

FILED

DEC 19 2000

Commission on
Judicial Performance

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING
JUDGE PATRICIA GRAY,
NO. 159.

NOTICE OF FORMAL PROCEEDINGS

To Patricia Gray, a judge of the Sonoma County Municipal Court from January 3, 1995 to June 11, 1998, and a judge of the Sonoma County Unified Superior Court from June 12, 1998, to the present:

Preliminary investigation pursuant to Rules of the Commission on Judicial Performance, rules 109 and 111, having been made, the Commission on Judicial Performance has concluded that formal proceedings should be instituted to inquire into the charges specified against you herein.

By the following allegations, you are charged with willful misconduct in office, conduct prejudicial to the administration of justice that brings the judicial office into disrepute, improper action and dereliction of duty within the meaning of Article VI, section 18 of the California Constitution providing for removal, censure, or public or private admonishment of a judge or former judge, and providing for barring a former judge who has been censured from receiving an assignment, appointment, or reference of work from any California state court, to wit:

In March 2000, in connection with your campaign for reelection to the Sonoma County Unified Superior Court against Deputy Public Defender Elliot Daum, you distributed a campaign mailer, a copy of which is attached. The cover of the four-page mailer depicts a police officer. At the bottom of the page, in large print, "Cop Killer" appears above "NOW ELLIOT DAUM WANTS YOU TO ELECT HIM JUDGE ...". A block of text on the cover reads:

On March 29, 1995 a Sonoma County Deputy Sheriff was gunned down near Sebastapol. The murderer ordered the officer to his knees, pointed the gun to his head and executed him in cold blood.

On September 8, 1995, criminal defender Elliot Daum demanded that all charges against the cop killer be dropped. Later, Daum tried to stop the D.A. from seeking the death penalty.

Source: Official Sonoma Co. Superior Court records.

The mailer also refers to two other cases, as follows:

CASE 1

CHILD MOLESTER

Defendant repeatedly sodomized and raped an eleven year old girl. He covered her mouth with duct tape to prevent her from screaming. On the day he was arrested, he hoisted her up on the sink, ran the water so no one could hear, and raped her again.

ELLIOT DAUM:

Described the "tragedy" of this child molester going to prison. Daum claimed the Probation Department did a "hatchet job" in recommending the maximum sentence of ten years. Daum pleaded for Judge Gray to order the lightest sentence possible – three years.

Source: Official Sonoma Co. Superior Court
Transcript 9/9/99

JUDGE PATRICIA GRAY

Sentenced the child rapist to ten years and ordered him to pay restitution to the victim.

CASE 2

ARMED ROBBER

While on probation for armed bank robbery, Jermaine Qualls entered the Coddington Jewelry Store with a mask over his head and a loaded gun in his hand. The owner of the store came out of the back room with his gun to defend himself, his family and his business. Qualls headed toward the door, turned, and shot the jewelry store owner in front of the owner's two children.

Calling the prison system "the largest budding gulag in the history of the world," ELLIOT DAUM pleaded for leniency. DAUM said the armed robber never would have used his gun if the store owner didn't have his own gun.

JUDGE PATRICIA GRAY:

Sentenced Qualls to the maximum allowed. DAUM exclaimed "It's Mad Hatter's Tea Time," and stomped out of the courtroom. Forty-eight hours later, Daum filed papers to run against Judge Gray.

Source: Official Sonoma Co. Superior Court Transcript

The mailer also contains the statements, in bold type: "Elliot Daum Cares About the Rights of Violent Criminals. Judge Patricia Gray Cares About the Rights of Crime Victims." The mailer further describes you, in large bold type, as: "A Tough Judge Who Makes Criminals' Lawyers Unhappy." Mr. Daum is not identified in the mailer as a deputy public defender; he is only described as a "criminal defender."

Mr. Daum's statements, which were in fulfillment of his obligation as a court-appointed attorney to advocate for his clients, were misleadingly presented

in the mailer as representing his personal views and biases, thus implying that he was not qualified to be a judge. The mailer also implied that you might not be sufficiently concerned with the rights of persons charged with crimes, and might not be impartial toward those defendants and their attorneys. Your conduct in this regard was contrary to California Code of Judicial Ethics, canons 1, 2A, 5, and 5B.

The “cop killer” case referred to in the mailer was *People v. Scully*, a death penalty case, which at the time of the mailer was pending or impending before the California Supreme Court. The “child molester” case referred to in the mailer was *People v. McMasters*, which at the time of the mailer was pending or impending before the Court of Appeal, First Appellate District. Despite the cases not being named in the mailer, the descriptions in the mailer made them readily identifiable as the *Scully* and *McMasters* cases to justices of the Supreme Court and Court of Appeal, members of the Sonoma County legal community, and members of the public aware of the cases through media coverage or otherwise.

Although the statements in the mailer regarding the *Scully* and *McMasters* cases were purportedly from official records and transcripts, by your choice of what information to include, and how to present it, you expressed your opinion regarding the merits of the cases then pending or impending appeal. Regarding the *McMasters* case, over which you had presided, the mailer gave the appearance that you were a public advocate for your own rulings.

The statements in the mailer concerning the *Scully* and *McMasters* cases then pending or impending appeal were public comments contrary to California Code of Judicial Ethics, canons 1, 2A, and 3B(9).

YOU ARE HEREBY GIVEN NOTICE, pursuant to Rules of the Commission on Judicial Performance, rule 118, that formal proceedings have been

instituted and shall proceed in accordance with Rules of the Commission on Judicial Performance, rules 101-138.

Pursuant to Rules of the Commission on Judicial Performance, rules 104(c) and 119, you must file a written answer to the charges against you within twenty (20) days after service of this notice upon you. The answer shall be filed with the Commission on Judicial Performance, 455 Golden Gate Avenue, Suite 14400, San Francisco, California 94102. The answer shall be verified and shall conform in style to subdivision (c) of rule 15 of the Rules on Appeal. The notice of formal proceedings and answer shall constitute the pleadings. No further pleadings shall be filed and no motion or demurrer shall be filed against any of the pleadings.

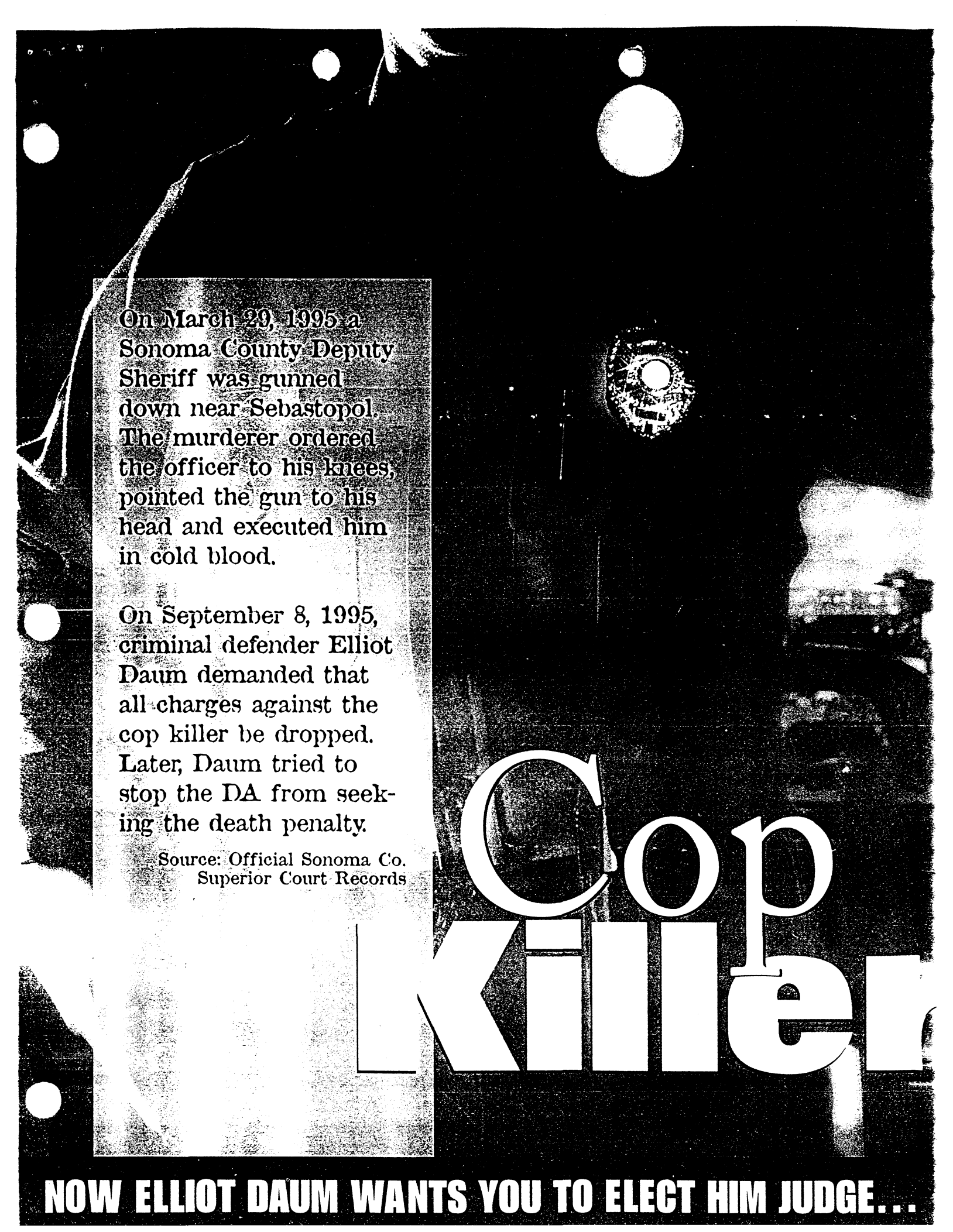
This notice of formal proceedings may be amended pursuant to Rules of the Commission on Judicial Performance, rule 128(a).

BY ORDER OF THE COMMISSION ON JUDICIAL PERFORMANCE

DATED: Dec 12, 2008



HON. DANIEL M. HANLON
CHAIRPERSON



On March 29, 1995 a Sonoma County Deputy Sheriff was gunned down near Sebastopol. The murderer ordered the officer to his knees, pointed the gun to his head and executed him in cold blood.

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Source: Official Sonoma Co. Superior Court Records

Cop Killer

NOW ELLIOT DAUM WANTS YOU TO ELECT HIM JUDGE...

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Source: Official Sonoma Co. Superior Court Transcript 9/9/99

JUDGE PATRICIA GRAY:

Sentenced the child rapist to ten years and ordered him to pay restitution to the victim.



JUDGE

A Tough Judge Who

CASE 2



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**Elliot Daum
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The Rights
Of Violent
Criminals.**

Calling the prison system "the largest budding gulag in the history of the world," **ELLIOT DAUM** pleaded for leniency. **DAUM** said the armed robber never would have used his gun if the store owner didn't have his own gun.

**Judge
Patricia
Gray**

**Cares About
The Rights
Of Crime
Victims.**

JUDGE PATRICIA GRAY:

Sentenced Qualls to the maximum allowed. **DAUM** exclaimed "It's Mad Hatter's Tea Time," and stomped out of the courtroom. Forty-eight hours later, Daum filed papers to run against Judge Gray.

Source: Official Sonoma Co. Superior Court Transcript

PATRICIA GRAY

Makes Criminals' Lawyers Unhappy.

Paid for by the Committee to Re-Elect Judge Patricia Gray
P.O. Box 12325
Santa Rosa, CA 95406

PRSRT-STD
U.S. Postage
PAID
Petaluma, CA
Permit No. 163

The People We Trust To Keep Us Safe Support Judge Patricia Gray

Sonoma County District Attorney
J. Michael Mullins

Sonoma County Sheriff Jim Piccinini

Sonoma County Deputy
Sheriff's Association

Peace Officers' Research
Association of California (PORAC)

Justice Carol Corrigan

Judge Allen Hardcastle

Judge Gayle Guynup (Ret.)

Judge Robert Boyd

Judge Raymond Giordano

Judge Arnold Rosenfield

Commissioner Dennis Beaman

Commissioner Robert Broughton

Commissioner Carla Bonilla

And Those We Elect To Make The Laws Support Judge Patricia Gray

Congressman Mike Thompson

Congresswoman Lynn Woolsey

Senator Wes Chesbro

Assemblywoman Kerry Mazzonni

Assemblywoman Pat Wiggins

What They Are Saying About Judge Patricia Gray

"Repeat offenders should be punished accordingly. Judge Gray understands the difference."

— *Sonoma County District Attorney
Michael Mullins*

"Pat is tough, but compassionate. She demands greater accountability from offenders, and works hard to do a good job."

— *Judge Gayle Guynup (Ret.)*

"Patricia Gray has a solid record of protecting our community and applying the law in a fair, firm and knowledgeable manner. She provides respect, civility and dignity to our local bench."

— *Congressman Mike Thompson*

"Judge Gray holds people accountable for their actions, and is always ready to work with other leaders to improve the criminal justice system."

— *Sonoma County Jim Sheriff Piccinnini*



Tuesday, March 7th

Re-Elect

JUDGE PATRICIA GRAY

TOUGH. INDEPENDENT.

LAW ENFORCEMENT'S CHOICE FOR JUDGE

FILED

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ACKNOWLEDGMENT OF SERVICE
OF THE NOTICE OF FORMAL
PROCEEDINGS

I, Peter Gubbins, on behalf of my client, Judge Patricia Gray, hereby waive personal service of the Notice of Formal Proceedings in Inquiry No. 159 and agree to accept service by mail. I acknowledge receipt of a copy of the Notice of Formal Proceedings by mail and, therefore, that Judge Gray has been properly served pursuant to Rules of the Commission on Judicial Performance, rule 118(c).

Dated: _____

12/18/00



Peter Gubbins

Attorney for Judge Patricia Gray,
Respondent