



State of California
Commission on Judicial Performance
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February 28, 1995

Honorable Kenneth E. Vassie
Judge of the Municipal Court
Inglewood Judicial District
One Regent Street
Inglewood, CA 90301

Dear Judge Vassie:

The Commission on Judicial Performance has determined that you should be publicly reprovved for the following conduct:

"1. On March 28, 1994, Judge Vassie called the case of a defendant charged with driving under the influence. Her attorney, Deputy Public Defender Jason Rubel, stated that he wished to set the matter for a motion to suppress pursuant to Penal Code § 1538.5 and jury trial. The deputy district attorney advised the court that the case was a 'DUI refusal' and that an offer had been made. Judge Vassie then said to the defendant, 'You understand...that the offer that the prosecution has made will not be repeated.' Her attorney said that he had related the offer to the defendant. Judge Vassie replied, 'I am talking to her.' Mr. Rubel said that he objected to the judge talking to his client. This colloquy followed:

THE COURT: What is your authority for that? She has a right to speak to me if I ask her something, and if you interfere with that you are in contempt.

MR. RUBEL: Judge, this is my client. You have no right to speak to her.

THE COURT: Please stand. I'm finding you in contempt for interfering with the lawful process of this court.

You are interrupting me. This is a second count. Is there anything you'd like to say about that; either the interruption of my conferring with this defendant or your interruption?

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MR. RUBEL: Judge, I represent her.

THE COURT: Is there anything you wish to say?

MR. RUBEL: Yes. I represent her as her attorney. If you wish to address her you address her through me.

THE COURT: What is your authority for that position?

MR. RUBEL: I am her attorney, Judge.

THE COURT: You are in contempt. You are remanded to the County Jail for 5 days.

Mr. Rubel was released a few hours later. On April 5, Judge Vassie held further proceedings in which he stated that he was vacating any previous action taken against Mr. Rubel.

Judge Vassie's actions constituted an abuse of the contempt power and an interference with the attorney-client relationship between Mr. Rubel and his client. Judge Vassie completely failed to follow proper contempt procedures. He jailed Mr. Rubel immediately, with no hearing or written order of contempt. Judge Vassie, who has been a judge for twenty-six years, was obligated to know or research proper contempt procedures. The contempt power, which permits a single official to deprive a citizen of his fundamental liberty interest without all of the procedural safeguards normally accompanying such a deprivation, must be used with great prudence and caution. It is essential that judges know and follow proper procedures in exercising this power, which has been called a court's 'ultimate weapon.' (See, Furey v. Commission on Judicial Performance (1987) 43 Cal. 3d 1297, 1314; Cannon v. Commission on Judicial Performance (1975) 14 Cal. 3d 678, 694, 696.)

In mitigation, Judge Vassie has acknowledged that he handled the matter improperly, and that he failed to follow proper contempt procedures.

2. Judge Vassie has refused to exercise his discretion to consider traffic school as a possible disposition in traffic matters. Judge Vassie has told traffic litigants requesting traffic school that he did not give traffic school because it was 'a joke,' and that he would not give traffic school until the traffic school system, which the judge characterizes as 'corrupt,' was cleaned up.

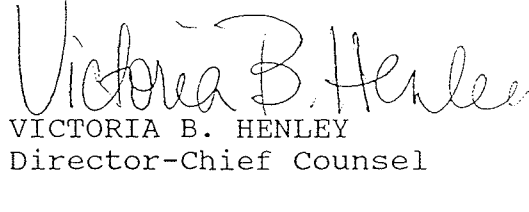
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In mitigation, Judge Vassie has changed his policy. He now considers traffic school as a possible disposition in traffic matters, and exercises his discretion to grant or deny traffic school on a case-by-case basis.

Judge Vassie's conduct in these two matters was contrary to Canon 2A of the California Code of Judicial Conduct, which provides that a judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary, and Canon 3B(2), which provides that a judge should be faithful to the law."

This public reproof is being issued with your consent.

Very truly yours,


VICTORIA B. HENLEY
Director-Chief Counsel