

COMMISSION ON JUDICIAL PERFORMANCE
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FOR RELEASE
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JUDICIAL PERFORMANCE COMMISSION ISSUES
PUBLIC ADMONISHMENT OF JUDGE LISA GUY-SCHALL

The Commission on Judicial Performance has publicly admonished Judge Lisa Guy-Schall of the San Diego County Unified Superior Court. The admonishment is attached.

The commission is composed of six public members, three judges and two lawyers. One of the public member positions is currently vacant. The Chairperson is the Honorable Daniel M. Hanlon of the Court of Appeal, First Appellate District in San Francisco.

PUBLIC ADMONISHMENT OF JUDGE LISA GUY-SCHALL

The Commission on Judicial Performance has ordered Judge Lisa Guy-Schall 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

On December 18, 1995, Joanna Slivka appeared before Judge Guy-Schall for a hearing on a petition for a restraining order against Ms. Slivka. During the hearing, Ms. Slivka began yelling and acting aggressively, and Judge Guy-Schall ordered her out of the courtroom. While Ms. Slivka was outside the courtroom, Judge Guy-Schall had her bailiff ask Ms. Slivka if she would be willing to reappear in court and keep herself under control; the bailiff reported to the judge that Ms. Slivka had responded that if the judge would not allow her to tell her story, she would probably “go off” again. In Ms. Slivka’s absence, without citing her for contempt or having her returned to the courtroom, Judge Guy-Schall found her in contempt and sentenced her to five days in jail. The order issued by Judge Guy-Schall stated that Ms. Slivka was in direct contempt and was to serve five actual days in jail. With respect to the facts underlying the finding of contempt, the order stated, “full order and findings are set forth in the reporter’s transcript that is order [sic] this date.” Ms. Slivka was taken into custody outside the courtroom and remained in custody for five days.

Judge Guy-Schall’s actions constituted an abuse of the contempt power. By failing to return Ms. Slivka to court to inform her that she was in contempt, failing to give her a chance to respond to the contempt order, and finding her in contempt in her absence, Judge Guy-Schall failed to follow the required procedures for holding an individual in contempt of court. (See, *Ryan v. Commission on Judicial Performance* (1988) 45 Cal.3d 518, 533, in which the commission and the California Supreme Court found that a judge committed willful misconduct by holding a litigant in contempt in her absence and incarcerating her, for a remark uttered as she left the courtroom.) The contempt order entered by Judge Guy-Schall failed to state on its face facts sufficient to constitute a contempt, as also required by law. (See, *In re Baroldi* (1987) 189 Cal.App.3d 101, 110; *Cannon v. Commission on Judicial Qualifications* (1975) 14 Cal.3d 678, 694.) Judge Guy-Schall, who had been a judge for ten years at the time of the incident, was obligated to know or research proper contempt procedures. (See, *Cannon, supra*, 14 Cal.3d at p. 694; *Ryan, supra*, 45 Cal.3d at p. 533.)

The contempt power, which permits a single official to deprive a citizen of his fundamental liberty interest without all of the procedural safeguards normally accompanying such a deprivation, must be used with great prudence and caution. It is essential that judges know and follow proper procedures in exercising this power. (See, *Furey v. Commission on Judicial Performance* (1987) 43 Cal.3d 1297, 1314; *Ryan v. Commission on Judicial Performance, supra*, 45 Cal.3d at p. 533; *Cannon v. Commission on Judicial Qualifications, supra*, 14 Cal.3d at p. 694.)

Judge Guy-Schall has informed the commission that this is the only instance in which she has found an individual in contempt. However, she has acknowledged no problems in her handling of this matter.

Commission members Justice Daniel M. Hanlon, Ms. Lara Bergthold, Mr. Mike Farrell, Mr. Michael A. Kahn, Mr. Patrick M. Kelly, Mrs. Crystal Lui, Judge Rise Jones Pichon, Ms. Ramona Ripston, and Ms. Julie Sommars voted to impose a public admonishment. Judge Madeleine I. Flier voted against public admonishment and would have imposed a less severe sanction. Dr. Donald E. Vinson did not participate.