the bench during testimony in criminal cases and ordered the proceedings to continue.

12. In the case of People v. Ysidro Martin Vieza (A360097, August 1980), over objection, you interrupted the preliminary hearing to handle other matters on your court's calendar, resulting in the dismissal of the case by the superior court.

13. In the case of People v. Dilsaver (M167492, 1975), you asked the defendant whether she was guilty of the offense without advising her of her right to counsel and upon promising her that her admission would not go beyond the courtroom. In the case of People v. Manuel Cerda (M167759, 1974), you sought to question the unsworn defendant on the facts of the alleged offense, in the presence of his attorney and the prosecutor.

14. During the period from 1972 to 1977 while on the bench during criminal proceedings, you solicited from courtroom observers unsworn comments regarding the evidence.

15. One day during the period 1975 to 1977 you allowed all defendants only one-half the customary fine or to serve only one-half the customary sentence if they agreed to plead guilty on that day.

COUNT VI

Both in open court and in private communications with persons associated with the court, you have improperly engaged in personal verbal attacks, indulged in indelicate sexual and ethnic remarks, and made comments which cast doubt upon your appreciation of the nature and importance of your judicial duties and your ability to sit as a fair and impartial judge.

1. In Judge Gilbert R. Ruiz' chambers in April or May, 1980, you responded to Deputy District Attorney David Milton's disclosure of his wife's miscarriage by saying, "Oh, good. One less minority," or words to that effect.

2. In conversation with Deputy District Attorney Joseph Martinez, you referred to Deputy District Attorney Wendy Widlus as a "female broad" both before and after Mr. Martinez had apprised you of the impropriety of that term.

3. During jury voir dire in a criminal case in 1979, in your questioning of an Asian venireman, you referred to him as a "Jap" and opined that Japanese people eat only fish heads and rice.

4. During jury voir dire in a criminal case

between November 1979 and November 1980, you asked a black woman on the panel if she knew the price of watermelon at the supermarket at which she worked; and, after being advised by Deputy District Attorney Bert Carter that your question was potentially offensive, repeated it to the same woman upon her appearance among a subsequent group of panel members.

5. At a Christmas party in 1979, you asked Deputy District Attorney Wendy Widlus whether, as a Jew, she was concerned that in-breeding among Jews would produce a race of idiots.

6. During the presentation of a negotiated plea by Deputy District Attorney Randall Harris in open court in 1979, you suggested that the criminal conduct with which the defendant had been charged, wife-beating, was indigenous to Africa and Mexico.

7. You have stated ~~from the bench on several occasions~~, and specifically in People v. Antonio Perez Duran (M212953), on October 30, 1980, your intention to ignore appellate precedents and to issue contrary rulings instead.

8. In People v. Gallardo (M208640, May 1980), you asked the deputy district attorney whether she would dismiss the charge because the defendant was a war veteran and rudely called her "petty" when she asked for her legal objec-

tions to be noted in the docket.

9. In 1980 you summoned the acting head administrator of the District Attorney's East Los Angeles office, Kenneth Loveman, to your courtroom only to dismiss him discourteously by pointing your finger at him and telling him you no longer required his presence; never informing him of the reason you had summoned him; and, in or about February 1980, you accused Mr. Loveman in open court of employing tactics representative of the Soviet Union.

10. During voir dire in a criminal case on or about October 5, 1980, you remarked to the jury that you had abruptly departed from a meeting with head Deputy District Attorney Billy Webb, whom you then described as a high official in the District Attorney's office and one of the most uncooperative persons you had ever met.

COUNT VII

Your tenure in judicial office has been characterized by a course of conduct which reflects a lack of the knowledge, temperament and judgment necessary for the proper administration of justice in the state courts.

1. Counts I-VI, inclusive, are incorporated by reference herein.

2. From 1974 to 1980 you have failed to fulfill your supervisory duties concerning the preparation of accurate courtroom dockets in the following cases: People

v. Gallardo (M208640); People v. Burbridge (M165815); People v. Guerrero (M213859); People v. Lomelia (M213917); People v. Marzett (M166706); People v. Valle (M166850); People v. Hernandez (S.A.A.C. No. 6076); and People v. Espinoza (M341242).

3. As presiding judge of the East Los Angeles Municipal Court during October and November 1980, you have unreasonably refused to cooperate in the Los Angeles County District Attorney's request to be notified of pretrial, trial, preliminary hearing, and other court dates.

4. You have threatened, insulted, and impugned recklessly the integrity of your judicial colleagues, including United States District Court Judge Robert M. Takasugi during 1973-1975 when he served in the East Los Angeles Municipal Court; and, during 1974 to 1980, former Judge Manuel Q. Sanz, Judge Gilbert R. Ruiz, and Judge Benjamin U. Vega, thereby evidencing a disrespect for the judicial office.

5. Your correspondence with the Commission on Judicial Performance since your notification of the preliminary investigation on or about June 5, 1980, manifests a reckless disregard for your judicial duties and responsibilities as expressed in the Code of Judicial Conduct, Canons 1, 2A, and 3A(3).

IT IS FURTHER CHARGED that you have engaged in

actions which constitute wilful misconduct in office, and conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

1. Counts I-VI, inclusive, are incorporated by reference herein.

You have the right to file a written answer to these charges within fifteen (15) days after service of this notice upon you with the Commission on Judicial Performance, Room 2232, State Building, 350 McAllister street, San Francisco, California 94102. Such answer shall be verified, shall conform in style to subdivision (c) of Rule 15 of the Rules on Appeal, and shall consist of the original and eleven legible copies.

BY ORDER OF THE COMMISSION ON JUDICIAL PERFORMANCE

DATED: December 22, 1980



Chairman

INQUIRY CONCERNING A JUDGE

No. 45

AMENDMENTS AND ORDER

1. On page 1, paragraph 1: delete "Los Angeles Municipal Court,"; and add "Municipal Court," after "East Los Angeles Judicial District." The paragraph now will read:

IT APPEARING THAT since May 15, 1972,
and at all times herein, you have been a judge
of the East Los Angeles Judicial District
Municipal Court, County of Los Angeles; and

2. In count II, paragraph 5: add "and Notice of Formal Proceedings" after "Investigation"; delete "and" after "June 5, 1980,"; add "and December 22, 1980," after "August 18, 1980,"; add "and conduct" after "accusations".
The paragraph now will read:

5. Following your receipt of the Notices of Preliminary Investigation and Notice of Formal Proceedings in this action from the Commission on Judicial Performance, dated June 5, 1980, August 18, 1980, and December 22, 1980, you engaged in abusive, irresponsible and vindictive verbal and written accusations and conduct regarding the reputations of persons

whom you knew, or believed, had furnished information to the Commission concerning your judicial conduct, including: Maria Rody Moreno, former Judge Manuel Q. Sanz, Bruce Hoffman, Joseph R. Martinez, Wendy Widlus, Kenneth Loveman, Judge Gilbert R. Ruiz, and Elizabeth Cortes James.

3. In count III, add after paragraph 1b: [¶] b'. On more than one occasion between June, 1978, and January, 1981, you began adversary proceedings in your court in the absence of the defendant or the attorneys for one or both parties.

4. In count III, paragraph 3e: add ", Jr.," after "Vardan Mosikian"; delete "Mr. Mosikian's father" and substitute "Mr. Edward Sarkissian, a contributor to your 1978 campaign for Superior Court Office No. 3,". The paragraph now will read:

e. On or about August 30, 1980, at approximately 2:00 a.m., Vardan Mosikian, Jr., was arrested and taken into custody by officers of the Monterey Park Police Department for driving a vehicle while under the influence of alcohol, or alcohol and drugs (Vehicle Code, section 23102a). The police refused demands to release Mr. Mosikian immediately made both by his friends and by a telephone caller who stated he was a Montebello police officer. The caller was

informed that Mr. Mosikian would be released on his own recognizance at 7:30 a.m. You arrived at approximately 5:00 a.m. with Mr. Edward Sarkissian, a contributor to your 1978 campaign for Superior Court Office No. 3, at the police station which is located outside the jurisdiction of the East Los Angeles Municipal Court and secured Mr. Mosikian's release by use of your position as a judge of the East Los Angeles Municipal Court.

5. In count III, add after paragraph 3g: [¶]

h. On March 19, 1977, after Montebello Traffic Officer Gary Bouch had detained you for making an illegal left turn in your automobile, you rudely disputed the officer's explanation for the detention and sailed your driver's license through the air towards him. You informed him that, as a judge in the East Los Angeles Judicial District, you were "the boss," telling him that if he enforced the traffic regulation in the future you would dismiss the citations in your court.

6. In count V, paragraph 11: delete "1979" and substitute "the period of June, 1978, to January, 1981,"; add "or allowed" after "ordered"; add "while you remained on the phone" after "continue". The paragraph now will read:

11. In the period of June, 1978, to January, 1981, you accepted telephone calls at the bench during testimony in criminal cases and ordered or allowed the proceedings to continue while you remained on the phone.

7. In count V, add after paragraph 13: [¶]

a. You continued your practice of questioning defendants regarding the facts of their cases, without advisement of rights or in the absence of their attorneys, during the period of June, 1978, to January, 1981.

8. In count V, add after paragraph 15: [¶]

16. In People v. Viele, M173402 (1976), you failed to appear for pre-trial conference on at least one occasion, and listened to formal arguments from the litigants ex parte on August 12-13, 1976. On August 13, when you heard attorney Henry Barbosa's ex parte argument on behalf of the City of Montebello, you sat atop your clerk's desk. Then, without taking evidence or testimony, you announced that you intended to declare the municipal ordinance at issue unconstitutional because the Montebello City Council contained "some of the stupidest people in the world."

ORDER

IT IS HEREBY ORDERED that the Notice of Formal Proceedings is amended as described in the preceding Amendments and the amendments are deemed denied.

DATED: July 6, 1981.

A handwritten signature in cursive script, appearing to read "R. E. Chapman", written over a horizontal line.

HON. ROY E. CHAPMAN
Presiding Special Master