

STATE OF CALIFORNIA  
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING FORMER  
JUDGE JAMES R. SIMPSON,  
NO. 168.

NOTICE OF  
FORMAL PROCEEDINGS

To James R. Simpson, a judge of the Glendale Municipal Court from December 2, 1994 to January 21, 2000, and of the Los Angeles County Unified Superior Court from January 22, 2000 to December 10, 2001:

Preliminary investigation pursuant to Rules of the Commission on Judicial Performance, rules 109 and 111, having been made, the Commission on Judicial Performance has concluded that formal proceedings should be instituted to inquire into the charges specified against you herein.

By the following allegations, you are charged with willful misconduct in office, conduct prejudicial to the administration of justice that brings the judicial office into disrepute, and improper action within the meaning of article VI, section 18 of the California Constitution providing for removal, censure, or public or private admonishment of a judge or former judge, to wit:

## **COUNT ONE**

On July 2, 1993, Allen Brandstater received a citation (number VQ08144) for violating Vehicle Code section 5204(a) (improper registration tags). Because Mr. Brandstater was a friend of yours and was the campaign manager for your 1994 judicial campaign, you should have been disqualified from participating in the case pursuant to Code of Civil Procedure section 170.1(a)(6)(C).

On August 3, 1993, Mr. Brandstater appeared at the traffic counter of the Glendale Municipal Court and received an extension to September 17, 1993, to pay \$10 bail and to show proof of correction. He failed to post bail or show proof of correction.

On March 8, 1994, Judge Barbara Burke issued a bench warrant for Mr. Brandstater for failure to appear. The bail amount on the warrant was \$287.

On or about September 27, 1995, although the case was not assigned to you, you had your court clerk obtain the file. On September 27, 1995, you recalled the bench warrant and continued the matter to October 4, 1995.

On October 4, 1995, you continued the matter to November 15, 1995 for payment of \$270. Mr. Brandstater did not appear in court on November 15, 1995, and did not make payment until November 21, 1995.

Your conduct violated the Code of Judicial Ethics, canons 1, 2A, 2B(1) and 3E.

## **COUNT TWO**

Count one is incorporated by reference.

On May 23, 1997, Allen Brandstater was charged in a misdemeanor complaint (case number 7GL02340) with driving under the influence of alcohol in violation of Vehicle Code sections 23152(a) and 23152(b). The complaint alleged that Mr. Brandstater had a blood alcohol content of .20 percent or higher within the meaning of Vehicle Code section 23206.1.

On July 2, 1997, Mr. Brandstater's lawyer appeared before you for a

pretrial hearing. You stated that you could not handle the matter yourself, declared a “conflict,” and ordered the case transferred to Judge Laura Matz. Because of your recusal and your relationship with Mr. Brandstater, you should have been disqualified from further participating in the case pursuant to Code of Civil Procedure section 170.3.

On August 19, 1997, Mr. Brandstater pled nolo contendere to a violation of Vehicle Code section 23152(b), and admitted the special allegation of a blood alcohol content of over .20 percent. Judge Matz sentenced Mr. Brandstater to, among other things, three years summary probation, a mandatory fine, a three month first offender alcohol treatment program (hereafter “DUI program”), and 50 extra Alcoholics Anonymous meetings.

On December 18, 1997, Judge Matz extended the deadline for Mr. Brandstater to pay the fine and attend the DUI program to March 18, 1998.

On April 9, 1998, a report of non-compliance with the DUI program requirement was filed with the court. On April 13, 1998, Judge Matz issued a bench warrant for Mr. Brandstater and set bail at \$10,000. On April 14, 1998, Judge Matz revoked and reinstated Mr. Brandstater’s probation and extended the proof of completion date to May 6, 1998.

On May 18, 1998, another report of non-compliance with the DUI program requirement was filed with the court. On May 19, 1998, despite the fact that you had recused yourself and should have been disqualified from the case, you continued the matter to May 29, 1998, to allow Mr. Brandstater additional time to complete the DUI program and file proof of attendance at AA meetings.

On July 30, 1998, another report of non-compliance with the DUI program was filed with the court. On August 3, 1998, you revoked Mr. Brandstater’s probation for failure to complete the DUI program, without appearances by the parties. On August 6, 1998, you ordered a bench warrant for Mr. Brandstater’s arrest and set bail at \$10,000.

Your conduct violated the Code of Judicial Ethics, canons 1, 2A, 2B(1)

and 3E.

### **COUNT THREE**

Count one is incorporated by reference.

On January 7, 1999, Mark Enzenauer received a citation (number 365243) for driving an unregistered vehicle in violation of Vehicle Code section 4000(a). On March 25, 1999, Mr. Enzenauer appeared before Glendale Municipal Court Commissioner Steven Lubell and pled guilty. Commissioner Lubell continued the matter to April 30, 1999 for proof of registration. On April 30, 1999, Mr. Enzenauer failed to appear and Commissioner Lubell issued a bench warrant and set bail at \$500.

On or about May 11, 1999, you met in your chambers with Mr. Enzenauer and Mr. Brandstater and discussed Mr. Enzenauer's case. They told you that Mr. Enzenauer had received a registration ticket and had had difficulties in having his vehicle pass a smog inspection. The meeting took place while Commissioner Lubell was on the bench. Twice during the meeting, you called or had your clerk call Commissioner Lubell to summon him to your chambers about the matter.

When Commissioner Lubell appeared in your chambers later that afternoon, Mr. Enzenauer and Mr. Brandstater were present. You had Mr. Enzenauer's citation and appeared to be reviewing his case file. You asked Commissioner Lubell why Mr. Enzenauer had had to wait so long in his courtroom. Commissioner Lubell told you that he had not made Mr. Enzenauer wait that long. Mr. Brandstater told Commissioner Lubell that Mr. Enzenauer was a good person who had worked for him as a videographer, and Mr. Brandstater requested Commissioner Lubell's help. You asked Commissioner Lubell what could be done. Commissioner Lubell responded that Mr. Enzenauer could resolve the matter in open court.

You then ordered the case transferred back to Commissioner Lubell's court for further proceedings on May 12, 1999. Commissioner Lubell recalled the

bench warrant, fined Mr. Enzenauer \$135 on the ticket, and granted him an extension to June 11, 1999 to show proof of registration.

At the time of your actions, you knew that Mr. Enzenauer was a friend and business associate of Allen Brandstater. Due to your relationship with Mr. Brandstater, you should have been disqualified from participating in Mr. Enzenauer's case pursuant to Code of Civil Procedure section 170.1(a)(6)(C).

Your conduct violated the Code of Judicial Ethics, canons 1, 2A, 2B(1), 2B(2), 3B(7) and 3E.

#### **COUNT FOUR**

Count one is incorporated by reference.

On September 14, 1999, Martha Thayer received a citation (number 393301) for failing to stop for a red light in violation of Vehicle Code section 21453(a). The officer who issued the ticket gave Ms. Thayer until October 20, 1999 to appear in court. The case was never assigned to you. In addition, because Ms. Thayer is a good friend of Allen Brandstater and a friend or acquaintance of yours for more than 30 years, you should have been disqualified from participating in the case pursuant to Code of Civil Procedure section 170.1(a)(6)(C).

Subsequently, Mr. Brandstater visited you in chambers and asked you whether there was a way Ms. Thayer could avoid paying the fine and whether traffic school would keep the ticket from appearing on her driving record. You told Mr. Brandstater that Ms. Thayer could go to traffic school. Mr. Brandstater left a copy of Ms. Thayer's ticket with you.

Ms. Thayer did not appear in court on October 20, 1999, nor did she contact the clerk's office on or before that date to request a continuance. On October 20, 1999, you, or your court clerk at your direction, contacted the clerk's office and requested that the matter be continued. As a result, Ms. Thayer's appearance date was continued to December 6, 1999.

Your conduct violated the Code of Judicial Ethics, canons 1, 2A, 2B(1),

2B(2) and 3E.

### **COUNT FIVE**

A. In approximately the summer of 1995, you contacted Glendale Municipal Court Commissioner Dona Bracke about an expired registration citation that you said had been issued to the son of a friend of yours. The ticket was in warrant status. You told Commissioner Bracke that the defendant could not appear because he was going to medical school in Guadalajara. You repeatedly asked questions about the ticket, such as what could be done on the ticket, whether the father could come to court and take care of the ticket, and whether one charge could be dismissed or the fine could be reduced. You also asked Commissioner Bracke what she would normally do if someone came to court after missing the appearance date. There were pauses during the conversation that implied that you were giving Commissioner Bracke time to suggest what favorable action she could take on the ticket.

When Commissioner Bracke attempted to give the ticket back to you, you did not take it at first. Instead, you again asked Commissioner Bracke what else could be done on the ticket. As you started to leave, Commissioner Bracke told you that you had forgotten the ticket and gave it to you before you left.

B. In approximately the latter half of 1995 or early 1996, you went to Commissioner Bracke with another traffic ticket, told her that it had been issued to a friend of yours, told her what the charge was and asked how it could be handled. You asked her questions about the ticket, including what she thought of the police officer who had issued the ticket, whether the officer was trustworthy, what the fine was, what the fine was based on, whether she would reduce the fine on such a ticket and what explanations worked to get a reduction. There were pauses during the conversation that implied that you were giving Commissioner Bracke time to suggest what favorable action she could take on the ticket.

C. In approximately 1996, you went to Commissioner Bracke's chambers

with another traffic ticket that you told her had been issued to a friend of yours. You asked several questions about the ticket, including what the fine would be. After Commissioner Bracke told you more than once what the options were, you remained seated in her chambers for a while, not saying anything, implying that you were giving Commissioner Bracke time to suggest what favorable action she could take on the ticket. When Commissioner Bracke asked if there was anything else that you needed to talk to her about, you said no. Commissioner Bracke returned the ticket to you before you left her chambers.

Commissioner Bracke later recused herself from the case because of the communication from you.

D. In approximately 1997, you called Commissioner Bracke to your chambers. You told her that the wife of a good friend of yours who owned a Pasadena restaurant had received a ticket for which she was supposed to have appeared in Commissioner Bracke's courtroom. You told Commissioner Bracke that your friend was a very good person and had catered some events for you. You said that your friend had gone to court in his wife's place because she was ill, but that he left when Commissioner Bracke did not call his wife's name or acknowledge him when he answered on her behalf. As a result, a warrant had issued.

You asked Commissioner Bracke what your friend could do about the warrant. Commissioner Bracke said that your friend could post bail on the warrant or hire a lawyer to come in. You asked other questions about the ticket, including what would happen if your friend just came in to court and explained the situation. Commissioner Bracke said that your friend could bring in documentation and that her practice was to hold a warrant for two weeks if someone had a medical excuse. You later told your friend that he needed to bring to court some documents or medical papers.

Approximately one or two days later, you came through the back door of Commissioner Bracke's courtroom with your friend. You were wearing your

judicial robe. The courtroom was full of people. You had your arm around your friend's shoulder, looked at Commissioner Bracke and said that this was the friend whose wife's ticket you had told her about. You patted your friend on the shoulder and assured him that Commissioner Bracke would take care of him. You walked your friend into the audience section of the courtroom to sit down.

Commissioner Bracke put the matter toward the end of the calendar to try to avoid creating the appearance that another judge could bring a friend into court to receive special treatment. When Commissioner Bracke called the case, your friend responded. He had brought some documents explaining why his wife was unable to come to court. Commissioner Bracke recalled the warrant and held it for one or two weeks for your friend's wife to come to court. Later that day, you asked Commissioner Bracke if everything went okay with the citation. Commissioner Bracke told you that she recalled the warrant and held it.

When your friend's wife later appeared in court, Commissioner Bracke recused herself from the case because of the communications from you.

Your conduct violated the Code of Judicial Ethics, canons 1, 2A, 2B(1), 2B(2) and 3B(7).

## **COUNT SIX**

In or about 1998, you asked to speak to Glendale Police Officer Randy Petersen in chambers. Once there, you showed Officer Petersen a ticket he had issued that day and told him that the ticket had been issued to someone you knew. You asked Officer Petersen about the circumstances of the ticket and how it could be handled. Your conduct implied that you wanted Officer Petersen to give your friend favorable treatment.

Your conduct violated the Code of Judicial Ethics, canons 1, 2A, 2B(1) and 2B(2).



