

STATE OF CALIFORNIA  
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING  
JUDGE BRUCE VAN VOORHIS,  
  
NO. 165.

NOTICE OF  
FORMAL PROCEEDINGS

To Bruce Van Voorhis, a judge of the Contra Costa County Municipal Court from January 5, 1987, to June 7, 1998, and a judge of the Contra Costa County Unified Superior Court from June 8, 1998, to the present:

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**

In the case of *People v. Karl Elze*, No. 01-112062-5, you made, or gave the appearance of making, a legal ruling for a purpose other than the faithful discharge of your judicial duties, in violation of the Code of Judicial Ethics, canons 1, 2A, 3B(2) and 3B(8). On January 30, 2001, you granted a defense objection to the admissibility of statements of the defendant made prior to the administration of field sobriety tests. In early February 2001, shortly after the trial, you stated to Deputy District Attorney Stacey Brock to the effect that she had been legally entitled to introduce the evidence of such statements, but that you had suppressed the evidence in order to see how she would handle it. At the time, Ms. Brock had been an attorney for less than three months.

## **COUNT TWO**

As set forth below, you have engaged in a pattern of failing to be patient, dignified and courteous to attorneys, court staff, and jurors when dealing with them in your official capacity. You have done so despite being publicly reprovved by the Commission on Judicial Performance on September 8, 1992, for (among other misconduct) failing to be patient, dignified, and courteous to attorneys, court staff, and jurors. The public reprovral was issued with your consent and after you had assured the commission that such conduct would not be repeated.

- A. You have engaged in harsh and gratuitous interrogation and criticism of attorneys appearing before you, giving the appearance of a lack of impartiality, and interfering with the ability of the attorneys to effectively represent their clients, in violation of the Code of Judicial Ethics, canons 1, 2A and 3B(4), as follows:

30 Qp'Lxpg'3.'3; ; ; . '{qw'r tgukf gf "qxtg 'yj g'tkcn'kp" *People x0Karen Silva*. 'P q0; : 426; /; 0" F wtkpi 'yj g'etquu/gzco kpcvkqp'qh'r tqugewkqp y kpguu'I ct { 'I khqtf. '{qw'tgr gcvgf n' 'tgr qpf gf "v'j g'r tqugewqt'au qdlgev'kpu'd { 'etkkek' kpi 'yj g'o cpgt'kp'y j kej 'f ghpgug'cwqtpg { Y krkco 'I ctf pgt 'r qugf 's wguv'kpu'v'j g'y kpguu'0" [ qw'vj gp kpvgtlgev'f 'c'rgpi vj { 'ugt'kgu'qh's wguv'kpu'cpf 'eqo o gpw'cdqw'O t0 I ctf pgt'au'etquu/gzco kpcvkqp'vj cv'f kur ctc i gf 'O t0I ctf pgt'au r tqhguv'kpcn'eqo r gvpeg. 'kpenw' kpi . 'oVj cw'au'pqv'j g'y c { 'v'r tqxg'c ecug'kp'etko kpcn'eqw'0" F kf p'0' { qw'rgctp'vj cv'kp'rcy 'uej qqn'Ad'cpf oP qy '{qw'p'ggf 'v'cun'j ko 'yj g's wguv'kqp'vj cv' { qw'rgctp'gf 'kp'rcy uej qqn'ku'c'rgi kko cvg's wguv'kqp'0' [ qw'ts wguv'kpu'cpf 'eqo o gpw'y gtg o cf g'qp'vj g'tgeqtf 'kp'qr gp'eqw'0" [ qw'f ger'kpgf 'c'tgs wguv'htqo 'yj g r tqugewqt'v'cf f tguu'vj gug'o cwgtu'qwu'kf g'vj g'r tgugpeg'qh'vj g'lwt { 0

40 Qp'Cwi wuv'34.'3; ; ; . 'f wtkpi 'tkcn'kp" *People x0Jason William Gotchall*. 'P q03: 9929/7. '{qw'etkkek' gf 'F gr w' { 'F kum'lev'C wqtpg { Mc'j nggp'O eO wttc { 'hqt'gr'ek'kpi 'v'guv'ko qp { 'htqo 'yj g'ctt'guv'kpi 'qh'hegt cdqw'vj g'f ghpgf cpw'r gthqto cpeg'qp'c'i c | g'p { uci o wu'v'guv'y kj qw j cxkpi 'r tgugpv'gf 'g'zr gtv'y kpguu'v'guv'ko qp { 'cu'v'j g'uekpv'khe xc'rkf kv' { 'qh'vj g'v'guv'0" Chgt 'f gvgto k'kpi 'yj cv'O u'0O eO wttc { 'y cu'pqv cy ctg'g'zr gtv'v'guv'ko qp { 'y qw'f 'dg'tgs wktgf 'cpf 'y cu'pqv'r tgr ctgf 'v' r tgugpv'cp'g'zr gtv'y kpguu. '{qw'tw'gf 'yj cv'vj g'qh'hegt'au'v'guv'ko qp { eqpegtp'kpi 'i c | g'p { uci o wu'y cu'kpcf o ku'kdrg'0" Uwdugs wgpv'v'q' { qwt twkpi . '{qw'tghw'gf 'O u'0O eO wttc { 'au'tgs wguv'v'q'f k'uewuu'vj g'o cwgt 'cv dgpej . 'ucv'kpi . 'oCpf 'y j cv'y qw'f '{qw'v'gm'lo g'w'r 'j gtg'Ad' [ qw tgr gcvgf n' 'cf o qpkuj gf 'O u'0O eO wttc { 'hqt'k'pk'k'v'kpi 's wguv'kpu'cdqw vj g'i c | g'p { uci o wu'v'guv'y kj qw'dgkpi 'r tgr ctgf 'v' 'r tgugpv'g'zr gtv v'guv'ko qp { 0" [ qw'tgr gcvgf n' 'ucv'gf '{qw't'eqpegtpu'cdqw'vj g'gh'hev'qp

the jury of having heard reference to the administration of the test without scientific evidence linking the test to proof of intoxication, and about the jury's ability to follow instructions to disregard the testimony. You offered Ms. McMurray the choice of attempting to qualify the officer as an expert, but warned her that if the officer did not qualify — which you stated she probably would not — Ms. McMurray would have “wasted a lot of time, and I may have to take the jury away from you....” When Ms. McMurray elected to forego the testimony, you disparaged her performance as an attorney by telling the jury: “The prosecutor has told you and me that she has no intention of showing that it has any more scientific basis than the little joke I made about the little finger, so we'll leave that topic.” All of your remarks were made on the record in open court.

3. In January 2000, you presided over the case of *People v. Ward Hoye*, No. 117462-2. Hoye was represented by Deputy Public Defender Esteban Alvear, who was born in Ecuador and had lived in the United States for approximately 12 years. On January 26, 2000, following the imposition of sentence, you told Mr. Alvear that while it was “charming,” he might want to “lose that accent” because there might be times he would not be able to get things across to a jury because of it. Your unsolicited comments were made from the bench, in open court, in the presence and hearing of Mr. Alvear's client, opposing counsel, and members of the audience. Your comments violated the Code of Judicial Ethics, canon 3B(5), as well as canon 3B(4).

Your remarks to Mr. Alvear formed part of a basis for a motion to disqualify you for bias, which was filed in a case handled

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60 Kp'O ctej "4222." { qw'r tgukf gf "qxtg' yj g'ecug'qh'People x0Fred Brian  
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40 Qp"Cr tki'3; . "4222. "{qw'y gtg'vgo r qtctk{ "cuukvfg "d{ "eqwtvqqo "engtmi  
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50 Qp" F gego dgt "48."4222. "F gr wv" "Uj gtkh"l gpqc"Dtqy p."y j q"y cu cuukvki "vgo r qtctkn" "kp"vj g"Y cnpw"Etggm"eqwtvj qwug."kphqto gf F gr wv" "Rwdrke" F ghgpf gt" Gtle" S wcpf v"vj cv'cp" kpo cvg"j cf "pqv'dggp vcpur qtvgf "vq"eqwtv'dgecwug."ceeqt f kpi "vq"vj g"uj gtkhhu"engtkecn"lvch cv"vj g"O ctvkg" "F gvgpvkap" Hcekkv" . "vj g" kpo cvga"ecug"j cf "dggp xcecvgf 0"O t0S wcpf v"vqif "F gr wv" "Dtqy p"vj gtg"y cu" c"o kvncng"cpf vj g" kpo cvg"pggf gf "vq"dg"kp"eqwt 0" [ qw"vj gp"ej cuvugf "F gr wv" "Dtqy p. ucvkpi "kp"cp" cpi t { "cpf "dgrkvwkpi "vqpg."y qtf u"vq"vj g"ghgev"qh"o" [ qw pggf "vq"rgctp"j qy "vq" f q" {qwt"lqd0" [ qw'pggf "vq"npqy "j qy "vq" f q" {qwt lqd"kp"o { "eqwtvqqo 0"Ugxxg"ku"i qkpi "vq"uj qy " {qw"j qy "vq" f q" {qwt"lqd kp"o { "eqwtvqqo "vq"Kf qpø"dmqy "o { "vqr "kp"vj g"o kff rg"qh"qr gp"eqwt 0 Ctgpø" {qw"UgxxgA" [ qw'ctg"i qkpi "vq"uj qy "j gt"j qy "vq" f q"j gt"lqd0"K j cxg" c" hkg"cpf "Kf qpø"j cxg" c" dqf { # " \* ð Ugxxgö"y cu" F gr wv" "Uj gtkh



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Vj ku'P q'leg'qh'Hqto cn'Rtqeggf kpi u'o c{ "dg'co gpf gf 'r wtuwcpv'vq'Twgu'qh'  
yj g'Eqo o kuukqp"qp'Lwf lekcn'Rgthqto cpeg.'twrg'34: \*c+0'

D[ 'QTF GT'QH'VJ G'EQO O KUKQP "QP 'LWF KEICN"RGTHQTO CPEG"  
FCVGF <"aaaa34B3123aaaaaaaaaaaaaa"

aaaaaaaaaaaaaluaaaaaaaaaaaaaaaaaaaaa"  
O KEJ CGN'COMCJ P "  
EJ CKTRGTUQP "