

**STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE**

**IN THE MATTER CONCERNING
JUDGE JOSE I. SANDOVAL**

**DECISION AND ORDER IMPOSING
PUBLIC ADMONISHMENT**

This disciplinary matter concerns Judge Jose I. Sandoval, a judge of the Los Angeles County Superior Court. Pursuant to rule 116 of the Rules of the Commission on Judicial Performance, Judge Sandoval and his attorney, Edith R. Matthai, appeared before the commission on May 8, 2019, to contest the imposition of a proposed public admonishment issued on February 14, 2019. Judge Sandoval has waived his right to formal proceedings under rule 118 and to review by the Supreme Court. Having considered the written and oral objections and argument submitted by Judge Sandoval and his counsel, and good cause appearing, the Commission on Judicial Performance issues this public admonishment pursuant to article VI, section 18(d) of the California Constitution, based upon the following statement of facts and reasons.

STATEMENT OF FACTS AND REASONS

Judge Sandoval has been a judge of the Los Angeles County Superior Court since 2001. His current term began in 2015.

The commission found that Judge Sandoval violated his duty to dispose of all judicial matters promptly and efficiently, as required by canon 3B(8) of the Code of Judicial Ethics, and to perform his judicial duties competently and diligently, as required by canon 3, when he failed to resentence a criminal defendant for over three years after being directed to do so by the Court of Appeal.

On February 24, 2012, the Court of Appeal issued a decision in *People v. Dewone T. Smith* (B223181), affirming a judgment issued by Judge Sandoval, but vacating the 150-years-to-life sentence he had imposed, and remanding the case to him for sentencing. The Court of Appeal issued its remittitur to the trial court on August 30, 2013. Judge Sandoval did not resentence Mr. Smith until October 12, 2016.

After the August 30, 2013 remittitur, on September 6, 2013, a different judge at the superior court ordered the remittitur forwarded to Judge Sandoval for action. Judge Sandoval told the commission that the remittitur was not received in his department until nearly a year later. On September 3, 2014, *Smith* was called by a different judge and continued to September 18, 2014 for hearing in Judge Sandoval's department. Judge Sandoval continued the hearing on September 18, 2014, September 24, 2014, and October 28, 2014; the commission found that these three continuances did not violate the Code of Judicial Ethics.

Thereafter, however, Judge Sandoval continued the hearing 16 more times, until he finally sentenced Mr. Smith on October 12, 2016. The pattern that emerged is that counsel often agreed on dates that were convenient to them, and Judge Sandoval simply accepted those dates. Mr. Smith's counsel did, however, occasionally object to further continuances. Judge Sandoval did not offer any evidence that he had questioned counsel about the need for, or length of, the continuances he granted, and he did not offer any explanation for the length of these continuances in his response to the commission. Judge Sandoval did not issue any orders during this period to ensure that the case was managed efficiently.

In the absence of proactive case management by Judge Sandoval, briefing on motions and discovery was prolonged. An issue arose on July 21, 2015 about whether Judge Sandoval or another judge should hear one of the defense motions, but Judge Sandoval still had not resolved the issue by the September 10, 2015 hearing. The prosecution repeatedly subpoenaed documents over a period of many months, and then required more time to provide them to the defense and the court, contributing to delay of the sentencing hearing between January 23, 2015 and April 20, 2016. Judge Sandoval recognized this issue, but did not take any action to manage the process. For example, on January 23, 2015, Judge Sandoval suggested setting a hearing "relatively soon" for counsel to confirm that there were no further discovery and disclosure issues. Defense counsel objected to further continuances. Judge Sandoval responded, "I appreciate that," recognized there had been "some delay," and said he wanted the parties to have the

opportunity to be heard. He did not, however, exert control over the process to assure that a sentencing hearing would occur within a reasonable period of time. Five months later, on June 9, 2015, Judge Sandoval told counsel he wanted to handle the documents issue “as soon as possible, in a week,” but again did not issue an order to govern the process. On November 24, 2015, defense counsel asked to be provided with the prosecution’s witness list at least a week prior to the next hearing, but Judge Sandoval did not issue any order, resulting in the prosecution providing the list only two days prior to the next hearing on January 20, 2016. The result was that the defense was not prepared to proceed at the January 20, 2016 hearing, and Judge Sandoval once again continued the matter to February 25, 2016. Judge Sandoval offered no explanation for permitting the matter to proceed in this manner. Meanwhile, Judge Sandoval had informed counsel at the September 24, 2014 hearing that he intended to substantially reduce the sentence.

“A convicted defendant should not be subjected to unnecessary and indefinite delay before a new sentence is imposed.” (*People v. Domenzain* (1984) 161 Cal.App.3d 619, 623.) Mr. Smith was subjected to unnecessary and indefinite delay before the new sentence was imposed. As the Court of Appeal in Mr. Smith’s subsequent appeal stated,

After our remittitur, this case languished in the trial court for more than three years before Smith was resentenced. That is true even though the only felony for which Smith was ultimately resentenced was punishable by *two, three, or four* years had the trial court exercised its discretion in any number of ways ([Pen. Code,] § 4502, subd. (a).)

(*People v. Smith* (Oct. 4, 2018, B278596) [nonpub. opn.], at p. 12, original italics.)

The court then concluded:

The three-year delay between remittitur and resentencing here was unconscionable. The record does not disclose the cause of the vast majority of the more-than-20 continuances. But unless the trial court had already determined when it first started continuing resentencing in this case that it was going to sentence Smith to more than the length of the continuances (taken together with whatever custody and other credits Smith was entitled to), then the

delay had the very real possibility of implicating Smith's liberty rights. We will grant Smith's request to be resentenced before a different trial judge.

(*Smith, supra*, B278596, at p. 13.)

The commission found that Judge Sandoval's conduct in failing to manage the case, after becoming aware that it had already languished for a year after the remittitur, violated canon 3 (judges shall perform judicial duties competently and diligently), canon 3B(8) (judges must dispose of all judicial matters promptly and efficiently), and canon 2A (judges shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary).

Judge Sandoval's conduct was, at a minimum, improper action.

In determining to impose public discipline, the commission took into account the following aggravating factors:

(1) Judge Sandoval received an advisory letter in 2013 for delay in ruling on a criminal defendant's motion, in violation of canon 3B(8). (The advisory letter was also for unrelated improper ex parte communication.)

(2) In his response to the notice of intended public admonishment, Judge Sandoval stated that he had "no history of discipline," despite the existence of the 2013 advisory letter. At his appearance before the commission, he acknowledged having received the 2013 advisory letter, but did not seem to recall that it concerned decisional delay. Judge Sandoval did not appear to have taken into account his 2013 discipline for failing to dispose of matters promptly and efficiently while he was handling the *Smith* case between 2014 and 2016.

(3) Judge Sandoval also asserted that none of the continuances he granted was the result of his failure to perform his judicial duties. The commission determined that this assertion reflected a lack of appreciation for the impropriety of his conduct.

Commission members Nanci E. Nishimura, Esq.; Hon. Michael B. Harper; Hon. William S. Dato; Mr. Eduardo De La Riva; Ms. Sarah Kruer Jager; Dr. Michael A. Moodian; and Mr. Adam N. Torres voted for a public admonishment. Commission

members Ms. Kay Cooperman Jue, Hon. Lisa B. Lench, and Mr. Richard Simpson voted for a private admonishment. Commission member Anthony P. Capozzi, Esq. did not participate.

Dated: May 10, 2019

On behalf of the
Commission on Judicial Performance,



Nanci E. Nishimura
Chairperson