

COMMISSION ON JUDICIAL PERFORMANCE  
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FOR RELEASE  
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JUDICIAL PERFORMANCE COMMISSION ISSUES  
DECISION AND ORDER IMPOSING PUBLIC CENSURE AND BAR OF  
FORMER JUDGE STEVEN C. BAILEY

The Commission on Judicial Performance has issued a decision and order imposing public censure on former El Dorado County Superior Court Judge Steven C. Bailey and barring him from seeking or holding judicial office, or accepting assignments, appointments, or references of work from any California state court.

The commission found that Judge Bailey engaged in multiple instances of misconduct during the course of his judicial career, including failing to disclose, when referring defendants to an alcohol monitoring company (CHI), that his son worked on commission for CHI and made compliance reports to the judge; failing to disclose his prior associations with the owner of CHI before ordering defendants to use CHI services; ordering a defendant to pay restitution to CHI in violation of the law, based on a request from his son; appointing an attorney as a special master at \$350 per hour in a matter pending before the judge, without disclosing that the attorney was his friend; improperly accepting gifts; failing to report and inaccurately reporting travel-related payments or reimbursements received in connection with judicial education programs on his financial disclosure statements; between August 2016 and August 2017, while a sitting judge, using his judicial title and prestige of judicial office to raise funds for and promote his exploratory campaign and actual campaign for California Attorney General, and engaging in political and campaign activity that is inconsistent with the integrity and impartiality of the judiciary; while a sitting judge, permitting his Southern California Campaign Coordinator to use his judicial title and prestige of judicial office to promote his candidacy by creating a “Judge Steven Bailey” Facebook page; failing to file a Candidate Intention Statement to run for Attorney General before receiving campaign contributions, as required by law; improperly allowing a business to use his testimonial on its website, without assuring that it did not use his judicial title; and making comments to a member of court staff and two judges that reflected stereotypical attitudes about gay men.

The commission rejected Judge Bailey’s contention that canons of the Code of Judicial Ethics that prohibit a judge from fundraising and campaigning for nonjudicial office, without taking a leave of absence, violate the First Amendment of the United States Constitution. The applicable canons, the commission concluded, further a compelling state interest in preserving public confidence in the integrity and impartiality of the judiciary, and fostering the appearance that judicial decisions are not politically motivated. The commission concluded that Judge Bailey’s conduct in raising funds and campaigning for a partisan, nonjudicial office while working as a judge, explicitly referring to his judicial title, and relying on the prestige of judicial

office, is fundamentally inconsistent with the independence, impartiality, and integrity of the judiciary.

In determining to impose a censure and bar, the commission took into consideration that Judge Bailey has engaged in a broad spectrum of misconduct on and off the bench spanning the entire course of his career, has previously been disciplined for issuing delayed rulings in multiple cases, and failed to appreciate the impropriety of much of his misconduct in this matter. The commission noted that the judge demonstrated a conscious disregard of his ethical obligations by continuing to campaign for Attorney General without taking a leave of absence after being advised by a judicial ethics expert that he was in violation of the canons, and by failing to ask his campaign staff to stop referring to his judicial title on Facebook posts after being alerted to the posts by the commission. The commission agreed with the observation of the special masters, who presided over the evidentiary hearing in this matter, that Judge Bailey has his own views on being a judge and on appropriate conduct on the bench, and that his views are misinformed and erroneous. The decision further states that the commission's review of the record and observation of Judge Bailey reveals "a judge who plays by his own rules with little concern for whether his conduct comports with the rules applicable to all judges under the Code of Judicial Ethics." The commission concluded that there is a very high probability that the judge would engage in future misconduct if he were to return to the bench, and that censure and bar is necessary to protect the public, and maintain public confidence in the integrity and impartiality of the judiciary.

Former Judge Bailey is represented by James A. Murphy, Esq., Janet L. Everson, Esq., and Kristin L. Iversen, Esq., of Murphy Pearson Bradley & Feeney in San Francisco.

The commission's Decision and Order Imposing Public Censure and Bar is available on the commission's website at <http://cjp.ca.gov> (under "Pending Cases - Press Releases & Documents" and "Public Discipline & Decisions") and at the commission's office.

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The commission is composed of six public members, three judges, and two lawyers. The chairperson is Nanci E. Nishimura, Esq.

For further information about the Commission on Judicial Performance, see the commission's website at <http://cjp.ca.gov>.