

FILED

FEB 19 1998

Commission on
Judicial Performance

STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

)
INQUIRY CONCERNING JUDGE) DECISION AND ORDER IMPOSING
JAMES L. STEVENS, JR.,) PUBLIC ADMONISHMENT
)
NO. 143)
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This is a disciplinary matter concerning Judge James L. Stevens, Jr., of the Yolo County Superior Court. Formal Proceedings having been instituted, this matter is now before the Commission on Judicial Performance pursuant to Rule 127 of the Commission's Rules of Practice (discipline by consent).

APPEARANCES

Trial counsel for the Commission on Judicial Performance are Jack Coyle and Valerie Marchant (San Francisco). Counsel for Judge Stevens are Mark S. Tratten and Ericksen, Arbuthnot, Kilduff, Day & Lindstrom (Sacramento).

PROCEDURAL HISTORY

Formal proceedings were instituted in this matter by a Notice of Formal Proceedings dated October 30, 1997. The Notice sets forth three counts of misconduct pursuant to article VI, section 18 of the California Constitution.

After the Notice of Formal Proceedings had been executed, but before Judge Stevens formally appeared in this matter, counsel for the parties proposed a resolution of this matter whereby discipline no more severe than a public admonishment would be imposed as to certain charges, and private discipline would be imposed as to the remaining charge.

FINDINGS OF FACT

In a verified statement, submitted in conjunction with the stipulation proposing resolution of this matter, Judge Stevens admits the truth of the charges set forth in the Notice, waives

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review by the Supreme Court, states that he is not acting under duress, and consents to the sanction proposed. The parties' stipulation provides:

Pursuant to Rules of the Commission on Judicial Performance, rule 127, Respondent and Trial Counsel submit the following stipulation in Inquiry Concerning Judge James L. Stevens, Jr., No. 143:

1. On June 14, 1996, regarding a pending case involving two female juveniles charged with battery on two teachers, Judge Stevens held an in-chambers conference with counsel prior to a disposition hearing for one of the juvenile defendants. During that in-chambers conference, Judge Stevens referred to the two female juveniles as "bitches." The juveniles were not present.

The comment was in violation of the Code of Judicial Ethics, canon 3B(4), which requires a judge to be patient, dignified, and courteous to litigants and others with whom a judge deals in an official capacity, and canon 2A, which requires a judge to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

The remaining allegations in Count One of the Notice of Formal Proceedings will be dismissed.

2. On May 16, 1996, during a hearing in court, a male juvenile defendant became physically disruptive, overturned a table, and appeared to charge toward Judge Stevens. The juvenile was forcibly restrained by a bailiff. During a recess after the hearing, Judge Stevens commented that the juvenile did not have a "Chinaman's chance" of reaching him.

The comment was in violation of the Code of Judicial Ethics, canon 2A, which requires a judge to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

The allegation in Count Two of the Notice of Formal Proceedings that Judge Stevens violated canon 3B(5) is dismissed.

In 1994, Judge Stevens was publicly reprimanded by the Commission for improper and offensive remarks in court. In mitigation, Judge Stevens has acknowledged that the use of the term "bitches" was improper, and that he is now aware that "Chinaman's chance" may be considered offensive and has agreed to refrain from use of such terms. Judge Stevens intends to retire from the bench in May 1998.

The parties agree that based upon the foregoing, Judge Stevens shall be publicly admonished.

The Commission acknowledges Judge Stevens' admission that the forgoing facts are true, and it therefore adopts the forgoing as setting forth its findings of fact.

In determining the level of discipline, the Commission notes that Judge Stevens was the subject of a prior public reproof by the Commission for inappropriate, abusive, and demeaning comment and actions towards litigants and court personnel.

CONCLUSIONS OF LAW

The Commission therefore concludes that in the matter presently before the Commission Judge Stevens committed conduct prejudicial to the administration of justice in Counts One and Two, and that such inappropriate and demeaning remarks by a judge constitute violations of Canons 2A and 3B(4), as set forth above.

DISCIPLINE

In submitting this matter pursuant to Rule 127, the parties have agreed that, if approved, the Commission will impose discipline no more serious than public admonishment.¹ If the Commission were to reject the proposed disposition, the formal proceedings already instituted would continue for further hearings and findings of fact. Once the special masters have made initial findings and submitted their report, the matter would return to the Commission for further deliberations. At that time, the Commission would be free to impose any sanction that it concluded was appropriate, including removal from office.

The Commission has determined that further proceedings are not warranted on the facts of this case. Judge Stevens is retiring and will leave the bench before formal proceedings could be concluded. It appears to the Commission that the timely imposition of a public admonishment, and private discipline as to the remaining count, would best serve the public interest.

The Commission's vote was 7 to 1, with one Commissioner recused.

This decision and order shall constitute the order of public admonishment.

Dated: January 30th, 1998


Chairperson

¹ Other than removal, the alternatives available to the Commission in a disciplinary proceeding include dismissal (with or without an advisory letter), issuance of a private admonishment, issuance of a public admonishment, issuance of a public censure, and removal from office.

Commission members Robert C. Bonner, Esq., Ms. Ophelia Basgal, Hon. Lois Haight, Hon. Daniel M. Hanlon, Patrick M. Kelly, Esq., Hon. Vincent J. McGraw, and Donald E. Vinson, Ph.D., voted for the public admonishment. Commission member Ms. Pearl West voted against public admonishment. Commission member Ms. Harriet Salerno was recused and Commission members Mr. Alan W. Barcelona and Ms. Eleanor Johns did not participate.