

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

**INQUIRY CONCERNING
JUDGE CHRISTOPHER J. SHELDON,**

No. 186

**DECISION AND ORDER
IMPOSING PUBLIC CENSURE
PURSUANT TO STIPULATION
(Commission Rule 127)**

I. INTRODUCTION AND SUMMARY

This disciplinary matter concerns Judge Christopher J. Sheldon, a judge of the Riverside County Superior Court. On January 12, 2009, the commission filed its Notice of Formal Proceedings (Notice) against Judge Sheldon in which it charges him with misconduct in routinely leaving the courthouse for the day before noon and after the conclusion of his dependency calendar without receiving authorization for his half-day absences and without notifying his supervising judges.

The Supreme Court appointed three special masters to hold an evidentiary hearing and to report to the commission. The masters are Hon. Stuart R. Pollak, Associate Justice of the Court of Appeal, First Appellate District, Division Three; Hon. Bradley L. Boeckman; Judge of the Shasta County Superior Court, and Hon. Joyce M. Cram, Judge of the Contra Costa County Superior Court. Prior to the masters holding an evidentiary hearing, however, Judge Sheldon and his counsel, Reg A. Vitek, Esq., and Heather L. Rosing, Esq., and the examiner for the commission, Andrew Blum, Esq., (the parties) proposed a stipulated resolution of this inquiry to the commission, as follows.

By Stipulation for Discipline by Consent (Stipulation), executed by the parties on March 18, 2009, the parties proposed pursuant to Commission Rule 127(b) that this inquiry concerning Judge Sheldon be resolved with the imposition

of a public censure based on the agreed stipulated facts and conclusions of law as set forth in this decision, and with Judge Sheldon's agreement to tender his irrevocable resignation from judicial office in writing to the Governor of California, said resignation to be effective October 23, 2009, and to not preside over any judicial proceedings as of May 12, 2009. From May 12, 2009 until October 23, 2009, Judge Sheldon will be on leave from the bench approved by his presiding judge. According to the terms of the Stipulation, Judge Sheldon has agreed that he shall not at any time seek or hold judicial office in California, whether by election or appointment, and shall not seek or accept judicial assignment, appointment or reference of work from any California state court. Judge Sheldon also agreed that in its decision and order imposing a censure, the commission may articulate the reasons for its decision.

In connection with the Stipulation, Judge Sheldon executed the requisite Affidavit of Consent (Affidavit) under rule 127(d) in which he admitted the truth of the stipulated facts, consented to the imposition of a censure, and waived review by the California Supreme Court.

The proposed agreement, consisting of the Stipulation and Affidavit, was approved by the commission on March 23, 2009. This Decision and Order, and the findings and conclusions set forth herein, are based on the Stipulation and Affidavit.

II. STIPULATED FACTS AND LEGAL CONCLUSIONS

Judge Sheldon served on the Riverside County Municipal Court from October 21, 1989 to January 21, 1992, and was appointed to the Riverside County Superior Court on January 23, 1992.

Judge Sheldon has been assigned to the juvenile dependency department in Indio since August 2005. The dependency calendar routinely concludes before

noon. Since early 2007 through late 2008,¹ Judge Sheldon routinely left the courthouse for the day after the calendar concluded. Judge Sheldon did not inform his supervising judges of his routine absences during court hours, and did not seek or receive authorization for these half-day absences. On occasion, the juvenile delinquency judge in Indio handled ex parte dependency matters due to Judge Sheldon's afternoon absences. Judge Sheldon generally did not seek to make himself available for other judicial work during these absences.

Judge Sheldon's conduct violated the Code of Judicial Ethics, canons 1 (failing to observe high standards of conduct), 2A (failing to act at all times in a manner that promotes public confidence in the judiciary), and 3C(1) (failure to diligently discharge administrative responsibilities and to cooperate with other judges and court officials in the administration of court business) and constituted prejudicial misconduct. Judge Sheldon's failure to seek or to receive authorization for his half-day absences also violated California Rules of Court, rule 10.608(3).

Judge Sheldon received a public admonishment in 1998 for his conduct in handling his misdemeanor pretrial calendar from July 1995 to March 1996. Judge Sheldon frequently failed to take the bench or left the bench during portions of this calendar. He allowed the clerks to enter pleas and execute documents imposing sentence in his absence, and to stamp his signature on constitutional rights waiver forms. On occasion, Judge Sheldon left the courthouse or would jog on a courthouse staircase during his pretrial calendar. The commission found that

¹ Judge Sheldon disputes the allegation in the Notice of Formal Proceedings that he routinely left the courthouse "[s]ince approximately January 2006," but admits that he routinely left from early 2007 through late 2008. Since the precise dates would not affect the parties' recommendation as to discipline, the parties stipulated to the dates admitted by Judge Sheldon. The commission agrees that this change does not affect the determination of the appropriate level of discipline. In the commission's view, Judge Sheldon's practice of working short days warrants the discipline imposed in this decision, regardless of whether he started leaving the courthouse in early 2006 or 2007.

Judge Sheldon's handling of his pretrial calendar violated canons 1, 2A, 3A, 3B(1) and 4A(3).

III. DISCIPLINE

Article VI, section 18, subsection (d) of the California Constitution provides that the commission may "censure a judge . . . for action . . . that constitutes . . . conduct prejudicial to the administration of justice that brings the judicial office into disrepute." Judge Sheldon concedes that he engaged in prejudicial misconduct.

The purpose of a commission disciplinary proceeding is not punishment, "but rather the protection of the public, the enforcement of rigorous standards of judicial conduct, and the maintenance of public confidence in the integrity . . . of the judicial system." (*Broadman v. Commission on Judicial Performance* (1998) 18 Cal.4th 1079, 1112, citing *Adams v. Commission on Judicial Performance* (1995) 10 Cal.4th 866, 912.) The commission believes that this purpose is best served by the discipline proposed in the Stipulation: a public censure with an agreement that Judge Sheldon will resign and will not at any time seek or hold judicial office or seek or accept judicial assignment.

By regularly absenting himself from the courtroom before noon without the approval of his supervising judges for a period of almost two years, Judge Sheldon has demonstrated a flagrant disregard for his obligations to his fellow judges, the public, and the reputation of the judiciary. A judge's responsibilities are not limited to the completion of the daily calendar. Judges who conclude their calendars early in the day may be assigned other duties, including presiding over cases other courts are unable to handle due to time limitations or disqualification and handling ex parte motions. Unapproved absences can have a significant impact on the operation of the court, especially in a county such as Riverside with a longstanding and well-publicized backlog of court cases.

California Rules of Court, rule 10.608(3) requires that a judge request “approval of the presiding judge for any intended absence of one-half day or more, within a reasonable time before the intended absence.” Judge Sheldon concedes that he violated his administrative duty under this rule by failing to seek approval for his regular half-day absences. Canon 3C(1) requires a judge to diligently discharge administrative responsibilities and to cooperate with other judges and court officials in the administration of court business. As this canon makes clear, “administrative duties must be discharged with the same diligence as adjudicative duties.” (*Ryan v. Commission on Judicial Performance* (1988) 45 Cal.3d 518, 546.) In *Ryan v. Commission on Judicial Performance*, the Supreme Court determined that Judge Ryan’s practice of leaving the courthouse the moment his adjudicative duties were completed, usually in the early afternoon, violated the Code of Judicial Ethics and constituted prejudicial misconduct. (*Id.* at pp. 545-546.)

Public confidence in the integrity of the judiciary is seriously undermined when a judge routinely leaves the courthouse early without approval. Taxpayers of the State of California have a right to expect that judges are available to provide the services for which they are paid. As stated by Judge Rothman, “The public does not owe judges extra time off, or anything other than what the law allows, in gratitude for the hard work judges must expend.” (Rothman, *California Judicial Conduct Handbook*, (3d ed. 2007) § 6.11, p. 265). Judge Sheldon’s routine of working part-time while being paid a full-time salary is utterly unacceptable and casts disrepute upon the judicial office.

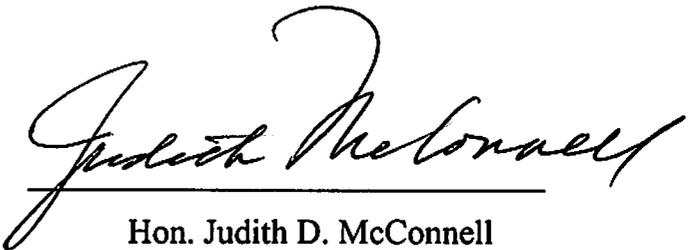
Judge Sheldon’s misconduct is made even more egregious by the fact that he was publicly admonished in 1998 for conduct including abandonment of his judicial responsibilities. In that disciplinary matter, the commission found that Judge Sheldon abdicated certain adjudicatory responsibilities to his clerk, and left the courthouse or jogged on the courthouse stairs during his pretrial calendar.

Unfortunately, the issuance of a public admonishment did not deter Judge Sheldon from abandoning his judicial responsibilities in the future.

The commission concludes that acceptance of the Stipulation to a public censure, which includes Judge Sheldon's agreement to tender his irrevocable resignation from judicial office and to not thereafter seek or hold judicial office or seek or accept judicial assignment, is in the best interest of the public. The agreement in the Stipulation, which provides that the judge's resignation will be effective October 23, 2009, and that he will take approved leave from the bench as of May 12, 2009, affords protection to the public in the most expeditious manner by avoiding the delay of further proceedings. Accordingly, the commission hereby censures Judge Christopher J. Sheldon.

Commission members Hon. Judith D. McConnell, Hon. Katherine Feinstein, Mr. Peter Flores, Esq., Mr. Marshall B. Grossman, Esq., Mr. Samuel A. Hardage, Hon. Frederick P. Horn, Ms. Barbara Schraeger, Mr. Lawrence Simi, Ms. Maya Dillard Smith, Ms. Sandra Talcott, and Mr. Nathaniel Trives voted to issue this decision and order imposing a public censure pursuant to the stipulated disposition.

Dated: April 15, 2009

A handwritten signature in black ink, reading "Judith D. McConnell". The signature is written in a cursive style with a large, looping initial "J". A horizontal line is drawn across the signature.

Hon. Judith D. McConnell
Chairperson