

FILED
JAN 04 2019
COMMISSION ON
JUDICIAL PERFORMANCE

STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING
JUSTICE JEFFREY W. JOHNSON,

No. 204

NOTICE OF FORMAL
PROCEEDINGS

To Jeffrey W. Johnson, a justice of the Court of Appeal, Second Appellate District, from August 3, 2009, 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, 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

You engaged in a pattern of conduct towards Justice Victoria Chaney that was unwelcome, undignified, discourteous, and offensive, and

that would reasonably be perceived as sexual harassment or as bias or prejudice based on gender, as follows.

A. On one occasion, between approximately June and August 2009, Justice Chaney telephoned you to congratulate you on your appointment to the Court of Appeal. You responded, "I didn't realize you were so beautiful," or words to that effect.

B. In approximately January or February 2010, you and Justice Chaney attended a judicial college for appellate justices in Reno, Nevada. While there, you had dinner each evening with Justice Chaney. During each dinner, you drank alcohol and appeared to be intoxicated. One evening, when you returned to the hotel in which you and Justice Chaney were staying, you entered Justice Chaney's room. Justice Chaney asked you to leave and told you it was time for you to return to your own room. You remained in her room for some time after she had asked you to leave. Justice Chaney had to repeatedly ask you to leave before you left her room.

C. On one occasion, between approximately February and April 2010, you and Justice Chaney were discussing a case in your chambers. You told Justice Chaney that you wanted to have an affair with her, and that you and she were "perfect together," or words to that effect. Although Justice Chaney immediately rebuffed your advances, within the next two months, you again asked Justice Chaney to have an affair with you.

D. On one occasion, between approximately January and July 2010, you saw Justice Chaney in the hallway of the courthouse building. Justice Chaney told you that she had just finished a particularly difficult hearing. You told Justice Chaney, "Well, I should kiss and squeeze your titties to make you feel better," or words to that effect. You then squeezed one of her breasts.

E. Between approximately January 2010 and June 2018, you repeatedly hugged Justice Chaney, and, while hugging her, pressed against

her and put your hand on one of her breasts. On some occasions when you hugged Justice Chaney and touched her breasts, you made comments such as, "Mm-hmm," and "You feel good," or words to that effect.

F. Between approximately January 2010 and June 2018, you repeatedly patted Justice Chaney on her buttocks at the courthouse.

G. Between approximately January 2010 and June 2018, you repeatedly made comments to Justice Chaney such as, "Mmm. Looking good today," and "You're happy to see me," or words to that effect. On multiple occasions, you made these comments while looking at Justice Chaney's breasts, and when Justice Chaney was wearing a sweater and the outline of her nipples was visible.

H. In approximately December 2013, during a court holiday party at the Taix French Restaurant, you made a sexually explicit comment to Justice Chaney and squeezed her against you when she was walking up to the bar. You then stated, "It can't be sexual harassment because we're both on the same level," or words to that effect.

I. In approximately 2014, you made a sexually suggestive and stereotyping comment to Justice Chaney about the size of an African-American man's penis.

J. On one occasion, in approximately December 2017, during or following a discussion regarding recent sexual harassment complaints against one or two other judicial officers, you asked Justice Chaney, "You would never report me, would you?," or words to that effect.

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

COUNT TWO

Between approximately October 2013 and May 2016, you engaged in a pattern of conduct towards California Highway Patrol (CHP) officers that was unwelcome, undignified, discourteous, and offensive, and that

would reasonably be perceived as sexual harassment or as bias or prejudice based on gender, as follows.

A. When Officer Tatiana Sauquillo worked for the Judicial Protection Section of CHP's Protective Services Division, she was assigned to drive you to functions and to the airport. On approximately four occasions, you commented on Officer Sauquillo's appearance and made comments of a sexual nature to her, including that you wanted to take her clothes off, see her without her uniform on, bend her over, and "fuck [her] from behind."

B. When Officer Sauquillo was in your chambers and when you saw her in a hallway in the Second District Court of Appeal, you made comments to Officer Sauquillo about how good she looked in the clothing she was wearing.

C. On one occasion, you put your hand on Officer Sauquillo's thigh while she was driving you.

D. On one occasion, when Officer Sauquillo was driving you home from a bar association function in Baldwin Hills, you asked her to pull over the vehicle so that you could have sex with her. You also told Officer Sauquillo that you wanted to take her for drinks and then back to your chambers to have sex.

E. In approximately November 2015, CHP Officer Shawna Davison, who was working for the Judicial Protection Section, picked you up at the Burbank Airport and drove you to your residence. On the trip to your residence, you rode in the front seat of the vehicle with Officer Davison. As you were arriving at your residence, you asked Officer Davison numerous times to come inside. You asked Officer Davison if there was any reason why she wanted to come inside, such as to use the bathroom. You told Officer Davison several times that no one was home.

Your tone when speaking to Officer Davison was sexually suggestive. Officer Davison declined your requests.

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

COUNT THREE

Jessica Butterick is an attorney who works at the Second District Court of Appeal. You engaged in a pattern of conduct towards Ms. Butterick that was unwelcome, undignified, discourteous, and offensive, and that would reasonably be perceived as sexual harassment or as bias or prejudice based on gender, as follows.

A. On one occasion, in approximately September 2015, you saw Ms. Butterick in a hallway of the South Tower of the Ronald Reagan State Building, where the Second District Court of Appeal is located. Ms. Butterick did not normally work in the South Tower and her office was located in the North Tower. You asked her why she was in the South Tower. When she explained why, you put your hand on her arm, stroked it, and stated, "We have to get you here more often," or words to that effect.

B. On another occasion, in approximately March 2018, you saw Ms. Butterick in a corridor outside Division One in the Second District Court of Appeal. You asked Ms. Butterick if she was a new extern. She told you that she was Justice Luis Lavin's staff attorney. You asked her why you had never met each other. You took her hand and held it. Ms. Butterick told you that you had met each other once before. You told Ms. Butterick something to the effect that there were not a lot of justices that looked like you and signaled to the portraits of former justices that hung on the wall of the corridor. Ms. Butterick responded, "Well, there are a lot of people that look like me at the court," or words to that effect. As Ms. Butterick walked away, you commented to her, "No, not a lot of people who look like you," or words to that effect.

C. During the same week, you again saw Ms. Butterick in the South Tower. You stated to Ms. Butterick, "Twice in one week," or words to that effect. You put your hand on Ms. Butterick's arm and stroked it.

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

COUNT FOUR

Andrea Blatchford is an appellate court attorney who began to work for you in approximately February 2018. You have engaged in a pattern of conduct towards Andrea Blatchford that has been unwelcome, undignified, discourteous, and offensive, and that would reasonably be perceived as sexual harassment or as bias or prejudice based on gender, as follows.

A. In approximately March 2018, you sharply criticized Ms. Blatchford during a telephone conversation. Approximately one day later, after Ms. Blatchford came to you in person to resolve the issue, you asked Ms. Blatchford, "Can I have a hug?," or words to that effect. Ms. Blatchford assented to the hug and you hugged her. During that conversation, you told Ms. Blatchford, "I'm really very fond of you," or words to that effect.

B. In approximately April or May 2018, when Ms. Blatchford was in your chambers discussing a case, you made a comment about a tattoo that you saw on Ms. Blatchford's right forearm. Ms. Blatchford told you that she had five tattoos, including two on her upper arm. Sometime later that day, you came to her office and asked her where the other two tattoos were located. Although the question made Ms. Blatchford uncomfortable, she pointed to where the other tattoos were.

C. Between approximately March and June 2018, you questioned Ms. Blatchford regarding her boyfriend, including the following.

- i. In approximately March 2018, you asked Ms. Blatchford whether her boyfriend was an intellectual. You told her,

“You strike me as an intellectual,” or words to that effect, and said that you felt it was important that her boyfriend be one, too.

- ii. In approximately late May 2018, during a discussion of a case involving restitution, you asked Ms. Blatchford if a necklace she was wearing had been a gift from her boyfriend.
- iii. In approximately June 2018, during a conversation about where Ms. Blatchford lived, you asked Ms. Blatchford whether her boyfriend was African American. When Ms. Blatchford told you that he was not, you asked her whether she had ever dated an African-American man. Although Ms. Blatchford was uncomfortable with the question, she responded that she had. Shortly thereafter, you stated, “I guess you went back then.” The latter comment was a crude reference to a joke about a stereotype.

D. In approximately May 2018, you took Andrea Blatchford and other members of your staff to lunch at the Blue Cube restaurant. During the lunch, you and your staff discussed the news story of Stormy Daniels’s allegations regarding President Trump. You told your staff that the alleged sexual contact between Ms. Daniels and President Trump sounded like “pedestrian sex.” You also electronically accessed a picture of another woman with whom President Trump allegedly had had an affair, and stated about three or four times that she was beautiful.

E. In approximately May 2018, you told Ms. Blatchford that she was your “favorite.” When you made the comment, you gave her a coy look and put your finger to your lips to indicate that she should keep it a secret. Ms. Blatchford told you that she did not like the comment and that it made her feel uncomfortable. You later made this comment to Ms. Blatchford a second time.

F. In approximately June or July 2018, you, Justice Helen Bendix, and Ms. Blatchford were in chambers discussing cases. Justice Bendix mentioned that she had been to a gynecological appointment that morning. Justice Bendix then stated that women have to undergo medical examinations that men do not need. You responded that men have to undergo prostate exams, but those do not “make you aroused,” or words to that effect.

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

COUNT FIVE

You have engaged in a pattern of conduct towards other female court personnel that was unwelcome, undignified, discourteous, and offensive, and that would reasonably be perceived as sexual harassment or as bias or prejudice based on gender, as follows.

A. Trisha Velez

1. Trisha Velez has been Justice Chaney’s judicial assistant since approximately 2013. Between approximately October and December 2013, you asked Ms. Velez to accompany you to coffee on approximately five occasions. Ms. Velez refused each invitation. Subsequently, between approximately October and December 2013, you told Ms. Velez that you knew Justice Chaney was not present at the court that day and that Ms. Velez therefore had no excuse for not going to coffee with you. Ms. Velez went to coffee with you on that occasion. Approximately two weeks later, you asked Ms. Velez to coffee again and she accepted. While at the coffee shop, you asked Ms. Velez questions regarding her personal life, including questions about her childhood, her upbringing, and her family’s religious beliefs. You also asked Ms. Velez if she had had a boyfriend when she was growing up, if she had been married before, and how her first marriage ended. When Ms. Velez told you that her first husband was a philanderer,

you responded that you were unhappy in your marriage. You then told Ms. Velez that if you were married to her, you would “never leave [her] bed,” or words to that effect. You also told Ms. Velez that you liked her. Ms. Velez told you to stop and that she had to leave.

2. Approximately two weeks later, you stopped at Ms. Velez’s desk and asked her to coffee. Ms. Velez told you that she never wanted to have coffee with you again, and would never go anywhere with you again. Approximately five minutes later, you called Ms. Velez and requested that she come to your chambers.

3. Between approximately August 2013 and June 2018, you repeatedly made comments to Ms. Velez such as, “You’re my favorite,” “We’re good,” “I got your back,” and “Love you.” When you made some of these comments, you also told Ms. Velez, “Don’t tell anyone,” and blew kisses at her.

4. In approximately 2016, you communicated personal information about Ms. Velez to Justice Chaney, including information about Ms. Velez’s relationship with her high school boyfriend and about Ms. Velez having been “wild” in her youth, or words to that effect.

B. Kathleen Wohn

1. Between approximately 2009 and 2015, you made multiple comments to appellate court attorney Kathleen Wohn about her personal appearance and scent, including telling her that certain clothing she was wearing “looked great” on her, that she “smelled nice,” and that she had “beautiful eyes,” or words to that effect.

2. In approximately 2011 or 2012, you took Ms. Wohn to lunch. While at lunch, you told Ms. Wohn that if you had been in high school with her, you would have been in love with her.

C. Carolyn Currie

Between approximately April 1999 and July 2011, you made comments of a personal nature to your judicial assistant, Carolyn Currie, including that Ms. Currie looked “hot” (or words to that effect) and smelled good.

D. Justice Elizabeth Grimes

On one occasion, between approximately November 2010 and December 2011, you were walking downstairs in the Second District Court of Appeal with Justice Chaney. Justice Grimes was also downstairs. Justice Grimes was wearing workout clothing, and was bending over to tie her shoelace. You stated to Justice Grimes that she has “the greatest ass in the Second District,” or words to that effect. When Justice Chaney asked you what you had said, you repeated the comment to Justice Chaney.

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

COUNT SIX

You engaged in a pattern of poor demeanor towards colleagues and court employees, as follows.

A. On one occasion, in approximately 2009, you became upset with Justice Chaney because you believed she had interrupted you during oral argument in a case. After the oral argument had concluded, you approached Justice Chaney in the hallway, angrily shook your finger approximately six inches from her face, and stated in a raised voice, “Don’t ever do that again,” or words to that effect.

B. Between approximately August 2009 and June 2018, on multiple occasions when your judicial assistant, Carolyn Currie, questioned your instructions, you raised your voice at Ms. Currie, yelled at her, called her defiant, and told her that you were her boss and that she needed to “do what [you] say.”

C. Between approximately October 1, 2015 and September 9, 2016, when your research attorney, Ellen Lin, forwarded draft opinions to you for your review, you told Ms. Lin that her work was “horrible” and “ignorant.” You yelled at Ms. Lin on numerous occasions. On one occasion, you yelled so loudly that visitors in the lobby could hear you yelling. On at least one occasion, you became so angry that you stomped your feet while yelling at Ms. Lin.

D. In approximately December 2017 or January 2018, you were discussing the case of *People v. Mireles* (B276786), with Justice Chaney, Presiding Justice Frances Rothschild, and appellate court attorney Daniel Alexander. You disagreed with Mr. Alexander on how the case should be decided. You became angry at Mr. Alexander and yelled at him over your difference of opinion.

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

COUNT SEVEN

You engaged in a pattern of conduct towards other attorneys that demeaned the judicial office and lent the prestige of judicial office to advance your personal interests, as follows.

A. Melanie Palmer

1. On or about June 22, 2013, you met attorney Melanie Palmer at a private party. Ms. Palmer had recently passed the California Bar Examination and was applying for permanent attorney positions. You told Ms. Palmer that you liked to mentor young attorneys, and provided her with your contact information. On July 1, 2013, you went to dinner with Ms. Palmer at a restaurant. Ms. Palmer told you that she was interested in working for the Los Angeles County District Attorney’s Office. You told Ms. Palmer that you knew District Attorney Jackie Lacey, that Ms. Lacey was your neighbor, that you had a good relationship with her, and that you

walked your dogs together. You gave Ms. Palmer the impression that you might help her get a job with the Los Angeles County District Attorney's Office. You told Ms. Palmer that she looked so young, that she was pretty, and that she would have to "prove [her]self."

2. After dinner, you invited Ms. Palmer back to the Second District Court of Appeal for a tour of the courthouse. After showing her various places at the court, you invited her to your chambers. While in chambers, you commented on Ms. Palmer's legs, and told her that she was fit and beautiful. You also told her that your wife used to care about fitness and had been attractive when she was younger.

3. You texted Ms. Palmer on multiple occasions over the course of the next few weeks. Your texts to Ms. Palmer were sexually suggestive. On one occasion, after Ms. Palmer had not responded to some of your texts, you sent her a text that stated, "I'm feeling insecure. You need to give me something," or words to that effect.

B. Allison Schulman

1. On or about June 10, 2015, you attended a Consumer Attorneys Association of Los Angeles (CAALA) reception at Spear Steak & Seafood House in Los Angeles. During the event, you stroked attorney Allison Schulman's arm and repeatedly grabbed her around her stomach and waist. When Ms. Schulman was leaving the event with a male attorney, you became upset, grabbed her by both wrists, and reproached her for going home with the male attorney. When Ms. Schulman told you that she was not going home with the attorney, you told her that the attorney was going to rape her. You then told Ms. Schulman that you knew certain sheriffs and police chiefs and that, if she did not text you to let you know that she had arrived home safely, you would send them to look for her. You kissed Ms. Schulman three times on the cheeks.

2. In early September 2015, you attended another CAALA event in Las Vegas, Nevada. At one point, while waiting to go to one of the evening receptions, you were standing with a group of people, including Ms. Schulman. You repeatedly commented that Ms. Schulman was not standing close enough to you and was not being friendly towards you. Later in the evening, you and Ms. Schulman were sitting with other people at one of the evening receptions. You repeatedly asked Ms. Schulman to leave her seat on a couch, which was perpendicular to the couch you were sitting on, and sit beside you. You told Ms. Schulman, who handled employment law cases, that you had an employment law case to refer to her. You also told her that you could only “give” her the case if she sat beside you. When Ms. Schulman stood up to leave and picked up her friend’s purse to take with her, you began yelling at Ms. Schulman.

C. Wendy Segall

1. On August 9, 2017, you contacted Los Angeles County Deputy District Attorney Wendy Segall and invited her to lunch. Ms. Segall accepted your invitation and you arranged to meet at your chambers before lunch on or about August 16, 2017. When Ms. Segall arrived at your chambers, you looked her up and down and commented, “You look great,” or words to that effect.

2. You then walked with Ms. Segall to Maccheroni Republic, the restaurant at which you were to eat lunch. While walking, you placed your hand on the small of Ms. Segall’s back.

3. At Maccheroni Republic, you made unwelcome comments about Ms. Segall’s physical appearance and “great figure.” You and Ms. Segall also discussed your children. When Ms. Segall said words to the effect that “you finally got a boy,” you stated, “Well, it was fun trying,” or words to that effect.

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

COUNT EIGHT

On various occasions, including the following, you were undignified and discourteous, and demeaned the judicial office by giving the appearance that you were under the influence of alcohol.

A. On one occasion between September and December 2010, you were observed at the Spring Street Bar at 626 South Spring Street in Los Angeles. You appeared to be intoxicated. You introduced yourself as a member of the judiciary to other patrons at the bar and gave your court business cards to patrons. You were observed putting your arm around female patrons of the bar and offering to buy them drinks.

B. On September 10, 2011, you officiated at the wedding ceremony of Assistant United States Attorney Julian Andre. At the reception that took place that evening at Galletto Ristorante in Modesto, you were drinking alcohol and appeared to be intoxicated. When a staff member of the venue asked you to leave the reception, you yelled at the staff member.

C. On or about June 10, 2015, you were drinking alcohol and appeared to be intoxicated at a CAALA reception you attended at Spear Steak & Seafood House in Los Angeles.

D. On one occasion between approximately August and December 2016, at approximately 11:30 p.m., you were observed at the Second District Court of Appeal after you had drunk alcohol. Your speech was slurred and you appeared to be intoxicated.

E. On one occasion during the summer of 2017, at approximately 1:00 a.m., you were observed on Spring Street in Los Angeles, outside the Second District Court of Appeal. You appeared to be so intoxicated that you were stumbling and were having difficulty walking.

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

COUNT NINE

Between 1999 and 2009, when you were employed as a magistrate judge at the United States District Court for the Central District of California, you engaged in a pattern of conduct towards female court employees that was unwelcome, undignified, discourteous, and offensive, and that would reasonably be perceived as sexual harassment or as bias or prejudice based on gender, as exemplified by the following.

A. In approximately 2004, you asked court clerk Isabel Martinez if she had had a breast augmentation. You then asked her if you could touch her breasts.

B. In approximately August or September 2006, during a conversation about football, you told your law clerk, Nicole Denow, "You're so beautiful. You're so smart. You're into football. If only I'd met you in college," or words to that effect.

C. Between approximately August 2006 and May 2008, while you and Ms. Denow were walking to lunch, you pointed to a woman and said, "That woman over there – she had a 'boob job,'" or words to that effect. You then pointed to your courtroom clerk and said that she had also had a "boob job," or words to that effect.

D. Between approximately January 2008 and May 2008, Ms. Denow told you that she had gone to lunch with another law clerk, "Jonathan." You made a facial expression, which conveyed disgust, and stated, "I just pictured you having sex with Jonathan," or words to that effect.

E. In approximately May 2008, when Ms. Denow appeared flustered or upset about an issue, you commented to Ms. Denow, "I have daughters. Is it your time of the month?" or words to that effect.

Your conduct constituted conduct prejudicial to the administration of justice that brings the judicial office into disrepute and/or improper action within the meaning of California Constitution, article VI, section 18, subdivision (d).


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 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: 6 December 2018


Nanci E. Nishimura, Esq.
Chairperson

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JUSTICE JEFFREY W. JOHNSON,

No. 204

ACKNOWLEDGMENT OF
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I, Paul S. Meyer, on behalf of my client, Justice Jeffrey W. Johnson, hereby waive personal service of the Notice of Formal Proceedings in Inquiry No. 204 and agree to accept service by mail. I acknowledge receipt of a copy of the Notice of Formal Proceedings by mail and, therefore, that Justice Johnson has been properly served pursuant to Rules of the Commission on Judicial Performance, rule 118(c).

Dated: 1/4/19



Paul S. Meyer
Attorney for Justice Jeffrey W. Johnson
Respondent