

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING A JUDGE

No. 58

NOTICE
OF
FORMAL PROCEEDINGS

TO: JUDGE ROBERT Z. MARDIKIAN

IT APPEARING THAT from June 14, 1974, to July 28, 1977, you were a Judge of the Municipal Court, County of Fresno, and that since July 28, 1977, you have been a Judge of the Superior Court, County of Fresno; 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, persistent failure or inability to perform your duties as a judge and violation of your oath to well and faithfully discharge the duties of your office, in the following particulars:

COUNT ONE

You are charged in Count One with persistent failure and inability to perform your judicial duties.

A. There have been submitted matters in your court which were ready for disposition but which remained undecided for excessive and unacceptable periods of time constituting inordinate delay. These cases include the following:

1. Landucci v. Landucci (No. 247633-1); submitted December 15, 1980; decided 420 days later on February 18, 1982.

2. Gabrielson v. Gabrielson (No. 251572-2); submitted January 30, 1981; decided 375 days later on February 9, 1982.

3. Harang v. Frieson (No. 251608-6); submitted March 24, 1981; decided 374 days later on March 2, 1982.

4. Jordan v. Routt (No. 244566-6); submitted July 10, 1981; decided 215 days later on February 10, 1982.

5. Sakamoto v. Cobb (No. 246098-8); submitted September 15, 1981; decided 210 days later on April 13, 1982.

6. People v. J & F Enterprises (No. 254998-8); submitted July 30, 1981; decided 338 days later on June 23, 1982.

7. Booker v. Booker (Nos. 263895-5, 263887-2); submitted August 17, 1981; decided 179 days later on February 12, 1982.

8. Garcia v. Garcia (No. 267690-6); submitted September 17, 1982; decided 423 days later on November 15, 1983.

9. Fleming v. Fleming (No. 262799-0); submitted September 22, 1982; decided 378 days later on October 5, 1983.

10. Ginella v. Brown (No. 279348-7); submitted February 9, 1983; decided 269 days later on November 10, 1983.

11. People v. Kenneth Ray Allen (No. 281712-0); submitted February 18, 1983; decided 238 days later on October 14, 1983.

12. Oliver v. Oliver (No. 285999-9); submitted March 16, 1983; decided 205 days later on October 7, 1983.

13. Knaak v. Knaak (No. 269735-7); submitted April 22, 1983; decided 178 days later on October 12, 1983.

14. Irestone v. Irestone (No. 274317-7); submitted June 24, 1983; decided 131 days later on November 2, 1983.

B. You failed to decide timely those cases identified in Paragraph A, subparagraphs 8 through 14, notwithstanding prior investigation by and communication with the Commission concerning those cases identified in Paragraph A, subparagraphs 1 through 7.

COUNT TWO

For a further and separate cause of action, you are charged in Count Two with wilful misconduct in office.

A. From 1981 to 1983, you have executed salary affidavits

pursuant to Government Code Section 68210 during those periods of time when submitted cases in your court remained undecided in excess of ninety days, and many of these affidavit executions were false and known by you to be false.

B. It is asserted that between 1981 and 1983 you have received the salary for your judicial office while there were causes pending and undecided over ninety days after they were submitted for decision in violation of California Constitution, Article VI, Section 19.

C. From 1981 to 1983, you have deliberately and intentionally attempted to evade constitutional and statutory requirements by purporting to "resubmit" undecided cases without request by or consent of the parties or counsel involved and without legal cause.

COUNT THREE

For a further and separate cause of action, you are charged in Count Three with conduct prejudicial to the administration of justice which brings the judicial office into disrepute.

A. The allegations contained in Paragraphs A and B of Count One are hereby incorporated by reference herein. It is alleged that your failure to decide your cases timely was the product of an intentional disregard of and refusal to perform your duties.

B. The allegations contained in Paragraphs A, B and C of Count Two are hereby incorporated by reference herein.

C. In August, 1983, you solicited several county employees to donate portions of their accrued leave credits to

a personal friend of yours, Pat Espinola, pursuant to a Fresno County personnel practice, in order that she be able to remain away from work on sick leave, without loss of salary and termination of benefits, and that you thereby abused your judicial office and your position as Presiding Judge of the Fresno County Superior Court.

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, Room 3052, State Building, 350 McAllister Street, San Francisco, California 94102. Such answer must be verified, must conform in style to subdivision (c) of Rule 15 of the rules on Appeal, and must consist of an original and eleven (11) legible copies.

By Order of the Commission on Judicial Performance.

Dated: _____

Mar. 23, 1984

Chairperson

John B. Randall

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NO. 58)

DECLARATION OF
PERSONAL SERVICE

I, Albert J. Fox, declare as follows:

I am and was at the time of service of the

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herein, over the age of 18 years, and was not a party to the above proceeding; that I served the said document(s) by delivering a true copy thereof to each of the following named person(s), personally:

<u>NAME</u>	<u>ADDRESS</u>	<u>DATE</u>
Robert J. Mardikian, Judge Fresno Co. Superior Court.	Fresno County Courthouse	4-3-84

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on the 4th day of April, 1984,
at Fresno County, California.

Albert J. Fox