

COPY

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING A JUDGE
No. 72

AMENDED
NOTICE
OF
FORMAL
PROCEEDINGS

TO: JUDGE DAVID M. KENNICK:

IT APPEARING THAT since June 28, 1972 and at all times herein, you have been a judge of the Municipal Court, Los Angeles Judicial District, Los Angeles County; 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,

NOW, THEREFORE, you are hereby charged with wilful misconduct in office, conduct prejudicial to the administration of justice that brings the judicial office into disrepute and persistent failure or inability to perform your judicial duties. The particulars of the charges are as follows:

1. It is charged that on August 22, 1985, you went to the California Highway Patrol Office and spoke with Sgt. Bladow about your arrest the previous day for driving under the influence of alcohol. You allegedly said that you would like to make a deal or something; asked if the paperwork could get lost between the office and the court, and asked if something could be worked out with the Captain. It is charged that you abused your authority as a judge in an attempt to obtain preferential treatment.

2. It is charged that at the time of your arrest for driving under the influence of alcohol on August 21, 1985 you refused to cooperate by behaving in a rude and abusive manner toward the investigating officers, by refusing to complete field sobriety tests, and by

refusing to submit to a chemical test of your blood, breath or urine despite the implied consent provisions of Vehicle Code Section 13353.

3. It is charged that on October 1, 1985 you were convicted in the Los Cerritos Municipal Court, on a plea of nolo contendere, of the offense of driving under the influence of alcohol on August 21, 1985.

4. It is charged that you have been demeaning, rude, impatient, and/or abusive to individuals appearing before you and have conducted yourself in a manner which reflects adversely upon the judiciary. This behavior is exemplified by, but not limited to, the following incidents:

a. On December 24, 1985, at a preliminary hearing in People v. John Charles Brown, No. A032337, you said to deputy district attorney Shirley Donoho during her direct examination of an officer witness, "I'm going to take this over, counsel. This is ridiculous." When the deputy district attorney then objected to certain questions you asked, you became angry and told her that she was "not to come in here again."

b. In approximately the summer of 1985, after a preliminary hearing in a robbery case at which you sharply curtailed direct examination conducted by deputy district attorney Barbara Channell, you called Ms.

Channell into chambers and, without any apparent cause, angrily accused her of creating a security hazard in the courtroom. You raised your voice and pointed your finger at Ms. Channell, who was astonished and upset by your accusation.

c. You allegedly have referred to female attorneys and others appearing before you, including deputy district attorney Barbara Channell, as "sweetie," "sweetheart," "honey," or "dear."

d. You allegedly have been discourteous, impatient, and demeaning to litigants appearing before you in criminal and civil cases including Betty Manard, who appeared before you as the defendant in a small claims matter on approximately October 9, 1986.

e. During your assignment to the central arraignment court in approximately 1983 to 1984, a judicial colleague, Supervising Judge David Doi, believed that you were making an extremely high number of Penal Code Section 987.2 appointments to private attorneys Theodore Veganes and David Pantoja. When Judge Doi attempted to discuss this matter with you to suggest centralization of all court appointments from his courtroom so that private attorneys other than Mr. Veganes and Mr. Pantoja would receive more appointments, you reacted by yelling at him in a loud, angry and abusive manner.

f. You allegedly have screamed at Deputy City Attorney Carol Rose in an abusive manner in open court when Ms. Rose attempted to make a bail motion. On a second occasion you screamed at Ms. Rose in abusive manner in your chambers when Ms. Rose attempted to suggest that some of the eleven conflict cases on the afternoon calendar, on all of which David Pantoja was the appointed counsel, be reassigned to other counsel in order to expedite the calendar.

g. On or about January 21, 1986 during Deputy District Attorney Arthur Lew's examination of a witness at the preliminary hearing, People v. Michael Siravo, A 032461, you stood up, announced a recess, threw down your pencil, addressed Mr. Lew as "you asshole," and left the bench. This conduct occurred in open court and in the presence of the investigating officer, Los Angeles Police Department Detective Julie Nelson.

h. You have been rude and intimidating to witnesses, unnecessarily interrupting their testimony, at times harshly admonishing them to "just answer the question," and causing the witnesses to become upset.

i. You have intimidated counsel and curtailed questioning at preliminary hearings and have interrupted and taken over questioning as exemplified by your conduct in People v. John Charles Brown, A 032337,

People v. Michael Siravo, A 032461, and People v. Robert Barker, Jr. A 031137.

5. It is charged that you have shown favoritism to private attorney Theodore Veganes, with whom you have jointly owned property in Hawaii since 1976, and to private attorney David Pantoja by conduct which includes, but is not limited to, the following:

a. Exercising your power of appointment in their behalf on an extremely high number of cases during the years 1983 to 1986.

b. Ex parte conversations in your chambers with these two attorneys on a number of occasions when they were appearing on appointed cases.

c. Your loud and abusive outburst at Judge David Doi as alleged in paragraph 4. e. of this notice.

d. Your loud and abusive outburst at former Deputy City Attorney Carol Rose as alleged in paragraph 4. f. of this notice.

6. You have denied parties, or their attorneys, the full right to be heard according to the law. This behavior is exemplified by, but not limited to, the incidents charged in paragraphs 4 a., 4 b., 4 d., 4 f., 4 h., 4 i. of this notice.

7. It is alleged that on or about the evening of February 22, 1985, you failed to conduct yourself in a

manner that promotes confidence in the integrity and impartiality of the judiciary when you sat at a bar in Cigo's Restaurant in San Pedro for a period of several hours and during that period engaged in a conversation with Mary Davis, a waitress at the restaurant, in which you repeatedly implied that she should not worry about her recent arrest for drunk driving because you could in some manner exert influence to affect the disposition of the case.

8. It is alleged that in 1983 to 1986 you persistently failed to perform your judicial duties by being frequently absent from the courthouse, maintaining abbreviated working hours and delegating your judicial responsibilities to others; this conduct rendered you unavailable for judicial services, placed a burden on your judicial colleagues, injured the administration of justice, and failed to promote public confidence in the integrity of the judiciary. This conduct is exemplified by, but not limited to, the following:

a. You have maintained abbreviated working hours, beginning work at 10:00 or 10:30 a.m., taking lunch breaks of two to three hours and often stopping work at 4:00 p.m. or earlier.

b. You did not work approximately ninety-six and one-half days between March 8, 1985 and

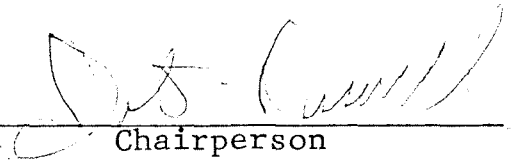
December 31, 1986; you reported inability to work for health reasons on 21 of those days. You apparently have stopped working and are not working in 1987.

It is charged that your conduct constitutes wilful misconduct in office, conduct prejudicial to the administration of justice which brings the judicial office into disrepute, and persistent failure or inability to perform your judicial duties within the meaning of subdivision (c) of section 18, Article VI, of the California Constitution.

You have the right to file a written answer to the charges against you within fifteen (15) days after service of this notice upon you with the Commission on Judicial Performance, 1390 Market Street, Suite 304, San Francisco, California 94102. Such answer must be verified, must conform in style to subdivision (c) of Rule 15 of the Rules of Court, and must consist of an original and eleven (11) legible copies.

BY ORDER OF THE COMMISSION ON JUDICIAL PERFORMANCE.

DATED: Mar. 13 1987


Chairperson