

COMMISSION ON JUDICIAL PERFORMANCE  
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FOR RELEASE  
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JUDICIAL PERFORMANCE COMMISSION ANNOUNCES THE INSTITUTION OF  
FORMAL PROCEEDINGS AGAINST JUDGE ALAN E. KLEIN AND REFERRAL  
OF MATTER TO STATE BAR FOLLOWING JUDGE'S RESIGNATION

On May 11, 1995, the Commission on Judicial Performance announced that it had instituted an investigation concerning Judge Alan E. Klein of the Kern County Municipal Court. After an investigation, the Commission instituted formal proceedings at its January 31-February 1, 1996 meeting.

Judge Klein was charged with two counts of willful misconduct in office or conduct prejudicial to the administration of justice that brings the judicial office into disrepute. Before being formally served with the notice of formal proceedings, Judge Klein offered to resign from office immediately. He also agreed to stipulate not to seek or accept judicial office, whether by election, appointment or assignment. At the time of his resignation, the Commission was also investigating possible additional charges of misconduct concerning the judge's involvement in a videotape recording made by a private investigator of a witness against the judge in the criminal proceeding against the judge which concluded in November 1995.

If the judge had not resigned, the charges would have been heard by a panel of impartial judges appointed by the Supreme Court. At the hearing, the Commission would have been required to prove the charges by clear and convincing evidence. The judge would have had the right to be represented by counsel, to examine and cross-examine witnesses, and to present evidence of his own. If, after the hearing, the Commission had determined to publicly admonish, censure or remove the judge from office, Judge Klein would have been entitled to seek review by the Supreme Court of the Commission's decision.

Because of the judge's resignation, the Commission has determined to close its proceedings, subject to re-opening if the judge seeks or accepts judicial office.

In view of the seriousness of the allegations and the fact that the judge resigned before the charges had been adjudicated and the remaining investigation completed, the Commission has determined to refer the matter to the State Bar, pursuant to California Rules of Court, rule 902(b)(4). This rule states:

If a judge retires or resigns from judicial office following institution of formal proceedings, the commission may, in the interest of justice or to maintain confidence in the administration of justice, release information concerning the investigation and proceedings to a public entity.

The State Bar is a public entity with jurisdiction to investigate charges of misconduct by former judges in order to determine their fitness to practice law.

A copy of the notice of formal proceedings involving Judge Klein is available at the Commission office. Judge Klein chose not to file a response.

The Commission is composed of three judges, two lawyers and six public members. The Chairperson of the Commission is the Honorable William A. Masterson of the Court of Appeal, Second Appellate District in Los Angeles.