

COMMISSION ON JUDICIAL PERFORMANCE  
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FOR RELEASE  
December 1, 1997

JUDICIAL PERFORMANCE COMMISSION ISSUES PUBLIC ADMONISHMENT OF  
JUDGE RONALD MACIEL

The Commission on Judicial Performance has publicly admonished Judge Ronald Maciel of the Kings County Municipal Court, Lemoore Division. The admonishment is attached.

The commission is composed of six public members, three judges and two lawyers. The Chairperson is Robert C. Bonner, Esq. of Los Angeles, California.

## **PUBLIC ADMONISHMENT OF JUDGE RONALD MACIEL**

The Commission on Judicial Performance has ordered Judge Ronald Maciel 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 March 28, 1996, Judge Maciel presided over the arraignment of defendant Kevin Galik in the capital murder case of *People v. Galik*, case number L965205. On this date, Judge Maciel appointed contract attorney Marianne Brock to represent Galik and continued the arraignment to May 17, 1996. Following the March 28, 1996 hearing, Judge Maciel, who was then the presiding judge, assigned the *Galik* case to Municipal Court Judge John O'Rourke.

On April 1, 1996, Judge Maciel initiated a telephone conversation with Ms. Brock. Judge Maciel advised Ms. Brock that he had assigned the *Galik* case to Judge O'Rourke and discussed with her the option of filing a peremptory challenge against Judge O'Rourke. In this conversation, Judge Maciel also suggested to Ms. Brock that she prepare an order for investigator funds and consider a polygraph test. During the discussion of the peremptory challenge, Judge Maciel erroneously told Ms. Brock that the statutory period for filing the challenge was thirty days.

On April 2, 1996, Judge Maciel attempted to reach Ms. Brock by telephone after he realized that he had erroneously advised her concerning the statutory period for filing a peremptory challenge. Judge Maciel was unable to reach Ms. Brock directly and instead left the court's telephone number on her pager. Judge Maciel instructed a clerk to tell Ms. Brock when she called: "It's ten days, not thirty." When Ms. Brock returned the page that day, she was advised of this message by a clerk.

On April 4, 1996, Judge Maciel initiated another telephone conversation with Ms. Brock. Judge Maciel engaged Ms. Brock in a discussion concerning a hearing in the *Galik* case that Ms. Brock had calendared for April 5, 1996. Judge Maciel also asked Ms. Brock if she had applied for investigator expenses and made suggestions to her relating to defense strategies.

Judge Maciel did not disclose any of the above communications with Ms. Brock to the district attorney's office.

On April 5, 1996, the *Galik* case was reassigned to Judge Maciel after Judge O'Rourke was disqualified pursuant to a peremptory challenge filed by Ms. Brock.

On May 6, 1996, the district attorney's office filed a Code of Civil Procedure section 170.1 motion to disqualify Judge Maciel for cause after learning of the undisclosed ex parte communications with Ms. Brock. On May 9, 1996, Judge Maciel filed a response to the motion in which he consented to the case being assigned to another judge. The *Galik* case was subsequently assigned to another judge.

Judge Maciel's conduct and the challenge for cause filed against him received substantial publicity.

The commission found that Judge Maciel's communications to Ms. Brock on April 1, 2, and 4 were improper. Canon 3B(7) prohibits a judge from initiating, permitting, or considering ex parte communications concerning a pending or impending proceeding. The California Supreme Court has found ex parte communications between a judge and an attorney to constitute conduct prejudicial to the administration of justice. See *Kennick v. Commission on Judicial Performance* (1990) 50 C.3d 297, 331-332; *Roberts v. Commission on Judicial Performance* (1983) 33 C.3d 739, 743-748. The Supreme Court has also found prejudicial conduct where a judge communicated with and provided legal assistance to attorneys concerning matters pending before other judges. See *Adams v. Commission on Judicial Performance* (1995) 10 C.4th 866, 906-908. The commission also found that Judge Maciel's conduct created, at a minimum, the appearance of a lack of impartiality and damaged public confidence in the judiciary. Canon 2A requires a judge to respect and comply with the law and to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

The vote of the commission on issuance of the Public Admonishment was 7 ayes and 2 noes. The two commission members who voted against issuance of the public admonishment believed a more severe sanction was warranted.