

**FILED**

**MAR 26 2012**

**Commission on  
Judicial Performance**

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

**INQUIRY CONCERNING JUDGE  
SALVADOR SARMIENTO  
No. 191**

**ANSWER OF JUDGE SALVADOR  
SARMIENTO**

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Judge Salvador Sarmiento

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COMES NOW, Respondent Judge Salvador Sarmiento, and answering the Notice of Formal Proceedings in the above-entitled inquiry, admits, denies and alleges as follows:

ADMITS that on November 18, 2010 his wife received a traffic citation from the Santa Ana Police Department for violating Vehicle Code Section 21950(a) (failing to yield to pedestrian in crosswalk). The ticket was filed with the court on December 21, 2010. A "courtesy notice," which listed the cost to pay the ticket (referred to as total bail), and described the methods for making payment and other traffic procedures, was mailed by the Court on December 22, 2010. The total bail amount was \$234 and that pay-or-appear-by-date was January 19, 2011.

ADMITS that no action was taken on the ticket by the January 19, 2011 deadline.

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ADMITS that no action was taken on ticket within the grace period, and on Monday, February 7, 2011, a final notice was sent from the collection unit which stated that an additional \$300 civil assessment was now owed.

LACKS INFORMATION OR KNOWLEDGE TO EITHER ADMIT OR DENY the allegations of the fourth paragraph on page 2 concerning the procedures for setting a trial for a traffic ticket. Judge Sarmiento approached Commissioner Carmen Luege to understand the procedures and options for handling the s traffic ticket.

ADMITS that he has been assigned to Department 50 of the Central Courthouse in Santa Ana since approximately February 2010. In February 2011, traffic matters were being heard in the Central Courthouse in Department 54, by Commissioner Carmen Luege.

ADMITS that he obtained a printout of the "Case Summary" of his wife's traffic ticket on the publically available Orange County Superior Court website ([www.occourts.org](http://www.occourts.org)) and that on the morning of Thursday, February 10, 2011, at a break, he walked to Commissioner Luege's chambers, announcing himself before entering. He intended to inquire of Commissioner Luege the procedures for obtaining a trial date after the issuance of a civil assessment or CIVVA.

ADMITS that he initially inquired with the clerk's office to attempt to obtain a trial date but was informed that only a judicial officer could provide a trial date. Based on this representation by the clerk's office, he went to see Commissioner Luege to request a trial date. Other than what he had been told by the clerk, he was unfamiliar with the procedure by which a trial date could be obtained, including whether the bail amount and/or CIVVA needed to be paid prior to setting a trial date. ADMITS that at this time he also inquired about the CIVVA. EMPHATICALLY DENIES that he did so to gain any advantage or to receive any special treatment.

LACKS INFORMATION OR KNOWLEDGE TO EITHER ADMIT OR DENY where he initially greeted Commissioner Luege but believes that he knocked on Commissioner Luege's chambers door at approximately 10:30 a.m., entered her chambers after Commissioner Luege greeted him. DENIES that he made any statement at any time to Commissioner Luege in Spanish regarding his wife's traffic ticket.

DENIES that he asked Commissioner Luege to vacate the CIVA. Judge Sarmiento spoke to Commissioner Luege about the process for obtaining a trial date and whether it was possible that the CIVA could be vacated. By asking her to address the CIVA, Judge Sarmiento was making a procedural inquiry as opposed to seeking preferential treatment. At all times, when he approached Commissioner Luege, Judge Sarmiento intended to determine what his options were in terms of the handling of the ticket.

LACKS INFORMATION OR KNOWLEDGE TO ADMIT OR DENY whether Commissioner Luege responded by telling him that she had to get back to court. ADMITS she indicated she would get back to him.

ADMITS he placed the Case Summary on Commissioner Luege's desk, which may have been folded in half. DENIES the Case Summary was taken out of his pocket, as it was at all times in his hands and not hidden from view. ADMITS that it was a copy of the Case Summary for his wife's ticket Judge Sarmiento had earlier printed and which he left for information purposes. ADMITS that he placed the Case Summary on Commissioner Luege's desk, since she did not have any information on the case. Because Judge Sarmicnto was not familiar with the precise procedure, he wanted to understand his options concerning the handling of the ticket after the CIVA had been issued. He was looking to Commissioner Luege for guidance, which would best be given if she knew the status of the case. A copy of the minutes were left only for this reason

and in no way shape or form was intended to be a request for action, or intended to pressure Commissioner Luege or to seek any favorable or different treatment not otherwise available to the public. DENIES that he was wearing his judicial robes at any time during this conversation or during any subsequent conversation with Commissioner Luege.

ADMITS that after this conversation Judge Sarmiento returned to his courtroom and Commissioner Luege returned to hers.

ADMITS that in the afternoon, after his trial calendar was concluded, he gave the courtroom clerk assigned to his department a copy of the courtesy notice for his wife's ticket. ADMITS that he asked the clerk, Jose Lopez to check the status of the ticket but DENIES that he intended to obtain any information beyond what was available to any member of the public. ADMITS that the clerk told him the last action taken was the addition of the CIVA. LACKS INFORMATION OR KNOWLEDGE TO ADMIT OR DENY whether he responded that he was going to talk to "Carmen," but believes he may have said something to this extent.

ADMITS that he returned to the chambers of Commissioner Luege but DENIES that he returned "unannounced." It is not Judge Sarmiento's nature or character to barge into the chambers of another judicial officer unannounced. He always either knocks on the door or inquires as to the officer's availability with the clerk before entering the chambers.

LACKS INFORMATION OR KNOWLEDGE TO ADMIT OR DENY that he told Commissioner Luege that he had checked and she had not done anything, but believes he may have said something inquiring whether she was going to take any action. ADMITS that he may have asked the Commissioner whether he could "at least get a trial date," but DENIES that any such request was motivated by a desire for favorable treatment or that said request was made in bad faith. Judge Sarmiento's

sole and exclusive motivation was to handle this matter ethically and efficiently as possible. He had questions regarding the civil assessment and inquired with Commissioner Luege regarding available options, including a trial date.

LACKS INFORMATION OR KNOWLEDGE TO ADMIT OR DENY whether he responded when Commissioner Luege said she was not sure she could give him a trial date (or words to that effect) but specifically DENIES that the failure to respond, if any, was an attempt to pressure or influence Commissioner Luege to set a trial date. DENIES that he hovered over Commissioner Luege's desk or that he attempted by his body language or demeanor to influence her response in any manner. Since Commissioner Luege never responded that she could not provide Judge Sarmiento with a trial date, he was simply waiting for a response. Judge Sarmiento was not impatient, frustrated, or anxious, nor did he intend, by silence or otherwise, to pressure a response. At no point, in any conversation, did Judge Sarmiento raise a voice or act intemperate in any way.

DENIES that he was Commissioner Luege's supervisor.

LACKS INFORMATION OR KNOWLEDGE TO ADMIT OR DENY whether Commissioner Luege then told him that she "guessed it was okay" to give a trial date and she walked into the courtroom and she instructed the clerk to set a trial date for his wife's ticket but ADMITS that he did receive a trial date for his wife's ticket. After being informed he had received a trial date for his wife's ticket, he returned to the clerk's window and posted bail in the amount of \$234.00, an act which would have permitted any person to obtain a trial date.

ADMITS that trial was set for March 16, 2011, at which time Mrs. Sarmiento entered a guilty plea and paid the total bail amount and the CIVA.

DENIES that he committed any willful misconduct in that the above referenced actions were not committed in bad faith. Judge Sarmiento did not intentionally commit any act which he knew or should have known was beyond his lawful power and lacked the specific intent required for a finding of bad faith and willful misconduct. *Spruance v. Commission on Judicial Qualifications* (1975) 13 Cal.3d 778, 796.

ADMITS that his conduct may include prejudicial conduct but DENIES that any such conduct was committed with malice or with the intent to gain favorable treatment in that:

1. His wife ultimately paid the full amount of bail and the entire civil assessment.
2. No attempt was made to commit any illegal act and all actions were done openly and with no intent to deceive.
3. Judge Sarmiento acknowledged his inappropriate conduct and self-reported his actions to the Commission on Judicial Performance asserting that these actions would not be repeated in the future.
4. He has at all times been cooperative with the Commission and was completely forthright in his conversations with the Presiding Judge prior to reporting his actions to the Commission. He acknowledged his misunderstanding in thinking that he was only helping his wife obtain a trial date which she could have obtained herself and that his actions in approaching Commissioner Luege could give the appearance of a violation and/or seeking preferential treatment.
5. Judge Sarmiento has not exhibited similar conduct in the past which would indicate a failure to learn from prior discipline which would serve to enhance discipline in this instance. *Inquiry Concerning Judge David E. Wasilenko, No. 170*, Decision and Order at 33.
6. He has served Orange County in a judicial capacity for over 14 years and has earned a reputation as a hard working, dedicated judge

who is respected by his peers and those who have appeared before him. He is also a frequent volunteer in the community, dedicating significant time to organizations throughout Orange County, particularly those which offer support and aid to the less fortunate and under privileged. His dedication to the bench and reputation among his peers and members of the bar are evidence by the numerous letters of support written on behalf of Judge Sarmiento in response to these allegations.

ADMITS that his actions in approaching Commissioner Luege could have given the appearance to the public as seeking favor based on his status as a judicial officer and apologizes that his actions could have given such an impression.

DENIES that he acted knowingly or intentionally to violate the Judicial Canons but instead was seeking guidance on the handling of the traffic ticket. At no time, did Judge Sarmiento intend to exert judicial influence over Commissioner Luege.

With regard to alleged violations of the Code of Judicial Ethics, Judge Sarmiento responds as follows:

1. Canon 1 - DENIES that he failed to observe the high standards of conduct necessary to preserve the integrity and independence of the judiciary.
2. Canon 2A - ADMITS that his actions did not promote public confidence in the integrity and impartiality of the judiciary.
3. Canon 2B(1) - DENIES that he allowed family relationships to influence his judgment and that he knowingly attempted to obtain favorable treatment as a result of this influence.
4. Canon 2B(2) - DENIES that he lent the prestige of the judicial office to advance the pecuniary or personal interest of himself or others.

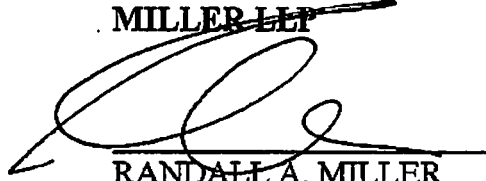


5. Canon 3B(7) - DENIES that he engaged in ex parte communications with Commissioner Luege regarding his wife's traffic ticket. DENIES that he failed to avoid an appearance of a lack of impartiality and that his actions failed to promote confidence in the judiciary.

DENIES that his conduct intentionally sought favorable treatment, as he was not aware of the custom and practice for obtaining a trial date following the issuance of an assessment on a traffic ticket. As soon as he learned that he may have received preferential treatment by obtaining a trial, Judge Sarmiento's wife pled guilty to the offence and paid the bail and assessment.

Respectfully submitted

~~MILLER LLP~~



RANDALL A. MILLER  
SCOTT A. NEWMAN  
Attorneys for Respondent  
Judge Salvador Sarmiento

**VERIFICATION**

STATE OF CALIFORNIA, COUNTY OF ORANGE:

I, SALVADOR SARMIENTO, declare that:

I am the respondent judge in the above-entitled proceeding. I have read the foregoing Answer of Judge Salvador Sarmiento, and all facts alleged in the above document, not otherwise supported by citations to the record, exhibits or other documents, are true of my own personal knowledge.

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

Signed on March 23, 2012, at Santa Ana California.



Salvador Sarmiento  
Judge No. 191

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**PROOF OF SERVICE**

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is MILLER LLP, 515 South Flower Street, Suite 2150, Los Angeles, CA 90071-2201. On March 26, 2012, I served the within documents:

**ANSWER OF JUDGE SALVADOR SARMIENTO**

- by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth below.
- by causing to be personally served to the person(s) at the address(es) set forth below on this date before 5:00 p.m.
- by causing such document to be transmitted by electronic mail to the office of the addressees as set forth below on this date before 5:00 p.m.
- by causing such document(s) to be sent overnight via Federal Express; I enclosed such document(s) in an envelope/package provided by Federal Express addressed to the person(s) at the address (es) set forth below and I placed the envelope/package for collection at a drop box provided by Federal Express.

**SEE ATTACHED SERVICE LIST**

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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

Executed on March 26, 2012, at Los Angeles, California.

  
LUPE ADRIAN

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**SERVICE LIST**

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