

FILED
OCT 17 2016
COMMISSION ON
JUDICIAL PERFORMANCE

STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING
COMMISSIONER TAYLOR CULVER,

No. 199.

NOTICE OF FORMAL PROCEEDINGS

To Taylor Culver, a commissioner of the Alameda County Superior Court from 2005 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, and may be subject to discipline under article VI, section 18.1 of the California Constitution, including being found unfit to serve as a subordinate judicial officer, to wit:

COUNT ONE

In the following cases, you threatened to take actions that exceeded your authority and engaged in other misconduct, as noted:

A. On April 27, 2015, you arraigned Portia Frazier in four traffic court cases. (Nos. WWM465887, WWM563162, WWM585354, and WWM629342.) At the end of the hearing, you told Ms. Frazier, “Ma’am, let me tell you something ‘cause we don’t wanna get on the wrong side. You certainly don’t want –” Ms. Frazier responded, “You talking to me like I’m a kid. I’m a person just like you.” You replied, in a harsh tone of voice, as follows: “Let me tell you something, ‘person!’ When I’m talking, you’re being quiet! That’s what we do in court. Now you need to run your mouth, I have the sheriff come in here and send you outta here so you can run your mouth.” When Ms. Frazier said that she was not disrespecting the court, you replied, “Then keep your mouth shut!” After Ms. Frazier cursed, you told her, “Cursin’ now. Do another one and I’ll have you in this door.” After Ms. Frazier told you, “Just stop talking to me[,]” the following exchange ensued:

THE COURT: Who you talking to?

DEFENDANT: I’m talking to you, ‘cause –
[unintelligible]

THE COURT: I wish I didn’t have this robe on.

DEFENDANT: I wish you didn’t either. So you’re
threatening me –

THE COURT: We would straighten it out.

Your statement, “Do another one and I’ll have you in this door[,]” was an implied threat to put Ms. Frazier into a holding cell, which was beyond your authority as a subordinate judicial officer. Your statements, “I wish I didn’t have this robe on[.]” and “We would straighten it out[.]” were implied threats to fight the

litigant. Your statements quoted in the above paragraphs also reflected embroilment.

Presiding Judge Winifred Smith assigned Ms. Frazier's complaint to Supervising Judge Gregory Syren for investigation. On June 9, 2015, you misrepresented what had taken place at the hearing when you wrote to Judge Syren, "She [Portia Frazier] made some remark about my robe and I told her it was lucky I was wearing my robe."

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(2), 3B(3), 3B(4), 3B(5), and 3C(2).

B. On December 28, 2012, Alex Lindsey, Jr., appeared before you for trial on the charge of reversing his vehicle in an unsafe manner. (No. WWM256167.) After hearing the evidence, but without rendering a verdict, you asked Mr. Lindsey, "What you wanna do about the money?" The following colloquy ensued:

DEFENDANT: So I'm being stuck with a ticket because I'm backing up?

THE COURT: What did I just ask you, man? Now you ain't in the street, you in my courtroom. I'm a tryin' –

[Talking at the same time.]

DEFENDANT: I didn't say I was in the street, sir. I'm being respectful to you, sir.

THE COURT: No, you better be quiet while I'm talking to you. When I ask you about the money, you answer me about the money. You don't get to ask – act like we in the street. Now I'm gonna ask you one more time and I hope that you don't make me put you through door number two. What do you wanna do about the money?

Your reference to "door number two" was an abuse of authority and an implied threat to remand Mr. Lindsey into custody.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(2), 3B(4), 3B(5), and 3B(8).

COUNT TWO

You made statements that suggested prejudgment or bias and gave litigants the appearance that they could not receive a fair trial before a neutral arbiter in your department, as follows:

A. On March 5, 2015, you presided over the arraignment of Mignon Perry, who was charged with running a red light. (No. WWM662182.) After you played the red light camera video, Ms. Perry told you that the driver depicted in the video was male and was not her, and that she no longer owned the vehicle at the time the ticket was issued. You then replayed the video and the following colloquy took place. Many of your comments were made in a stern tone of voice:

THE COURT: *That's you, ma'am.*

DEFENDANT: No, that is not me. Here is the picture of the male and if you look at it on here –
[unintelligible]

THE COURT: *That's you, ma'am.*

DEFENDANT: That is not me.

THE COURT: Okay. *You gonna take the ticket.*

DEFENDANT: Why would you put a ticket on me – ?

THE COURT: Because that – *that's you* –

DEFENDANT: That's not me.

THE COURT: – *and you just telling me a fable.*

DEFENDANT: I'm not, I'm not telling you a lie. I have a [*sic*] itinerary when I was out of town also that I can print out and bring back if you need me to.

THE COURT: Let me explain, ma'am –

DEFENDANT: This is a male.

THE COURT: – ‘cause you’re confused. Let me explain.

DEFENDANT: I’m not confused.

THE COURT: Oh, see, now you don’t, you know what I know already. You wearing this or not? You ought to be listening when I’m speaking to you instead of talking. It doesn’t matter if you sold it to Santa Claus. Either that’s your image or it isn’t. And so transferring the vehicle has nothing to do with the ticket. Now the question of whether that’s you, that’s you or your twin. That’s what this is about. Now you can tell me what’s on your mind about you sold the vehicle, you got releases; either that’s your image – and that’s how this works – or it’s not. Now, anything else you want to prove about that’s not your image, I’ll hear it. About the transfer of the vehicle, I don’t care nor does the law. Now tell me what you’d like me to know.

DEFENDANT: Your Honor, that’s –

THE COURT: Yes.

DEFENDANT: – not my image –

THE COURT: Okay.

DEFENDANT: – and I’m not standing here telling you a lie or a fable.

THE COURT: Okay.

DEFENDANT: That’s not my image.

THE COURT: Let me explain to you. Six people looked at this, and the six people thought it was you. I’m looking at it, I think it’s you. You have a right to come to trial and challenge that. And there will be – *the police side will be here, they will explain to you how many people looked at that image and [unintelligible] it’s you.* They will explain that you

had a right to say it was somebody else much earlier than the trial. And if you sent that in, they take it off the wrong person and put it on the right person. *That's you in my mind.* But at the trial you can bring up all these other things. *I never saw anybody look so much like you that wasn't you in my life.*

DEFENDANT: So you trying to tell me that that person looks just like me with no hair? That is a male. You can obviously see that. Anybody else in this courtroom, court, courtroom think that's me?

THE COURT: Oh.

(Man in background: "That's a man.")

DEFENDANT: That's definitely a man. You can –

THE COURT: I'm sorry –

DEFENDANT: – clearly see that that's a man.

THE COURT: I'm sorry, sir. Were you dressed up? Hey, my man in the T-shirt. Were you, are you doing this?

DEFENDANT: You can see the cheek bones is different. Here's my ID and everything. That's completely not me.

THE COURT: Ma'am, we'll set it for a trial. *It is you and I don't care what "Sweatshirt" says there, ain't got nothing to do with it.*

DEFENDANT: Can I get a trial date then?

THE COURT: I'm sorry, not guilty. When do you want a trial?

DEFENDANT: Within 45 days.

THE COURT: Okay.

DEFENDANT: Just don't tell me that's me.

THE COURT: *See, ma'am, now you gonna keep runnin' your mouth, I'm gonna have to call somebody to have this dealt with. I understand you disagree and I respectfully disagree, but you not gonna keep runnin' your mouth and disrespect the court.*

By repeatedly telling Ms. Perry at arraignment that she was the driver depicted in the video and that she was telling a “fable” when she denied that it was her, you demonstrated prejudice or gave the appearance that you had prejudged the matter. By telling Ms. Perry that six people looked at the video and thought she was the driver, you relied or gave the appearance of relying on facts not in evidence. Your comments also reflected a lack of patience, dignity, and courtesy.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), 3B(5).

B. On March 4, 2015, you presided over the arraignment of Laron Ryan, who was charged with not having his license in his possession at the time of the stop. (No. WWM753262.) When you asked for Mr. Ryan’s response, he stated, “I have proof that it wasn’t me that actually incurred that ticket.” You replied, “[W]e need the cops here ‘cause the cop gonna call you a liar.” Telling Mr. Ryan that the “cop” was going to call him a “liar” reflected a lack of patience, dignity, and courtesy, and demonstrated prejudice.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), and 3B(5).

C. On March 4, 2015, you presided over the arraignment of Ryan Peters, who was charged with having an unregistered vehicle, failing to register the vehicle in California, and defective taillights. (No. WWM75593.) When you asked Mr. Peters whether he had moved here from somewhere else, he replied, “Arizona.” When Mr. Peters said that he “wasn’t actually living here then at the time[,]” you replied, “Everybody says that.” Mr. Peters then pled guilty and you fined him \$638. Telling Mr. Peters, “Everybody says that[,]” in response to his

claim that he was not “living here” at the time he received the citation reflected a lack of patience, dignity, and courtesy, and demonstrated prejudgment.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), 3B(5), and 3B(8).

D. On February 25, 2015, you presided over the case of Matthew Cataleta, who was charged with unsafe backing. (No. WWM857879.) After Mr. Cataleta pled no contest and stated that he wanted to go to traffic school, he added that he did not feel that the description of the violation was correct. When you asked, “In what regard?,” Mr. Cataleta responded, “I was parked on a hill and I rolled back and I touched another car.” You replied, “See, now, you want to tell your story when the cops are not here. Now, the cop is gonna call you a liar, and that’s why I have to wait for him to show up.” Your statement that the police officer was going to call Mr. Cataleta a “liar” reflected a lack of patience, dignity, and courtesy, and demonstrated prejudgment.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), and 3B(5).

E. On December 10, 2014, you presided over the arraignment of Miguel Marin, who was charged with failing to stop at a red light at an intersection with a red light camera. (No. WWM809786.) Mr. Marin pled not guilty and showed you a picture. When you asked Mr. Marin why he was showing you the picture, the following colloquy took place:

DEFENDANT: Because it’s not me [through interpreter].

THE COURT: Oh, then we definitely gotta have a trial. ‘Cause the cops think it is you. It looks like you to me.

DEFENDANT: No.

THE COURT: Yeah, right. Okay. It – *there’s somebody else took your car, committed a crime, and returned the car to you. It happens every day. We’re*

seeking out those people. The return crooks. They do something bad and then they return the instrument of bad back to the owner.

The italicized comments were sarcastic and reflected prejudgment.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), and 3B(5).

F. On December 9, 2014, you presided over Denise Kess's trial for failing to stop at a red light at an intersection with a red light camera. (No. WWM508411.) After viewing the video, Ms. Kess asserted that her daughter was the driver depicted in the video. You stated that Ms. Kess's daughter was not present in court and that the driver in the video looked "just like" the defendant. You also said that a person who is so closely related to the defendant as to look like her would not let the defendant be convicted of something the defendant did not do. You added, "[I]f my brother did this, he would step up and take what's [his] responsibility 'cause he wouldn't want to hurt me." You also stated, "Some people bring the people to court so that they can take the ticket off you and put it on the daughter." When Ms. Kess responded that she no longer had contact with her daughter, you replied, "*What's that got to do with me? I'm here just judging the case.*" You later told Ms. Kess:

I have a rationale as to how I determine this. And when it's a family member, it seems to me that person ought to come forward and take you off the hook. That just seems reasonable. *As to whatever drama's going on in your family, that ain't got nothing to do with me.*

After a police department representative asked you whether you wanted to provide a "continuance for the affidavit," you told Ms. Kess, "Here's what can happen. I'll put it over 30 days. You can talk to the police department, and maybe they can in some way research it, or find her or something like that. But this 'ain't me' [defense], if they can't find somebody else, it's you."

Your remarks made it appear that you would decide the case based on your personal experience with what your family member would do, rather than the facts presented by the litigant, and that you would reject the argument of any defendant who claimed that an absent family member was the driver. In addition, the italicized comments reflected a lack of patience, dignity, and courtesy.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), and 3B(5).

G. On September 11, 2014, you presided over Nayo Miller's trial for violating the posted speed limit on the San Francisco-Oakland Bay Bridge. (No. WWM689465.) Mr. Miller represented himself at trial. A CHP officer testified that he had determined that Mr. Miller was speeding by pacing his vehicle. Mr. Miller's opening question on cross-examination was whether the officer had a videotape of the incident. The officer responded that he did and that he had it with him. Mr. Miller's next question was whether he could see the video. The following then occurred:

THE COURT: No. All of that should have taken place before trial.

DEFENDANT: I ain't never get a chance to – to – I ain't never seen this gentleman.

THE COURT: No. That's all part of being your own lawyer.

DEFENDANT: I never even saw this gentleman until – from that night in March until right now, so how can I ask him if he had me on tape to see the evidence?

THE COURT: Mr. Miller, listen to me because you in a space that you don't know anything about. When you are representing yourself, you are assumed to know the rules. You could have gotten that tape by making a request.

You subsequently found Mr. Miller guilty.

Your refusal to allow Mr. Miller to see the CHP video constituted a failure to accord him a full right to be heard according to law and violated your duty to ensure that disposing of the matter promptly and efficiently did not take precedence over your obligation to dispose of the matter fairly and with patience.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), 3B(5), 3B(7), and 3B(8).

H. You presided over Kiera Einhorn's trial on January 7, 2013. (No. WWM212899.) Ms. Einhorn was charged with crossing a traffic cone pattern. A CHP officer testified that he stopped Ms. Einhorn after he observed her vehicle knock over a cone in a closed lane on Highway 80. During cross-examination, Ms. Einhorn asked the officer if he knew what kind of lights were in the construction zone (next to the cones), and stated that she wanted to show the officer, on her phone, the glare caused by the lights. The officer testified that he did not recall what type of lights they were. When Ms. Einhorn told you, "I don't need to talk to [the officer] anymore. I wanna show evidence[,]," you responded, "Ma'am, what I want you to do is listen to my instructions. When I tell you, 'you go,' you go. When I tell you, 'you stop,' you stop. Now, do you want to ask him questions about the lights on the phone? I need a 'yes' or 'no' and not a big instruction. Tell me, do you want to ask him questions about those lights?" When Ms. Einhorn said that the officer had already testified that he did not know, you responded in a raised voice, "I asked you a question! Do you or don't you?"

Near the end of the trial, Ms. Einhorn asked you how she would go about bringing in evidence of studies showing that the lights blur people's vision. When she interrupted you at one point with a reference to "the truth," you prefaced your next remarks by referring to her as "Madam Politician."

Ms. Einhorn later suggested that you took the officer's side every time and asked, "Then why do we bother coming in if you're automatically gonna go with the officer every time?" You responded, "First of all, you don't know if I'm going with the officer or not. That's not only something that you're ignorant about, but

the fact that you wanna make a political speech about it makes me less tolerant of hearing from you.” After you found Ms. Einhorn guilty, you told her in a harsh tone, “Sit over there and pay the fine.”

Your comments reflected embroilment and a lack of patience, dignity, and courtesy, and violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), and 3B(5).

I. On December 28, 2012, you presided over Teianne Miller’s speeding trial. (No. WWM135108.) After the citing officer testified that Ms. Miller had been driving 82 miles per hour, the following colloquy took place:

DEFENDANT: [H]onestly, I don’t feel that I was going 80 miles an hour. It was no room for me to go 80 miles an hour. He’s right, the clock, there was not a lot of traffic but there was a vehicle in front of me and from, you know, to be honest from what I’m noticing –

THE COURT: *That’s a good start, being honest in the courtroom.*

DEFENDANT: – would, I mean just from what I’m noticing, any officers that showing up for every – you’re believing, pretty, taking their word as if, you know, I have the time to come in here and to lie to you about what –

THE COURT: You can’t be serious, ma’am. You think that merely because the officer testifies that makes his testimony [more] believable than yours. Yours doesn’t sound believable to me.

DEFENDANT: From what I’ve been seeing, that’s pretty much the case –

THE COURT: *So you get to make the judgment about how I do my job? That’s a mistake.*

DEFENDANT: In your opinion.

THE COURT: No, in my job. I know what my sworn du – du – duties are. And you don’t know ‘em.

DEFENDANT: I didn't say that I did know them. What I said was in my opinion every officer that have [*sic*] showed up, you have found the – the defendant guilty. That's been pretty much every – there's not been one yet that I've saw [*sic*] and there's not been –

THE COURT: *When you get my job –*

DEFENDANT: Excuse me?

THE COURT: *– you'll get to make decisions. When you get my job –*

DEFENDANT: I didn't say that I needed your job to make decisions; you asked me what I said and I explained that to you.

THE COURT: *Okay, now I'm gonna explain something to you: I don't care what you think.*

DEFENDANT: That's fine, you don't have to. Next –

THE COURT: *That's true. Is there anything else you want me to know about the case other than your politics 'cause I don't care anything about them.*

DEFENDANT: Well –

THE COURT: *Is there something else you need to tell me about the case?*

DEFENDANT: Don't speak to me that way, please. I'm just asking you questions and I'm just trying to understand. I'm not here to be, you know, spoken to with an attitude or anything, I'm just trying to understand and so what I was trying to explain is that I don't feel in – in the case here that I was doing 80 miles an hour on the freeway.

THE COURT: *Two things, you don't tell me how to speak to anybody.*

DEFENDANT: Well, I would a-- I'm asking you, I didn't tell you anything, I asked you if you would speak to me differently.

THE COURT: *I'm gonna speak to you like I do anybody that comes into this courtroom, which means 16,000 people a year. You're not special, you're just you.*

DEFENDANT: I didn't say I was.

THE COURT: *I didn't ask you whether you said it. I'm telling you what's up. You're just like anybody else....*

The italicized remarks were discourteous and reflected embroilment.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), and 3B(5).

J. On November 29, 2012, you presided over Anthony Mendez's trial for violating the posted speed limit on the San Francisco-Oakland Bay Bridge. (No. WWM227307.) After the citing officer testified, you invited Mr. Mendez to tell you what he thought you needed to know. Mr. Mendez testified that he was on his way to take his girlfriend to work, was "going the flow of traffic coming off the Bay Bridge," and was not "trying to go too slow," when he felt the officer picked him "out [of] the crowd." When you asked Mr. Mendez, "Why?," he responded, "I thought I was going too slow." The following colloquy then took place:

THE COURT: No, but here's the thing from my perspective as the person in – on the bench. I'm always looking for the people that have a motive because it makes it so much easier for me to think if there's some reason for him to get this wrong, then I just automatically will decide against him. But when you say, "I'm going with the flow of traffic," that means through all those people that were on the bridge, whether it's 9 or 10 o'clock, whatever, there's hundreds of people, now why would he pick you? Like, I'm trying to figure out, who are you?

DEFENDANT: Well I feel like –

THE COURT: See, if you're famous or something like that, then I'm interested 'cause I might wanna drive up there and stop your car. But if you're just Joe Schmo, why would he lie about you?

DEFENDANT: 'Cause I felt I was being racially profiled, for one.

THE COURT: *What? As an almost looking white guy?*

DEFENDANT: ... Yeah, I mean just – just about looks.

THE COURT: *You mean that people are after the white people now?*

DEFENDANT: I mean, I mean, I'm Latin for one, sir

THE COURT: *He would have been able to see that?*

DEFENDANT: Yeah, I mean, I was going so slow, I wasn't going no 70, whatever, miles an hour he said I was doing. I was doing the flow of traffic, which was very slow at that time 'cause it was early morning. Everybody was getting the sleep in their eye, and then after that I just felt he assassinated my character while yelling at me.... That was like the fastest ticket I ever got in my life. I was –

THE COURT: You had other tickets?

DEFENDANT: Yeah, of course. I mean, who hasn't been pulled over –

THE COURT: *For being Latin?*

DEFENDANT: No, not for that. Just –

THE COURT: Oh –

DEFENDANT: – for being pulled over.

THE COURT: *I got it.*

DEFENDANT: And then when I asked him for questions, he never really, he just had me sign the paper and drove off as fast as he could. So –

THE COURT: I got it. Well it might be true. *But this is certainly a first for me and I've been – I heard probably close to 40,000 – uh – uh – cases –*

DEFENDANT: I understand that.

THE COURT: *– so I'm interested in when they start pulling over the white people, that's really, I'm really down with that.*

You then found the defendant guilty.

The italicized comments were sarcastic and would reasonably be perceived as bias. Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), and 3B(5).

K. On November 27, 2012, you presided over Alex Park's trial for failing to come to a full stop at a flashing red light. (No. WWM230164.) When the defendant testified that he made a full stop, you stated:

You know, I don't believe it, because I'm interested in why a cop would put his career on the line to lie about you. That's what I – I never understand it. He can't get any more money, he doesn't know you, he's not mad, he's not a friend of yours or an enemy. Why would he just make up stuff about you?

By stating that the officer “can't get any more money” from issuing the ticket, you relied on facts not in evidence and gave the appearance of prejudgment in favor of law enforcement witnesses.

After you found that Mr. Park was responsible for the citation, and asked him what he wanted to “do about the money[,]” the following colloquy took place:

DEFENDANT: So the basis of the decision is simply because –

THE COURT: *Oh, oh, I didn't tell you, when I make a decision, that's the end of the talk about the facts. When I ask you about the money, the next thing out of your mouth ought to be how you gonna pay.*

DEFENDANT: No, no, I'm not disputing your decision, I'm just –

THE COURT: *No, you don't get to debate. I said the case is over and you're responsible. That's the end of that. Now, I asked you, how are you gonna pay the money?*

The italicized comments were spoken in a harsh tone of voice.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), 3B(5), and 3B(8).

L. On the morning of November 27, 2012, in Jaleel Hanif's absence, you found Mr. Hanif guilty of running a red light. (No. WWM178481.) When Mr. Hanif appeared in your department that afternoon, he told you that he had received a document indicating that the trial was scheduled to take place at 2:00 p.m. You responded that the day after Mr. Hanif had received that document, he received a letter to come to court at 8:30 a.m. You also told him that he had been found guilty, and added, "We're not throwing out anything, unless you have some enormously compelling reason to do it." Mr. Hanif replied, "Well, my compelling reason is that I never received this letter, ever." You responded in an impatient tone, "Man, do you know how many times I hear that in a year? Thousands! Do you think I believe it?" After Mr. Hanif replied to your comment, you responded, "Really? Do I look 12?" After Mr. Hanif told you that he was telling the truth when he said that he never received the notice of the 8:30 a.m. appearance, you responded in a harsh, loud, and lecturing manner:

Let me just say this to you so that you and I understand each other. I hear 16,000 cases a year. And I hear that excuse about "I didn't get it" 2,000 times. Nineteen hundred and ninety-nine of people are lying, that's what it happens [*sic*]. They never seem to get the

document that says they have to do something. Now I'm sure if there's a thousand dollars in the mail, it would have come through. But for some reason they always tend to not get the thing sent to the address at the DMV, and for which the car is registered. I never get to understand that, you understand where I am? Now, everybody says, "Oh, Your Honor, I don't have any reason to lie...."

Your statements were impatient, undignified, and discourteous, and would reasonably be perceived as bias or prejudice.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), and 3B(5).

M. On November 26, 2012, you presided over Brandon Lewis's trial on a charge of driving with a defective brake light. (No. WWM207243.) Mr. Lewis claimed, "[M]y vehicle works properly. It has no violation. It has nothing – I keep everything straight with my car." You asked Mr. Lewis why the citing officer would lie about the violation. Among other things, you stated:

But out of all the choices, he makes up a thing about little kibble and bits as brake light [*sic*]. And this is gonna be the lie he tells. He puts his badge on the table to lie about you for 204 dollars; is that reasonable? You think that's what went down?

When Mr. Lewis said that he did not know why he was issued the ticket, you responded:

Let me say this. I used to be a prosecutor and certainly there were times in which people would say the officer didn't tell the truth. But for 204 dollars, I've got to go with the officer, 'cause this is too junky. If a person's gonna lie, they gonna benefit from it. He can't get nothing. He doesn't know you. He won't get any juice from writing the ticket. And the money ain't nothing. It's 204.

Your statements suggested that you would believe the officer over the defendant in cases in which you believed that the fine amount listed in the uniform bail and penalty schedule was relatively low.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(5), and 3B(8).

N. On September 26, 2012, you presided over Sonia Scott's trial on a charge of failing to yield to a pedestrian in a crosswalk. (No. WWM198315.) The citing officer testified that he also warned Ms. Scott about speeding and failing to stop at a stop sign. Ms. Scott denied that she committed the charged or uncharged violations. You asked Ms. Scott what she thought about the officer "not getting any of the assertions right." You added, "Either he's lying or he's the worst cop that's appeared before me this year." Ms. Scott did not claim that the officer was lying. You later stated:

I'm thinking he's telling the truth because he doesn't have any reason to lie, he can't get anything from lying; he doesn't get a raise, there's no money involved, he doesn't have any motive.

By making the italicized statement, you relied or gave the appearance of relying on facts not in evidence and, at a minimum, gave the appearance of prejudice in favor of law enforcement witnesses.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(5), and 3B(8).

COUNT THREE

You have had a pattern of violating your duty to be patient, dignified and courteous to litigants and their witnesses, as exemplified by the following:

A. On August 25, 2015, you presided over Vanya Bukova's trial for failing to stop for a red light. (No. WWM838672.) After the evidence was presented, you and Ms. Bukova engaged in the following exchange:

THE COURT: Do you have anything else you think I need to know from your perspective regarding the event?

DEFENDANT: Yeah, I don't think that – ah – you're very fair, but that's of course my opinion. And I think – I feel like from the first moment I sat, that everything is like – decided already, so it's not –

THE COURT: It is decided because we have proof. We don't have people lyin'. We have proof.

DEFENDANT: Then why we waste this time? Why we have to come here?

THE COURT: Then why didn't you just send in the check –

DEFENDANT: Because I thought, because –

THE COURT: – and admit what you did?

DEFENDANT: You took my money a long time ago. I thought that –

THE COURT: Then why would you come now –

DEFENDANT: Because, I thought –

THE COURT: – when you knew that you broke the law?

DEFENDANT: Because – I didn't –

THE COURT: Why?

DEFENDANT: Because I thought that this exactly is a place to discuss and to –

THE COURT: Discuss what? You broke the law and you knew it when you walked in here.

DEFENDANT: No.

THE COURT: No, what?

DEFENDANT: No, I did not. Absolutely.

THE COURT: I guess, okay, you didn't know it.
Everybody else knows it, but you didn't know it.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, and 3B(4).

B. On February 25, 2015, you presided over the case of Folani Brumfield. (No. WWM820129.) Ms. Brumfield was charged with failing to obey a traffic sign, transporting a child without properly securing the child with a safety belt, and failing to furnish evidence of financial responsibility. You told Ms. Brumfield that the "amount is 1677." After Ms. Brumfield furnished proof of insurance, you told her that the "insurance part is dismissed and goes down to 25 dollars." After Ms. Brumfield pled no contest to the other charges, you told her that the total amount owed was \$862 and asked her how she was going to pay the money. When Ms. Brumfield asked whether she could perform community service, you responded, "[Y]ou can do it for the 530 plus 248, the actual tickets. The other stuff you actually have to pay." When Ms. Brumfield responded, "I thought the 1600 was reduced because I had insurance[,]" you replied, "Okay, ma'am, see that's because you're running your mouth when you should run your ears. And if you were listening, you wouldn't have said that."

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, and 3B(4).

C. On October 31, 2014, you presided over the case of Felicia Wallace-Day. (No. WWM32996777.) During the hearing, you told the defendant that she had failed to pay a civil assessment that she owed. The following colloquy ensued:

DEFENDANT: Okay, and I don't know anything about that.

THE COURT: I don't know, either you don't read your mail or you not [*sic*] living in the right place.

When people tell me they don't know, that means they don't read because people – you know how many hundreds of thousands of notices you think they send out? Why would they not send you yours? Why would that happen?

DEFENDANT: That's a very good question.

THE COURT: It is. They would pick you out of a hundred thousand people and not give you a notice. That's terrible. And they must know you. Because why else would they do it? They send them out blindly to everybody else. But today, I find they didn't send you yours. What do you think?

Your comments were sarcastic and violated the Code of Judicial Ethics, canons 1, 2, 2A, and 3B(4).

D. On September 18, 2014, you presided over Jamshid Fallahi's trial for failing to come to a complete stop at a stop sign. (No. WWM696595.) The officer who issued the ticket testified that Mr. Fallahi slowed his vehicle to five miles per hour but did not come to a complete stop. Mr. Fallahi disputed that he had not come to a stop. During Mr. Fallahi's case presentation, the following occurred:

DEFENDANT: How I could have – not have stopped and coming through the intersection – be in the middle of the intersection – intersection with [*sic*] five miles per hour? How is that possible?

THE COURT: Because that – not only is it possible, it's almost invariably what happens every single day and thousands of people do it. And I don't know why you – uh – uh – you have suffering wonderment. That's exactly how people go through the stop sign. They don't speed through it, they slow up, don't stop, and they move through it between five and eight miles an hour, which makes sense because what jackass would go through the stop sign at full speed?!

Your use of the word “jackass” constituted a failure to be dignified and courteous, and a failure to maintain courtroom decorum. In addition, your reference to the defendant’s “suffering wonderment[.]” was sarcastic and reflected a lack of patience, dignity, and courtesy.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(3), and 3B(4).

E. On September 18, 2014, you presided over Qi Bin Chen’s trial for violating the posted speed limit on the San Francisco-Oakland Bay Bridge. (No. WWM740284.) The officer who issued the ticket testified that he was monitoring speed just west of the toll plaza and had determined Mr. Chen to be driving 71 miles per hour by using LIDAR (Light Detection and Ranging). Mr. Chen testified that he had checked his speed before he got on the bridge and had been driving only 50 miles per hour. You responded sarcastically as follows:

Yeah, I understand, so the LIDAR is wrong by 21 points. The radar device is just wrong ‘cause it’s goin’ around making you speed, when you weren’t really speeding. We gonna throw that LIDAR unit out as soon as this trial is over.

You then found Mr. Chen guilty.

Your comments were sarcastic and violated the Code of Judicial Ethics, canons 1, 2, 2A, and 3B(4).

F. On May 17, 2013, you presided over the trial of Randall Stovall. (No. WWM329945.) Mr. Stovall was charged with running a red light and using the center turn lane without making a left turn. While cross-examining the citing officer, Mr. Stovall stated, “I’m trying to figure out what – what was your position – um – you say I passed you?” You interrupted the officer’s response and stated, “No, no, hold on. Ask him, if you wanna know his position, you say what was your position, then – ” Mr. Stovall then asked the officer, “What was the position of your vehicle at the time – ” You then told Mr. Stovall, in a raised voice, “Oh, Mr. Stovall, this is court. We do this one at a time. It’s not a song; when I’m

speaking, you're listening. Do you understand me? That means don't talk over me! Are we clear?"

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, and 3B(4).

G. On February 19, 2013, you presided over Vincent Lo's trial for failing to stop at a red light at an intersection with a red light camera. (No. WWM308624.) The defendant denied that he was the person depicted in the video. After you found the defendant guilty, you asked him how he was going to pay the fine. The defendant then asked you if you were saying that all Asians look alike. When the defendant said that he disagreed with the decision, you told him he could appeal. When the defendant said, "I would like to appeal then[,]” you responded in a loud voice, "Well, whatever. No, I don't give instructions about how to appeal. You wanna appeal, go get a lawyer or get some instructions.” When the defendant asked, "So am I found guilty because of your word?,” you angrily responded, "You're found guilty 'cause that's my judgment. That's why I dress like this. Now is there some confusion about that, or you think I look the same as somebody else that's not dressed like this?"

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, and 3B(4).

H. On December 28, 2012, Ossie B. Holt, Jr., appeared before you for arraignment on charges of failure to have registration and failure to have evidence of financial responsibility. (No. WWM320422.) Although you told him that you do not hear stories at arraignment, Mr. Holt tried to explain his defense. You then said, "What part do – is there a hearing problem – you got a hearing problem? When I say 'no,' it's no.”

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, and 3B(4).

I. On December 28, 2012, Shareefah Joseph appeared before you for arraignment on a charge of failing to stop at a red light. (No. WWM126115.)

After viewing the video, Ms. Joseph told you, “I would like to explain that, but I can’t here so I’m gonna go with not guilty.” You responded, “Okay, I’m sure there’s something very compelling although the video is gonna answer the question.” When Ms. Joseph replied, “I’m gonna bring my evidence, Your Honor, sir[,]” you stated, “Okay, oh, I’m glad. It’s entertaining. Not guilty. When you wanna have a trial?”

Your conduct, including your sarcastic comments that you were “sure there’s something very compelling” and “I’m glad. It’s entertaining[,]” violated the Code of Judicial Ethics, canons 1, 2, 2A, and 3B(4).

J. On November 30, 2012, you presided over Jiaying Song’s trial for impeding traffic and failing to comply with the direction of a peace officer. (No. WWM282852.) When you instructed Ms. Song’s interpreter, “[T]ell your client to speak slower. And softer. We’re not at an auditorium[,]” Ms. Song responded in English, “Sorry.” You said in an impatient tone, “‘Sorry?’ Why you talking about ‘sorry,’ you got an interpreter. Cut it out. Use the interpreter like I told you.”

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, and 3B(4).

K. At the end of the calendar on November 30, 2012, a defendant (Andrew Videau) who may have been absent when his matter was called entered the courtroom. (No. WWM206947.) The defendant claimed to have been present earlier and to have checked in. The courtroom clerk told him that he probably left and came back in. While the defendant was speaking to the clerk, you told the defendant, “Hey, my man, stop it, quit playing us. Jesus!” and “Let’s don’t act like you are a child or am I! You weren’t here all the time and we’d have no reason to lie about it!” You later remarked sarcastically, in the defendant’s presence, “Everybody’s got a game, we’re all stupid.”

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, and 3B(4).

L. On November 28, 2012, you presided over Sukhjinder Randhawa's trial for speeding. (No. WWM32402098.) The citing officer testified that he measured Mr. Randhawa's speed as 85 miles per hour. Mr. Randhawa testified, "I feel I was going with the speed of the traffic, just going with the traffic. I don't think I was going 85." The following colloquy then took place:

THE COURT: Why would he pick you? This is always curious to me when people say, "I don't know what he was doing. I was going like the traffic." Then I wonder, out of all the thousands of people he could have picked, he come up on you and start lying about your speed. Why would he do that?

DEFENDANT: I don't –

THE COURT: You know what I mean? Like, if they picked me, I'd want to know, "What's up, why you pick me?" And I want you to tell me, why would he pick you, if you were righteous? Why would he pick you out of all the people he could have picked?

DEFENDANT: Your Honor –

THE COURT: Hundreds of people. What do you think?

DEFENDANT: Well, I was getting off work and –

THE COURT: *Oh, is that the key?*

DEFENDANT: That's not the key.

THE COURT: *He only catch the people getting off of work. I hear you. Go on.*

The italicized comments were sarcastic.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, and 3B(4).

M. On November 27, 2012, Angelica Chiong appeared before you for trial for failing to stop at a red light at an intersection with a red light camera. (No.

WWM230065.) A witness for Ms. Chiong testified that unlike Ms. Chiong, who turned right from a dedicated right turn lane, some drivers in that lane “go straight and nothing happens.” You responded, “Actually, you should bring a ticket against them. That’s possible. A citizen’s arrest.” When the witness responded, “I wouldn’t do that[,]” you replied, “Okay. Then I guess those dangerous criminals gonna keep going.” Your comments were sarcastic and belittled the witness.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, and 3B(4).

N. On November 27, 2012, Too Kasala Too appeared before you for trial for failing to stop at a red light at an intersection with a red light camera. (No. WWM195699.) After the video was played, you offered Mr. Too an opportunity to ask the video technician questions. Mr. Too asked whether he could see the “numbers that you can see when the camera is running.” He later added, “Because you can actually see the number of the – when the camera is running – you can see the numbers, you know, the sequence of a camera running.” You responded as follows:

That has nothing to do – either you stopped or you didn’t. What numbers got to do with it? Either the car stopped at the line, behind the line, or it didn’t. Now, we could add numbers or cartoons, that has nothing to do with whether you stopped or didn’t. It is your testimony that you stopped and, if so, what video can you show me that shows that you stopped? This is real simple. It used to be in the old days, the cops lyin’, the litigants lyin’, this, that, this, that. Now we just use our eyeballs. Did the car stop? No, end of case. What part of it is a confusing puzzle? Do you have other things you want me to know?

The comment that “we could add numbers or cartoons” and the reference to a “confusing puzzle” were sarcastic and reflected a lack of patience, dignity, and courtesy.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, and 3B(4).

O. On November 27, 2012, Monique Gonzalez appeared before you for trial on a charge of failing to stop at a red light at an intersection with a red light camera. (No. WWM225365.) After Ms. Gonzalez was convicted, she asked for time to pay and for traffic school. She then asked whether community service work was available on the weekends. You said that you could give her community service and she could try to “work it out with them in terms of what [her] obligations are for work.” When Ms. Gonzalez started to ask another question (“And if I cannot find one, can I –”), you became impatient and discourteous. At first, you stated, “Oh, ma’am, I’m not your lawyer.” When the defendant responded, “I know, but –,” you replied: “No, no. No, no. You don’t get to ask me questions about what you supposed to do. I make offers. You make acceptances or you make requests regarding what you would like. Now, do you want community service or not?”

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, and 3B(4).

P. On November 26, 2012, Mario Martinez appeared for arraignment on charges of driving without registration, a license, and evidence of financial responsibility. (No. WWM33074241.) After the defendant pled guilty, he asked, “If I fill this out, will I be able to get my identification?” You responded “I don’t know. That’s a DMV lawyer question. I ain’t got a clue.” The remark, “I ain’t got a clue,” was flippant, undignified, and discourteous.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, and 3B(4).

Q. On September 26, 2012, during your introductory remarks before calling the arraignment calendar, you stated forcefully, “Hey, my man, you confused about my other instruction? You. Are you? Then why you runnin’ your mouth? Cut it out.”

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, and 3B(4).

COUNT FOUR

In each of the following cases in which a misdemeanor was charged, you abused your authority by adjudicating the case without obtaining a stipulation from the defendant permitting you to do so. In each case, you also failed to protect the defendant's rights by accepting a plea of guilty or no contest without informing the defendant that the charge was a misdemeanor and without informing the defendant of, or receiving the defendant's explicit waiver of, the right to counsel, the privilege against compulsory self-incrimination, the right to trial by jury, and the right to confrontation.

A. On March 4, 2015, in *People v. Eduardo Zamudio*, No. WWM831249, you accepted the defendant's plea of guilty to driving without a license, a misdemeanor in violation of Vehicle Code section 12500, subdivision (a), and fined him \$485 on that charge.

B. On February 25, 2015, in *People v. Irene Cruz-Barragan*, No. WWM33160876, you accepted the defendant's plea of no contest to all of the charges, including the misdemeanor offense of driving without a license (Vehicle Code § 12500, subdivision (a)). You continued the case for a week to allow the defendant to furnish proof of insurance. On March 4, 2015, when the defendant provided proof of insurance, you dismissed the charge of violating Vehicle Code section 16028, subdivision (a) (driving without evidence of financial responsibility), fined the defendant approximately \$1,055, and assessed a transaction fee of \$25 for the dismissed charge.

C. On the morning of September 26, 2014, in *People v. Daniel Santos*, No. WWM781589, you accepted the defendant's plea of guilty to furnishing alcohol to a minor, a misdemeanor in violation of Business and Professions Code section 25658, subdivision (a), and fined him \$2,000. You permitted Mr. Santos

to withdraw his plea only after he told you that afternoon that he had not known he had been accused of a misdemeanor and that he wanted to see an attorney.

D. On October 23, 2013, in *People v. Luis Paez*, No. WWM530719, you accepted the defendant's plea of guilty to furnishing alcohol to a minor, a misdemeanor in violation of Business and Professions Code section 25658, subdivision (a), and fined him \$4,170. Later that day, you permitted Mr. Paez to plead not guilty only after he told you that he had not known that the charged offense was a misdemeanor.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(2), 3B(7), and 3B(8).

COUNT FIVE

You accepted pleas of guilty in the following cases without informing the defendants of the charges:

A. On March 5, 2015, you presided over the arraignment of defendant Trent Taylor. (No. WWM833139.) He was charged with a violation of Health and Safety Code section 11357, subdivision (b), making him eligible for a program (Options) by which a defendant charged with certain alcohol or marijuana infractions may resolve the case by attending a lecture at the courthouse. Without informing Mr. Taylor of the charge, you told him, "We have a program here at the courtroom that allows you to go to class for two hours and if you complete the class, then they dump your case. You can either get the class which is called Options or you can get a trial." When Mr. Taylor asked you, "What are the hours of the class?" you rudely responded, "I don't know, man, I'm not your lawyer. You wanna go to this class and get this thing off of you or not?" Mr. Taylor replied, "Nah, I'll just pay in installments." You then entered judgment against Mr. Taylor without taking a plea and imposed a fine of \$485.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(2), 3B(4), 3B(7), and 3B(8).

B. On November 26, 2012, you presided over the arraignment of defendant Crisoforo Ramirez. (No. WWM307137.) He was charged with possession of an open container of alcohol in a public place, making him eligible for the Options program. You told Mr. Ramirez, through an interpreter, that his case was “different,” but did not inform him of the charge or ask him how he wished to plead. You also told the defendant that his options include attending a three- to four-hour lecture, after which the case would be dismissed. Through an interpreter, Mr. Ramirez asked, “There is no way to pay it with community service?” Without receiving a plea of guilty or no contest, you then ordered Mr. Ramirez to perform 48 hours of community service and gave him 150 days to do the work. Although Mr. Ramirez clearly did not understand that the better choice was the lecture, you made no effort to ensure, before you entered judgment, that Mr. Ramirez understood that he would not have to pay the cost of the ticket if he chose Options or that the number of hours involved would be significantly less.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(2), 3B(7), and 3B(8).

COUNT SIX

You also failed to properly arraign the defendants in the following cases:

A. Micky Shulman was cited for a violation of Vehicle Code section 22349, subdivision (a) (violating 65 mile-per-hour speed limit). (No. WWM173126.) Mr. Shulman posted bail and the arraignment and court trial were set for November 30, 2012. On that date, you did not inform Mr. Shulman of the charge or ask for a plea before proceeding with the hearing. Instead, you took evidence, found Mr. Shulman guilty, and imposed a fine of \$410.

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

B. On November 30, 2012, you presided over arraignments without informing the defendants of the charges in the following three cases. In each case, the defendant chose to participate in the Options program:

1. *People v. Theodore Vergis*, No. WWM313623;
2. *People v. Jose Alonso*, No. WWM300886; and
3. *People v. Andria Davies*, No. WWM295155.

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

COUNT SEVEN

During your traffic calendar, you have had a practice of telling defendants that you do not want to hear any arguments about the amount of the fine, including their ability to pay, and have refused to exercise your discretion to depart from the uniform bail and penalty schedule in sentencing, thus reflecting prejudice. For example, before arraigning defendants on September 11, 2014, you stated:

One of the things that comes up, I think, it doesn't come up in my courtroom 'cause we clean it up right now. Many times people come to court and they have a plan, they might even work on the plan while they were shavin' this morning and they have an idea they gonna tell me some drama about what's going on at their house so they can pay less on the ticket. Don't bother, don't waste my time or whatever your personal problems are, we don't care. *If you got a ticket, everybody in here is gonna be treated exactly the same.* That's true whether you black, white, tall, short, fat, thin, cute or ugly. *If you did X, you gonna pay Y and so is everybody else. So there's no point in telling me about oh, woe me, I didn't get support, this, that, this, that. I don't care and the law doesn't either.* At this day and age 200 years since we've been treated differently, everybody in here on my watch gonna be treated the same. So don't waste any time talking about your drama 'cause nobody in here cares about it. There's nobody special in here but me.

When defendants asked for reductions in their fine amounts, you told them you would not reduce any fines. For example, on March 4, 2015, defendant Sangh Sullivan appeared before you in case number WWM275678. You told him that the ticket, which involved three charges, was “1,970.” After Mr. Sullivan pled no contest, he asked you, “Can I please ask you for a reduction, sir?” You replied, “We don’t have any reductions. I didn’t tell you – you didn’t hear the black, white thing?” After the defendant apologized, you responded, “Nobody’s gonna be arrested, but we got rules.” You then fined Mr. Sullivan \$1,970.

On March 5, 2015, you presided over the arraignment of defendant Sandra Cerra. (No. WWM837662.) The defendant was charged with failure to stop at a red light. After watching the red light camera video, Ms. Cerra asked you, “If I was to say ‘not guilty’ and come back, is there a way – uh – opportunity I can tell it to the judge if he can lower it down or –” You replied, “I’m gonna be the judge and we not lowering anything.”

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(2), 3B(5), 3B(7), and 3B(8).

COUNT EIGHT

If the uniform bail and penalty schedule calls for a total fine of \$1,000 or more, your practice has been to deny community service and require the defendant to pay the fine, regardless of the defendant’s ability to pay, as exemplified by the following cases:

1. On March 5, 2015, Donald Wayne Simmons appeared before you in case numbers WWM369512, WWM397034, WWM32403204, and WWM32496666. After Mr. Simmons pled no contest in case number WWM369512, you imposed a fine of \$1,594 and asked him how he was going to pay it. Mr. Simmons responded, “I was wondering if I could do community service along with monthly installments.” You denied the request to perform community service on the ground that the “number’s too big to do community

service.” You subsequently imposed additional fines totaling \$3,502 in Mr. Simmons’s three other cases.

2. On March 4, 2015, in case number WWM858168, you fined Maria Lizardo-Hernandez \$1,440 and denied her request to perform community service in lieu of fine on the ground that the “amount of the money is too much....”

3. On October 24, 2014, you presided over the case of Fernando Ramirez. (No. WWM129215.) Mr. Ramirez pled guilty to running a red light and driving without a license. The following exchange then occurred, through an interpreter:

THE COURT: How do you want to pay the 1,043?

DEFENDANT: I’d like to see if I could do community service?

THE COURT: You can’t. The money is too much.

DEFENDANT: Well, the thing is, I can’t pay a lot. I can’t pay it. I don’t have it. I have a big family.

THE COURT: Whatev– Then you got to stop breaking the law. You don’t have any money. No, you gonna have to pay the ticket. Something’s gonna have to happen. *‘Cause we’re not gonna let you break the law, walk out ‘cause you made a bunch of kids.* That ain’t got nothing to do with it. If you broke the law, you gonna pay a fine, one way or the other. Big family doesn’t have anything to do with it.

You then ordered the defendant to pay the \$1,043 fine in installments.

Your statements in the above cases reflected a blanket sentencing policy that if application of the uniform bail and penalty schedule resulted in a fine that exceeded \$1,000, community service would be denied and the fine would not be reduced. The announcement and application of a blanket sentencing policy reflected prejudice.

In addition, the italicized statement to Mr. Ramirez was discourteous and undignified.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), 3B(5), and 3B(8).

COUNT NINE

If the defendant has posted bail in order to have a trial, your practice has been to deny community service and require the defendant to pay the fine, regardless of the defendant's ability to pay, as exemplified by the following cases:

1. Kimpo Ngoi was charged with failing to stop at a red light at an intersection with a red light camera. (No. WWM231181.) He posted bail, waived arraignment, and appeared before you for trial, which was set for November 27, 2012. After the video was played on that day, Mr. Ngoi told you that he had intended to plead no contest and that the "main reason" he had come to court that day was to get permission to satisfy the judgment through community service based on financial hardship. You responded, "No. You already paid the money, we don't return any money." When the defendant persisted, you told the defendant that if he had said at arraignment that he was guilty and wanted to do community service, you would have ordered it, but that when he wanted a trial, he was required to "put up the money" and "that's it."

2. Jeremy Smith was charged with failing to stop at a red light at an intersection with a red light camera. (No. WWM194615.) Mr. Smith posted \$480 in bail and appeared before you for trial, which took place on November 27, 2012. On that day, you found Mr. Smith guilty, imposed a fine of \$480 and asked Mr. Smith how he wanted to pay it. Mr. Smith responded that it was already paid, but that he wanted to do community service because he was "on unemployment" at the time. You replied that once Mr. Smith paid the money, he could not get it back.

3. Laura Wainer was charged with failing to stop at a red light at an intersection with a red light camera. (No. WWM266014.) Ms. Wainer posted \$480 in bail and appeared before you for trial, which took place on November 27,

2012. On that day, you found Ms. Wainer guilty, stated that the fine would be \$480, confirmed that she had already paid it, and asked her if she wanted to attend traffic school. The following colloquy ensued:

DEFENDANT: Um, so I work for a nonprofit and I'm wondering if I can make arrangements with community service with them, or how that would work?

THE COURT: I don't have instructions for that.

DEFENDANT: Okay.

THE COURT: Your question to me – my question to you is, do you wanna do community service? What you're trying to do is negotiate something.

DEFENDANT: No, I'm just wondering how –

THE COURT: No.

DEFENDANT: – how would that work.

THE COURT: No, you can't do any wondering, you need to answer my question, do you want community service – I mean, not community service, but traffic school? Yes or no?

DEFENDANT: Yes.

THE COURT: Okay. You have to put up 57 bucks. You got 30 days to do that and then they'll assign you to work at some place that's a nonprofit organization.

DEFENDANT: Oh, they assign – I'm sorry, they assign me for where I have to conduct –

THE COURT: Ma'am.

DEFENDANT: – the community service?

THE COURT: *You're trying to do something that you don't have a right to. In the courtroom when you're engaged with the judge, the judge makes decisions. Now what you want to do is act like I'm your lawyer.*

I'm not. If you have questions that are lawyer questions, you ask your lawyer or somebody else, not me. I've explained it to you, that's it.

DEFENDANT: I just wanted – I'm sorry, sir, Your Honor, I just wanted clarification what community service actually meant, or how that goes –

THE COURT: I didn't tell that –

DEFENDANT: – in the system.

THE COURT: – in the beginning? About community service, it's working for a nonprofit organization, although that's not our issue. Your issue is, the issue about traffic school. You don't work – oh, I must have misspoken when I said you have community service. You actually put up the money already –

DEFENDANT: Correct.

THE COURT: – so there's no community service.

Your statements in the above cases reflected a blanket sentencing policy that if a defendant asked for a trial, posted bail, and was convicted, community service would be denied, and the bail would be forfeited. The announcement and application of this blanket sentencing policy reflected prejudgment.

In addition, your response to Ms. Wainer's question ("they assign me for where I have to conduct the community service?") was impatient, undignified, and discourteous.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), 3B(5), and 3B(8).

COUNT TEN

A. On October 20, 2011, an earthquake was felt in your courtroom. On or about that day, you made comments of a sexual nature to court staff about what you would do if it were your last day on earth. You made comments to the effect that if that had been a big earthquake and you thought you were going to die, you

would have jumped into the well of the courtroom (where your two clerks sit) and get “some kissing going on,” “see that [you] got taken care of,” or “make sure [you] went out happy.” You also made statements to the effect that you might need to, or were going to, hire an agent and have a plaque or bumper sticker put on your car pertaining to your ability to sustain an erection.

B. You also referred to courtroom clerk Cheryl Nieto, who is Caucasian, as an “honorary black girl” or clerk and as “white girl.” Your comments were made in the courtroom and in her presence. When Ms. Nieto came into your department, you asked her, “Where they been keeping the white clerks?” and made comments to the effect of, “You are okay for a white girl” or “You’re the only white person I feel comfortable around.”

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), 3B(5), 4A(1), and 4A(2).

YOU ARE HEREBY GIVEN NOTICE, pursuant to Rules of the Commission on Judicial Performance, rule 118, that formal proceedings have been instituted and shall proceed in accordance with Rules of the Commission on Judicial Performance, rules 101-138.

Pursuant to Rules of the Commission on Judicial Performance, rules 104(c) and 119, you must file a written answer to the charges against you within twenty (20) days after service of this notice upon you. The answer shall be filed with the Commission on Judicial Performance, 455 Golden Gate Avenue, Suite 14400, San Francisco, California 94102-3660. The answer shall be verified and shall conform in style to the California Rules of Court, rule 8.204(b). The Notice of Formal Proceedings and answer shall constitute the pleadings. No further pleadings shall be filed and no motion or demurrer shall be filed against any of the pleadings.

This Notice of Formal Proceedings may be amended pursuant to Rules of the Commission on Judicial Performance, rule 128(a).

BY ORDER OF THE COMMISSION ON JUDICIAL PERFORMANCE

Dated: October 5, 2016

Anthony P. Capozzi

Anthony P. Capozzi, Esq.
Chairperson

FILED
OCT 17 2016
COMMISSION ON
JUDICIAL PERFORMANCE

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE


INQUIRY CONCERNING
COMMISSIONER TAYLOR CULVER,

No. 199

ACKNOWLEDGMENT OF SERVICE
OF NOTICE OF FORMAL
PROCEEDINGS

I, Arthur J. Harris, on behalf of my client, Commissioner Taylor Culver, hereby waive personal service of the Notice of Formal Proceedings in Inquiry No. 199 and agree to accept service by mail. I acknowledge receipt of a copy of the Notice of Formal Proceedings by mail and, therefore, that Commissioner Culver has been properly served pursuant to Rules of the Commission on Judicial Performance, rule 118(c).

Dated: 10/14/16



Arthur J. Harris
Attorney for Commissioner Taylor Culver
Respondent