

**STATE OF CALIFORNIA**  
**BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE**

**IN THE MATTER CONCERNING  
JUDGE DANIEL J. HEALY**

**DECISION AND ORDER IMPOSING  
PUBLIC ADMONISHMENT**

This disciplinary matter concerns Judge Daniel J. Healy, a judge of the Solano County Superior Court. Judge Healy and his attorney, Harlan B. Watkins of Murphy Pearson Bradley & Feeney, appeared before the commission on October 15, 2014, to object to 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 Healy 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 conclusions.

STATEMENT OF FACTS AND LEGAL CONCLUSIONS

Judge Healy has been a judge of the Solano County Superior Court since January 2011. His current term began on January 3, 2011.

The commission determined that Judge Healy should be publicly admonished for violating the California Code of Judicial Ethics in multiple family law cases over which he presided in 2012 and 2013.

1. *K.B. v. E.B.*

Judge Healy presided over the family law case *K.B. v. E.B.*, in which the dissolution petition had been filed on August 19, 2013.<sup>1</sup> On August 23, 2013, the issues before Judge Healy included allegations that the mother had driven in the middle of the night, while intoxicated, with the parties' small child in the car.

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<sup>1</sup> Case names and the identities of certain persons have been redacted to protect the privacy rights of minors.

a. On August 23, after some discussion with the parties regarding the issues, Judge Healy stated that he would recall the case in the afternoon to “get to the bottom of” what had happened. The mother said that she would like a chance to respond to the judge’s statements about the case, and Judge Healy said that the parties would get their chance, and stated, “[B]ut I don’t think either of you understand the beatdown that is coming, because this child deserves a thousand times better than all of this drama.”

The case was recalled that afternoon. Judge Healy stated that he thought the parties were “just rotten”:

Here’s what I think. I think that I do not have any evidence in front of me rising to the level of any chronic abuse of anything or rises [*sic*] to a level regarding drugs or alcohol. I just think, to be honest with you, sometimes people are just rotten, and they can’t respect other people. Everything’s drama. It’s like they’re trying out for Jersey Shore. You guys just both strike me as rotten. Maybe what I should do is have CPS save your child from both of you because you are both rotten.

Later, after the mother told Judge Healy that she was trying to prove to him that she was not lying, Judge Healy said: “Okay. Why don’t you prove to me that you recognize what a train wreck you are, and then maybe we’ll be somewhere?” Judge Healy continued to call her a “liar” and stated:

Everything you have said you have put into doubt because you have been such a liar. So I don’t know why you think you deserve anything about [*sic*] a cell door closing behind you.

Near the end of the August 23 proceedings, Judge Healy stated, “[T]he question is how hard do I have to beat you before we get going, and I’ve been – I know I’ve been beating you pretty hard here today.”

During further proceedings in *K.B. v. E.B.* on August 27, 2013, Judge Healy told the mother’s then-attorney that she was “executing the wrong play book” and “ought to be groveling like there is no tomorrow and you ought to be trying to re-boot, create a little time out trying to undo some of the damage your client has done rather than selling her as something other than the total human disaster that she is or at least appears to be so far.”

Judge Healy's remarks while presiding over *K.B. v. E.B.* constituted a failure to be patient, dignified, and courteous, in violation of canon 3B(4), which states that a judge "shall be patient, dignified, and courteous to litigants . . . and others with whom the judge deals in an official capacity . . . ."

b. Judge Healy also attempted to influence another judicial officer's handling of an arrest warrant regarding the father in the *K.B. v. E.B.* case and appeared to become embroiled in the case. During the proceedings on August 23, 2013, Judge Healy stated that he had located a criminal file regarding the father on a judicial colleague's desk and reviewed a police report regarding the father's alleged domestic violence against the mother. Judge Healy expressed his opinion to the parties that "the event, even if true, did not rise to the level where the police should have summarily sought an arrest warrant without fully investigating the incident." Judge Healy stated that he would communicate with his judicial colleague "during the lunch hour, but what I'm going to suggest is it's probably not appropriate, based upon all of the facts and circumstance[s] here, that he summarily issue a bench warrant for [the father]'s arrest." Judge Healy stated that "obviously the District Attorney has submitted a complaint and you're going to have to litigate that, but I will try to minimize the blow-back from that and see if you can walk it in, or calendar it, rather than that. I suppose someone may be in contact with you." Judge Healy stated the following to the attorney then appearing for the father: "[Y]ou may want to call my assistant sometime this afternoon and see if we have ascertained a different manner of proceeding with that case."

Later in the case, Judge Healy stated that he had attempted, without success, to influence the handling of this arrest warrant by another judicial officer. In the afternoon, Judge Healy said, "[T]here is a possibility that there will be a warrant for [the father] based on the June-something incident out there, and I'm not sure what's going to happen with all of that." The judge further stated that he "did try to do some things" with the "criminal thing floating around there" about the father, but he was "not sure it was successful." Judge Healy said that the father maintaining custody of the child might be moot depending on law enforcement actions and that he was "not sure what to make of that."

On August 27, 2013, Judge Healy presided over further proceedings in the family law case. After counsel stated that whether the father would be remanded on the arrest warrant was “up to this Court,” Judge Healy responded that it was “not up to me” and then described his attempts to influence another judge’s decision as to whether to issue the arrest warrant and his questions about whether the mother’s report of domestic violence could be trusted:

I didn’t issue the warrant. I actually – through the – just so you know, in full candor, on an ex parte we knew that warrant was sitting on another Judge’s desk. I went and told that Judge that I had serious problems with at least a warrant going out. The District Attorney had filed a Complaint. Obviously had to be litigated because based on what I had heard there was incredibly significant questions about [the mother]’s veracity given the serial lying that she had done here on the record on Friday.

So I thought – so now some bonds man’s [*sic*] going to make four grand because our system lacked the flexibility to deal with these situations. To a certain extent I think that’s unfortunate but I don’t have control. I did what I did.

Near the end of the August 27 proceedings, Judge Healy stated that he suspected that there would be a problem with the family law case if the criminal case against the father “goes on for a while. It could go on for a year. I’m going to hope – well, I’m not going to try to solve that problem today.”

Judge Healy’s attempt to influence another judicial officer’s handling of an arrest warrant reflected, or at least created the appearance of, embroilment, particularly in light of his treatment of the mother in *K.B. v. E.B.*, and constituted a failure to uphold the integrity and independence of the judiciary (canon 1), and a failure to act at all times in a manner that promotes respect for the integrity and impartiality of the judiciary (canon 2A).

## 2. *N.C. v. M.D.C.*

On August 23, 2013, Judge Healy presided over the family law case *N.C. v. M.D.C.* Judge Healy made threatening remarks, in violation of canon 3B(4), when he said, “I guess what I’m wondering is, what are we going to do with the child when both parents are in jail after I put [the father] in jail for failing to follow my court orders about

not despairing [*sic*] the other parent, and I put [the mother] in jail for lying to me?”

Judge Healy later stated: “Just so both of you know, I’m only trying to get your attention. I can’t unilaterally put people in jail. You’re entitled to a hearing. I would have to cite you with contempt, it would be me [*sic*] a couple weeks to put you in jail. But I just want you to be thinking about that question because we may be running out of options here.”

3. R.C. v. M.E.

On August 27, 2013, Judge Healy presided over a custody motion in the family law case *R.C. v. M.E.* Judge Healy remarked that if the mother “had been smart enough,” her son would not have had to go through the process of changing schools. Judge Healy remarked that “[n]ow your son is screwed” because of these problems. Judge Healy’s remarks violated canon 3B(4).

4. K.A. v. S.H.

On the morning of August 27, 2013, Judge Healy presided over the family law case *K.A. v. S.H.* The father’s vulgar and threatening text messages to the mother about child exchanges were at issue, including the statement, “Bitch, trust me, bitch, I’m not having it.” Judge Healy told the father that this conduct was unacceptable and then speculated as to what the father was thinking: “I know how I’m going to solve this problem, she’s not following court orders so I’m going to talk to her like some ghetto whatever; where did that come from?” Judge Healy expressed his concern that if in the future the children get into conflict, “[t]hey’re going to do something stupid and thuggish because their father is stupid and thuggish.” After the father offered that his neighbors knew him to be a person who would not allow harm to his children, the judge asked if he talked to his neighbors like he had talked to the mother in the case: “Do you call your neighbors[’] wives bitches and hoes, all that. Is [*sic*] just how you roll in your neighborhood?”

Later in the hearing, Judge Healy made a harsh and threatening remark about remanding the parents to jail and taking away their child when he stated the following after the mother spoke directly to the father: “You don’t talk to each other. Can I be honest with you, either one of you are about 60 seconds away from putting you both to

jail and putting you over to 1:30 and calling CPS and finding a better home for your kids.” (*Sic.*)

In the afternoon, the case was recalled and Judge Healy stated that at the next hearing the parties could present proof of any improper text messages they had received, that depending on his mood he might cite them with contempt, and that “I can’t put [you in] jail that day, but I can appoint a public defender for you and tell you that I’m going to upon a hearing probably put you in jail.” Judge Healy said, “[The parties] could be in jail ‘till [*sic*] your kids are adults if I’m in the wrong mood the next time I see you.”

Judge Healy told the parties that life was too short to let kids be “tortured by rotten parents like you two.”

Judge Healy’s remarks to and about the parents were undignified and discourteous (canon 3B(4)) and could also be reasonably perceived as reflecting bias or prejudice (canon 3B(5)).

5. *N.D. v. L.F.*

On August 27, 2013, Judge Healy presided over the family law case *N.D. v. L.F.* Judge Healy remarked that the father’s claim that he would get a job was “pie in the sky” and that the father was claiming that he would get a job “even though I [in reference to the father] admittedly am morbidly obese and at risk of dying any time . . . .”

Judge Healy’s remarks were undignified and discourteous (canon 3B(4)).

6. *A.A. v. R.M.*

On December 17, 2012, Judge Healy presided over the family law case *A.A. v. R.M.* During that hearing, the judge made the following remarks reflecting a lack of courtesy (canon 3B(4)):

So, just an observation. This is the first time I’ve seen you, but if you are exposing your daughter to one-fifth of the attitude I’m getting from you right now, you might as well have her start walking the streets as a hooker, because that’s the life you’re going to subject her to when you treat her like this, when you flash this attitude like this.

Judge Healy's conduct in the matters described above was, at a minimum, improper action.

### DISCIPLINE

The commission determined to issue this public admonishment in view of the number of incidents of misconduct, the judge's apparent lack of insight into the impropriety of his treatment of litigants, and the negative impact of the misconduct on the judicial system. (See *Inquiry Concerning Judge Bruce Van Voorhis* (2003) 48 Cal.4th CJP Supp. 257, 296-300; Policy Declaration 7.1(1)(a), 2(a), 1(h).) Judge Healy made multiple denigrating and undignified comments to family law litigants, most of whom were unrepresented by counsel, in multiple proceedings. And, in one case, he engaged in misconduct reflecting, at a minimum, the appearance of embroilment.

Although at his appearance before the commission Judge Healy acknowledged the impropriety of his conduct, in his response to the preliminary investigation and in his written objections to the notice of intended public admonishment, he consistently defended the specific incidents of misconduct as being appropriate in the context of the cases before him and maintained that he did not violate the canons. He argued that blunt and evocative language is sometimes necessary to compel litigants to gain awareness of their circumstances, the harm that they are causing their children, and the importance of respect and cooperation. The commission disagrees. Referring to litigants as "rotten," "stupid and thuggish," and a "total human disaster," and telling litigants their child "might as well start walking the streets as a hooker," is the antithesis of imparting the importance of respect.

Improper judicial demeanor impacts the fairness of judicial proceedings and respect for the judicial institution, and "[t]he canons' insistence on appropriate judicial demeanor rests on the idea that such demeanor is one of those things that is central to the appearance and reality of fairness and impartiality in judicial proceedings." (Rothman, Cal. Judicial Conduct Handbook (3d ed. 2007) § 2.46, p. 93.) The commission recognized that the family law cases addressed in this matter were high-conflict and difficult cases. However, the contentious nature of a case, which is not uncommon in

family law, does not relieve a judge from the duty to treat litigants in a dignified, respectful and courteous manner as required by the Code of Judicial Ethics. As the commission previously stated in *Inquiry Concerning Judge Bruce Van Voorhis, supra*, 48 Cal.4th CJP Supp. 312-313:

The public looks to judges to set the tone of judicial proceedings. When a judge mistreats staff, belittles counsel or gives vent to his or her anger or frustration, the audience is not only concerned about the result in the specific matter before the court, but worries that other parties, lawyers, jurors and employees will be subjected to similar mistreatment.

Remarks such as Judge Healy's are improper even if there is no objection from those on the receiving end, over whom the judge wields vast power. Some of the litigants in fact did voice their objections on the record. The mother in *K.B. v. E.B.* told Judge Healy that she was "not a rotten person." The mother in *A.A. v. R.M.* took exception to Judge Healy's remarks about her child, as reflected in the following:

Ms. [M]: So, I take kind of offense when you said what you said earlier about our child.

THE COURT: Okay. Well, if you take –

Ms. [M]: She's a very smart and bright child.

THE COURT: Okay. Well, I mean, you can take it however you take it, but we're in here talking about your child and when you flash all this attitude, all I can assume is that when the subject is your child and this is the attitude you're flashing, that it permeates your relationship with her.

These objections to his demeaning characterizations of litigants and their children should have provided notice to the judge that his conduct was improper, in addition to the clear guidance of canon 3B(4) that he shall be dignified and courteous to litigants and others appearing before him.

The commission appreciates that at his appearance before the commission Judge Healy expressed recognition of the impropriety of demeaning litigants. Further, the commission recognizes that Judge Healy's conduct may have been motivated by a desire to help families move forward in a positive direction, and that it appears he took an active



interest in the family law cases before him and in attempting to achieve positive outcomes in those cases. Nonetheless, these goals can and must be accomplished in a manner that comports with the Code of Judicial Ethics.

For the foregoing reasons, the commission determines to issue this public admonishment.

The vote of the commission to impose a public admonishment was ten ayes and zero noes. Hon. Erica R. Yew; Anthony P. Capozzi, Esq.; Ms. Mary Lou Aranguren; Hon. Thomas M. Maddock; Nanci E. Nishimura, Esq.; Hon. Ignazio J. Ruvolo; Mr. Lawrence J. Simi; Mr. Richard Simpson; Ms. Maya Dillard Smith; and Ms. Sandra Talcott voted for a public admonishment. Commission member Mr. Adam N. Torres did not participate.

Dated: November 5, 2014



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Honorable Erica R. Yew  
Chairperson