

PUBLIC ADMONISHMENT OF JUDGE BARBARA L. ROBERTS

The Commission on Judicial Performance ordered Judge Barbara L. Roberts publicly admonished, pursuant to article VI, section 18(d) of the California Constitution and commission rule 115, as set forth in the following statement of facts and reasons found by the commission:

STATEMENT OF FACTS AND REASONS

Before retiring on October 11, 2020, Judge Roberts had been a judge of the Butte County Superior Court since 1998. Her most recent term began in 2019.

The commission determined that Judge Roberts should be publicly admonished for violating the California Code of Judicial Ethics for misconduct on the bench and in the courthouse. Judge Roberts engaged in a pattern of poor demeanor in multiple dependency cases over which she presided in 2019 and 2020. This misconduct included treating primarily parents, but in one case, attorneys and a social worker, in a harsh and discourteous manner. Judge Roberts also abused her authority and became embroiled in one case. The commission also found that, on January 8, 2020, Judge Roberts yelled at court staff and engaged in a display of impatient and frustrated behavior in the clerk's office, in an adjoining internal court hallway, and in chambers. The commission further found that, on January 9, 2020, again while in chambers, the judge discourteously raised her voice to another judge.

The commission recognized that her dependency assignment and the cases addressed in this matter were often difficult and frustrating for Judge Roberts. The commission also recognized the challenges Judge Roberts experienced in moving the dependency court from one Butte County courthouse to another. Nevertheless, Judge Roberts was required to comport herself in accordance with the California Code of Judicial Ethics.

1. The commission found that Judge Roberts failed to be patient, dignified, and courteous toward parents appearing before her in 10 dependency hearings.

a. In re: K.S. and J.S.

On February 25, 2019, Judge Roberts presided over a dispositional hearing of a case involving two siblings.¹ J.S. suffered from significant mental illness, which the parents and Judge Roberts discussed at length. During an exchange regarding a possible out-of-state placement for J.S., both parents expressed concern that such a placement might make having access to their son more difficult.

¹ Case names and the identities of certain persons and locations have been obscured to protect the confidential nature of dependency cases and the privacy rights of minors.

THE COURT: So what is the objection to sending him out of state?

THE MOTHER: I'm just worried I'll never see him.

THE COURT: Of course you're going to see him.

THE FATHER: The main objection, Your Honor, is as it is right now with him in [a California location], it's costing us \$200 a month to go up there every weekend and see him for six hours total. He gets –

THE COURT: What does that have to do with finding the best possible placement and treatment for him?

THE FATHER: It doesn't, Your Honor. It doesn't. If you allow me to finish, I'll get to my point. [¶] If he's moved out of state, it makes our ability to have contact, and consistent interaction with our child, that much more difficult than it already has been.

(R.T. 6:10-7:2.)

Later in the proceeding, the social worker said that he gave the parents transportation agreements to help with gas, and later sent them a packet with transportation assistance forms, but they had not returned them. The father told the court that, at the last court appearance, he told the social worker that he had lost the forms and requested new ones. The social worker then apologized. Shortly thereafter, the following exchange occurred:

THE COURT: Mother, why didn't you fill out the transportation form?

THE MOTHER: I don't really feel like getting reimbursed for -- I don't want money from CPS.

THE COURT: Then do not sit here in this courtroom and complain to me that you don't have the finances to go.

THE MOTHER: I never have.

THE FATHER: That was me, Your Honor.

THE MOTHER: I have the money.

THE FATHER: I didn't say that we didn't have the finances, I said it was a burden to have to spend \$200 a month.

THE BAILIFF: You know, folks, stop arguing.

THE FATHER: I'm not trying to argue, sir.

THE COURT: You're talking out of both sides of your mouth, sir. You're telling me on the one hand that you're upset you have to pay \$200 a month. There is a program set up for you to get reimbursed for your transportation expenses, but you don't feel like doing it.

THE FATHER: No, I requested the paperwork from [the social worker] over a month ago.

THE COURT: See you on March 4th. I am not going to argue with you too. You're being uncooperative, you're not following through with what you need to follow through with.

THE FATHER: No, [the social worker] is not following through. I requested that paperwork over a month ago.

THE MOTHER: They don't care.

THE COURT: Don't be rude.

THE FATHER: I have a right to say whatever the hell I want.

(Proceedings concluded.)

(R.T. 26:12-27:19.)

The commission found that Judge Roberts was discourteous to the mother by impatiently reprimanding her for something she did not do. Additionally, Judge Roberts's statements that the father was "talking out of both sides of his mouth," failed to get reimbursed for transportation expenses "because he didn't feel like doing it," and was "being uncooperative," as he tried to explain his request for replacement forms, were discourteous and impatient. The commission found that Judge Roberts's comments were contrary to canon 3B(4), which requires judges to be patient, dignified, and courteous to all those with whom they deal in an official capacity, canon 2A, which requires judges to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary, and canon 1, which requires judges to personally observe high standards of conduct and uphold the integrity of the judiciary.

b. In re: K.S.

On June 6, 2019, Judge Roberts presided over further proceedings in the *In re: K.S.* case. The mother was participating in a medication-assisted drug treatment

program, which included regular testing and prescription use of methadone and marijuana to help her overcome her addiction. During the hearing, the following occurred:

THE COURT: Are you going to meet with the social worker without your attorney or not?

THE MOTHER: I have been, yes.

THE COURT: All right. The Court is going to order you to meet with your social worker without your attorney. The Court is going to order you to still communicate via text message. That is how we communicate in this court.

THE MOTHER: Then I am going to turn my phone off.

THE COURT: So Mother just said, "I guess I'll turn my phone off." Is that what you just said? So she just basically said she's going to turn her phone off, and she's not going to accept text messages from you. So we're going to get absolutely nowhere.

[SOCIAL WORKER]: And, your Honor, she's also been testing positive still for THC. She claims that she has a prescription but won't provide it.

THE COURT: You know what, I don't care if you have --

THE MOTHER: You cleared it.

THE COURT: -- a prescription or not, I ordered you to quit.

THE MOTHER: No, you cleared that in November when you [also authorized her husband's marijuana use].

THE FATHER: You told us that as long as there's a medical reason to use marijuana that it was fine. She cannot take anxiety medication for her PTSD because of the adverse side effects of the anxiety medication.

THE COURT: Did I?

THE FATHER: You can role [sic] your eyes and shake your head all you want, your Honor, but --

THE MOTHER: She knows I can't take medication.

THE FATHER: -- it's not --

THE COURT: And I can.

THE FATHER: No, you cannot.

THE MOTHER: I have gotten that from the state attorney general.

THE COURT: Stop.

[ASSISTANT COUNTY COUNSEL]: Your Honor.

THE COURT: I can order you to not do anything that I say I am ordering you not to do it [*sic*].

THE FATHER: In a criminal case, this is not a criminal case, your Honor.

THE MOTHER: I have already talked to the Department of Justice about this.

[ASSISTANT COUNTY COUNSEL]: If I can be heard. On May 14th, this Court made it clear that Mother would not be able to use marijuana. There's --

THE MOTHER: Even though it was made clear in November.

[ASSISTANT COUNTY COUNSEL]: March 14, 2019, is when this Court made the order.

THE COURT: All right. So it appears that I might have authorized it at the beginning, because -- you know, here is the deal. Some people can drink and -- no problems in their life. Some people can do drugs, no problems in their life. Some people can use marijuana, no problems in their life. [¶] You are not a family with problems [*sic*].

THE FATHER: You're right, we have a son with mental disabilities that --

THE COURT: I want you to be quiet please.

THE FATHER: No. We have a --

THE MOTHER: We have a right to speak.

THE FATHER: -- a child who is uniquely handicapped, your Honor. Every report, in the initial report, except for one was about our son and his behavior.

THE COURT: See you August 29th.

THE FATHER: CSD is saying that we weren't doing any –

THE MOTHER: No, she doesn't want to hear what you have to say. She wants to hear lies and the corrupt [*sic*]. We will just continue with the Department of Justice. Go ahead, say I'm mental now. [¶] [Mother calls the judge an expletive as she leaves the courtroom.]

(R.T. 7:14-10:9.)

The commission found that Judge Roberts's conduct, including rolling her eyes, shaking her head, arguing with the parents, saying that she didn't care if the mother had a prescription for marijuana, and declaring that she could order the mother to do whatever she wanted violated canons 1, 2A, and 3B(4).

c. In re: K.S. and J.S.

On October 3, 2019, Judge Roberts presided over further proceedings in the *In re: K.S. and J.S.* matter. Judge Roberts spoke briefly to nine-year-old K.S., who was present in court. Immediately thereafter, with the child still present, Judge Roberts stated:

THE COURT: Mother and father, you and I have gotten off to a very bad place in this courtroom, and that is why I asked all of the attorneys to meet and confer with you over the lunch hour to see if we could start anew here.

Mother, I don't know what has happened to you. I truly don't. You were the most wonderful person when you were in my Drug Court. Delightful person. I enjoyed you so much. You were nice, you were polite, you were conscientious, you were willing to do the hard work. You were a delightful person when you graduated from Drug Court.

What happened? I want you to really stop and think about what has happened in your life that has caused you to be so incredibly nasty to social workers, your attorney. The fact that your attorney has to be relieved off this case tells me everything I need to know about how you treat people. You have also treated me terribly in this courtroom. Very, very insulting, very rude. I had to threaten to put you in jail to get

you to come around. This is not the [person] I knew when she was in Drug Court.

I want to know why you're on methadone, and why we are not trying to get off the methadone. So I want you to really think about this. And I've read the records, and supposedly you're on a really high dose because of some kind of metabolism issue. I don't believe it for a minute. I have been on the bench for 22 years, and I have never heard of somebody having such a high metabolism, or whatever this is, that they have to stay on a high dose of methadone.

I want you to be thinking about this, because I think it's affecting your personality. You are on heroin every single day, and on a very high dose of it. And you are such a different person than the person I had in front of me a couple of years ago, that I'm wondering what happened. I don't know what happened in your personal life, I don't know what's going on at home, but you are an entirely different person.

This is what scares me, [mother]: If you act this way to your attorney, so bad that he had to be asked [*sic*] to be relieved from the case, so bad with the social workers that you won't even talk to them, and you guys won't even go to CFT meetings, you storm out of a courtroom cussing at me. If you act that way in this courtroom in front of me, when I'm going to send your children home or not, I wonder how you act when I'm not around.

This really, really is frightening to me, because if you act this way in front of all of these people, how do you act towards your daughter? And my biggest concern right now is that this young child is going to end up just like your son, and that's what I'm trying to prevent.

I see the love and affection that she has for you two, and I don't want to interfere with that. But both of you have turned into very nasty people, and that's my concern. I want to save this young girl from turning out like your son has. So I want you to really just think about this.

I also want you to think about the domestic violence that has gone on in your home that you two refuse to admit to. Domestic violence is taking advantage of the other person, yelling and screaming. You don't have to touch anyone for them [*sic*] to be domestic violence. And what you're

teaching is, you're teaching this little girl that it's okay to act like you do towards each other for somebody that you supposedly love with your heart and soul. You're teaching her that this is an okay way to treat people, and it's not.

And until you two realize that the way you act in this courtroom is an indication to me of how you act with each other -- there's extreme violence going on in your home. It may not be physical, it's emotional, and that is way more damaging to a child than if you just push her, because she thinks there's something wrong with her.

So I want you to just take a huge step back and realize you're burning your own bridges here. And I'm trying to get this child home, but until I see some changes in you, that's going to be really difficult.

(R.T. 8:7-11:7.)

Later in the same proceeding the judge said, "Let's all start over again with a fresh indication that we're going to do what's necessary for this child. [¶] So I don't care whether you want to do it or not, I'm going to do it for my [sic] child. (R.T. 12:4-9.)

The commission found that Judge Roberts's remarks were harsh and discourteous. She, among other things, incorrectly accused the mother of being on a very high dose of heroin every day, derisively discussed the mother's drug treatment records, said, without evidence, there was "extreme violence" in the parents' home, and said the parents had turned into "very nasty people." The commission found Judge Roberts's comments about trying to save K.S. from the same fate as her brother, who Judge Roberts knew suffers from very serious mental illness, troubling. Judge Roberts's statements were inconsistent with canons 1, 2A, and 3B(4).

d. In re: X.N.

On January 8, 2020, Judge Roberts presided over a number of cases on the dependency calendar. After Judge Roberts called the matter of *In re: X.N.*, the following occurred:

THE COURT: All right. Mother is present. [¶] And this is on for two issues: One is to ask the Court for authorization for medical treatment. [¶] Any objection to that?

THE MOTHER: For the shunt?

THE COURT: Yes. [¶] I'm talking to the attorneys.

THE MOTHER: Oh.

[MOTHER'S ATTORNEY]: I haven't had a chance to meet with her.

THE COURT: How come you haven't talked to your attorney about this?

[MOTHER'S ATTORNEY]: Because I've been in court.

THE COURT: Do you have any objection to the medical procedure?

THE MOTHER: Yes and no. We had a doctor's appointment. Initially I did because of the risks and stuff that were initially mentioned and went over when he got the shunt placed.

THE COURT: Do you have an objection now or not?

ASSISTANT COUNTY COUNSEL: Your Honor, if I may, I spoke with our public health nurse about this, and she thought that [mother's] objections were well placed, because the initial surgeon's report was that the shunt was going to be able to stay in place indefinitely, and [mother], I believe, was surprised when the physician then said, "Well, we're going to schedule a surgery to take it out." And so I think there's an appointment scheduled to discuss the removal of the shunt.

THE COURT: Perfect.

(R.T. 3:8-4:12.)

Later in the hearing, Judge Roberts allowed the mother an opportunity to speak about services, but thereafter twice interrupted her, and on three occasions failed to allow the mother to be heard when she had a question or a suggestion. The commission found that Judge Roberts made impatient statements to the mother, discourteously interrupted her, and discourteously failed to let the mother speak, in violation of canons 1, 2A, and 3B(4).

e. *In re: T.N. and J.N.*

The matter was before Judge Roberts on January 8, 2020, with each parent represented by counsel. When Judge Roberts asked the father why he had not contacted his attorney, he said he had just been released from jail and had lost all his paperwork. The following then occurred.

THE COURT: When were you released?

THE FATHER: On Christmas.

THE COURT: That was not just released. Do not lie to me. Because you just implied you didn't talk to your attorney because you just got out of jail. That is a lie. It's been ten days and you could have called Children's Services and asked who your attorney was and gotten the phone number. [¶] Mother, apparently you haven't contacted your attorney either. Why not?

[MOTHER'S ATTORNEY]: She has, Your Honor. She has, but she's not understanding today's proceeding. If we could trail this?

THE COURT: This is a very, very serious matter, and for you two to come into this courtroom without ever having talked to your attorneys is appalling.

[MOTHER'S ATTORNEY]: Your Honor, the Mother has called me, and we have spoken, she's just not understanding today's proceeding.

(R.T. 14:21-15:14.)

Subsequently, the social worker reported that the mother had drug tested once and Judge Roberts asked the date of test. When the mother replied, "It was the last court date that we had. It was on -- I have to look at my calendar," Judge Roberts responded, "That doesn't help me at all. How can I remember when you came to court last?" Once it was determined that the mother had not tested in five weeks, Judge Roberts asked why it had been so long. When the social worker replied that the mother said she didn't know she was supposed to call a drug testing line, Judge Roberts responded, "That's baloney."

Later in the hearing, the mother's attorney told the judge that her client had made another appointment to meet with her and was just having a hard time understanding the proceedings that day. Judge Roberts responded, "I understand. But the solution isn't to talk to you in the courtroom, the solution is to make another appointment outside of court time. Because, you know, we've accomplished nothing here. And you've taken ten minutes of the Court's time because you didn't go see your attorneys to understand what's going on here." (R.T. 19:5-10.)

Judge Roberts also asked the mother if she knew why her children had been detained and the following occurred:

THE MOTHER: I do. For the most part, I understand why the children were detained.

THE COURT: Why were the children detained?

THE MOTHER: Because of my own --

THE COURT: Why were the children detained?

THE MOTHER: Because I had drugs in my car.

THE COURT: Because you were slumped over the steering wheel, passed out, with the children in the car, and both children tested positive for methamphetamine. That's why these children were detained. Not because you made a stupid decision.

(R.T. 23:11-21.)

The commission found that Judge Roberts made numerous discourteous or impatient remarks to the parents including, "Don't lie to me"; "that is a lie"; "appalling"; "That doesn't help me at all. How can I remember when you came to court last?"; "Because, you know, we've accomplished nothing here. And you have taken ten minutes of the Court's time because you didn't go see your attorneys to understand what's going on here" (despite mother's counsel twice confirming that she had talked with her client before the hearing); "That's baloney"; and "That's why these children were detained. Not because you made a stupid decision." The commission found that Judge Roberts's remarks violated canons 1, 2A, and 3B(4).

f. In re: A.V.

On January 8, 2020, the matter was before Judge Roberts for a disposition hearing. The mother's attorney told the court that the mother was trying to get into a rehabilitation program, was having difficulty with transportation, and had asthma. She also said her client was clean for methamphetamine, but was still using marijuana when the following occurred:

THE COURT: Why are you still using marijuana?

THE MOTHER: I've been trying to stop. It's really hard for my anxiety. I wake up --

THE COURT: You have asthma and you're using marijuana? Crazy. ... The Court's going to order you not to consume marijuana. That is ridiculous with you having anxiety and asthma that you would even consider using marijuana. You need to address the underlying mental health issues, not mask it with marijuana use. [¶] So how many drug tests has she missed?

SOCIAL WORKER: [Social worker] for Children's Services. [¶] Mom has 14 FTA's.

THE COURT: So you have 14 dirty tests. [¶] How about Father?

SOCIAL WORKER: Father has 16 FTA's.

THE COURT: Why are you not going to drug testing?

THE FATHER: Transportation.

THE COURT: What are we going to do to solve the transportation problem? Are both of you working?

THE FATHER: No.

THE COURT: Why not?

THE MOTHER: He's been taking on –

THE COURT: No, no, no. Why are you not working, sir?

THE FATHER: I've been taking on odd jobs here and there, what I can get.

THE COURT: Why aren't you working full time for a paycheck?

THE FATHER: There's no jobs [sic], Your Honor.

THE COURT: I don't believe that for one second. How many jobs have you applied for since January 1st?

THE FATHER: Probably about 15. [Father then discusses jobs for which he applied.]

(R.T. 39:4-40:21.)

Later in the proceeding, the social worker confirmed that the 20-year-old mother had applied to an inpatient drug rehabilitation program and was also in an outpatient program. Both parents lived on a rural family farm and neither had a driver's license. The mother said that, as a result, she was only able to go to one AA meeting a week, when her sponsor gave her a ride.

Judge Roberts ordered that the child be removed from the parents' custody. When she asked if the child had been re-detained, the following occurred:

[MOTHER'S ATTORNEY]: Yes. Last dispo – [counsel] on behalf of the Mother. At the first dispo, CSD returned the child to the parents and then did an unannounced visit, and Mother was using meth, or tested positive for meth, and the place was not in good shape.

THE COURT: How do you get the methamphetamine when you're five miles out in the country with nobody around? Somehow we can find transportation to get our drugs, but we can't find transportation to get into town to do our testing and to go to NA meetings. Do you understand how ridiculous this is? [¶] So once the children are returned home, the child was found to be residing in a home that posed health and safety risks, including cigarette butts accessible to the child. So both of you have enough money to smoke. [¶] Do you smoke Mother?

THE MOTHER: Yes.

THE COURT: Father, do you smoke?

THE FATHER: Yes, I do.

THE COURT: What do you know, we have enough money to buy cigarettes, but not enough money to get services. This is ridiculous, you two.

THE MOTHER: I didn't say money was my problem. Transportation is my problem.

THE COURT: I know. And what are you doing to solve that problem?

THE MOTHER: I've been calling everybody I know that I'm allowed to contact.

THE COURT: How about you solve the problem?

THE MOTHER: What do you think --

THE COURT: You're using methamphetamine after your child was returned to you. That is not somebody who is taking this seriously and is trying to get this child back. If this continues and you continue to live in a place where you cannot get services, you can not [sic] get to meetings, and you cannot get to drug testing, and the residence is in this kind of squalor, there's a zero chance that this child is being returned home. I think you need to think about giving up the

family residence for now, move into town, get a place where you can attend services, both of you can get a job, both of you can get a driver's license, and maybe we can get this child home.

THE MOTHER: There's nowhere for me to move in town.

THE COURT: Why not?

THE MOTHER: The Esplanade House is full, and I haven't --

THE COURT: How about an apartment, you know, like a normal, grown up person does? Listen to me.

THE MOTHER: I have inherited [property], which is my home.

THE COURT: I'm sorry, what?

THE MOTHER: I've inherited [property] in [a town in Butte County], which is my home.

THE COURT: Great. And it's going to be a really lonely place for you and your husband.

THE MOTHER: Have you ever struggled in life ma'am?

THE COURT: [Property] does not give anything to this child, nothing.

THE MOTHER: It is my home.

THE COURT: You need to move into town, get some help, get rid of the drug addiction, get a job, get a place to live, and live like a normal, grown up person.

THE MOTHER: I'm trying.

THE COURT: No, you're not.

THE MOTHER: I'm definitely trying. I may have fucked up, but I'm trying.

THE COURT: That language is inappropriate in this courtroom.

THE MOTHER: I believe the way you are talking to me is inappropriate. You're not understanding.

[MOTHER'S ATTORNEY]: What is our next court date, please?

THE MOTHER: Yes, please.

THE COURT: The child is ordered and adjudged a dependent child ... [¶] Both of you are ordered to drug test today. Is there any reason why you can't drug test today, Mother?

THE MOTHER: No, not unless they don't get me in.

THE COURT: So we're setting ourself [*sic*] up for an excuse. Is it going to be clean or dirty?

THE MOTHER: Marijuana is the only thing possible.

THE COURT: All right. So she is going to be dirty for marijuana even though the Court has ordered her not to consume marijuana. Apparently she can get her marijuana, even though she can't get to the services.

(R.T. 47:6-50:25.)

The social worker told the court that she had offered the parents bus passes, but the mother said that would not work because of her asthma in walking to the bus stop. Judge Roberts responded, "If she'd quit using marijuana, maybe her asthma would be helped."

Later, the courtroom deputy realized the mother was recording the proceedings and ordered her to delete her recording. The following exchange then occurred:

THE COURT: You're recording this whole thing?

THE MOTHER: I was told to.

THE COURT: Sit down here, please. Sit down here, please.

THE MOTHER: You guys are recording.

THE COURT: No, we are not.

THE MOTHER: Why? This is very, very important. I just deleted it.

THE COURT: Is this child in a permanent placement, because it sounds to me like this child is not going home,

that this child is going to end up being adopted out. [¶] How old is the child?

THE MOTHER: My son is 19 months.

THE COURT: Be quiet, please.

[SOCIAL WORKER]: He's 19 months, and he's not in a prospective adoptive home.

THE COURT: We need to get him in a prospective adoptive placement.

THE MOTHER: No, you're not adopting my son out.

THE COURT: We need to make sure that this child is in a prospective adoptive placement because Mother and Father are not -- I said prospective adoptive placement to wake you up.

THE MOTHER: I am awake, and I'm trying my best to do everything you're asking me. You've obviously never struggled to know how hard this is.

THE COURT: [Calls another case] [¶] Just a minute. Come back in here. Get her back in here, please. [¶] Sit down, please.

THE MOTHER: I will stay right here.

THE COURT: You will sit down in the jury box unless you want me to hold you in contempt of court. Sit down in that jury box right now. [¶] You have no right to be that rude to this social worker.

THE MOTHER: You have no right to be this rude to me. You have pulled this out of me, and it's not okay for me to be here any longer.

THE COURT: You have no right to be rude and assaultive to this social worker.

THE MOTHER: I did not assault her.

THE COURT: Yes, you did. You grabbed the piece of paper out of her so hard that I could hear it clear up here.

THE MOTHER: I am ready to leave.

THE COURT: I want you to apologize to this social worker.

THE MOTHER: I'm sorry, [social worker].

THE COURT: Thank you.

(R.T. 53:12-55:11.)

The commission found that Judge Roberts's comments to the parents were discourteous, impatient, and harsh, in violation of canons 1, 2A, and 3B(4).

g. In re: R.L. and S.L.

On January 8, 2020, the matter was before Judge Roberts for both jurisdiction and disposition determinations. During the hearing, Judge Roberts described the father's failure to enroll in a rehabilitation program as "pathetic." The commission found this remark to be discourteous, and in violation of canons 1, 2A, and 3B(4).

h. In re: H.O. and L.S.

During the January 8, 2020 hearing, Judge Roberts asked the mother about her divorce and the following exchange occurred:

THE COURT: All right. And, let's see, so you're divorced.

THE MOTHER: Yes. It will be final on the 14th of next month.

THE COURT: How do you go about choosing partners?

THE MOTHER: That's why I'm going to counseling, for healthy relationships.

THE COURT: How do you even find them?

THE MOTHER: I'm not. I'm done.

THE COURT: How do you find them?

THE MOTHER: My picker is broken. Yeah. That's -- it was bad.

THE COURT: First of all, you should not even consider being involved in another relationship as long as these cases are pending. You need to be applying yourself 1,000 percent to these children and getting your act together. So why would you even consider getting involved in one more relationship, much less two more relationships, much less with both of them being registered sex offenders is just so

shocking to me. Why would you even consider getting involved in a relationship right now?

THE MOTHER: I don't know. I'm done, though. There's going to be no more relationships for me.

(R.T. 120:22-121:20.)

Judge Roberts then asked the father about his alcohol use. When the father acknowledged he was drinking, but not in treatment, Judge Roberts asked about his longest period of sobriety. When the father told her six months, Judge Roberts responded by calling him "a raging alcoholic." Judge Roberts subsequently asked to see the father's AA logs. When the father could not produce them because he said his backpack was stolen, Judge Roberts responded, "What do you know." Additionally, when discussing the father's alcohol use and lack of treatment, Judge Roberts said, "This is pathetic."

The commission found that Judge Roberts remarks to both parents were undignified, discourteous, and inconsistent with canons 1, 2A, and 3B(4).

i. *In re: T.P., et al.*

The matters were before Judge Roberts on January 8, 2020, for a sixth-month review. During the hearing Judge Roberts asked the father why he was not drug testing. When he said he was living in a van and did not have transportation, the following exchange occurred:

THE COURT: How about a bicycle or walk or bus?

THE FATHER: I don't have a bike, but I can walk, yeah.

THE COURT: You can walk.

THE FATHER: I do walk. My boots are falling apart already, though.

THE COURT: Well, that's the first time I've heard of somebody not drug testing because their boots are worn out. That is the most ridiculous statement I have ever heard.

THE FATHER: That's not what I said.

THE COURT: Yes, it is.

THE FATHER: I said, I do walk, my boots are worn out. I didn't say I don't test because my boots are worn out.

THE COURT: Then why did you tell me your boots are worn out if you weren't using it as an excuse?

(R.T. 138:23-139:13.)

Judge Roberts then asked the mother how she was doing. When the mother told the court that she was not well, Judge Roberts responded, "So you guys are doing terribly. I can't believe that Children's Services is extending these services out another six months. It's only by luck of the law that you're given more services here. Both of you are doing terribly, and there isn't a chance in the world these children are coming home if you continue doing what you're doing."

Later in the hearing, when the mother said she was clean but could be better about testing, Judge Roberts said, "You're clean? And you expect me to believe that?"

When Judge Roberts subsequently asked the father whether he was working, the following occurred.

THE FATHER: No. We are looking, but not working.

THE COURT: Why aren't you working?

THE FATHER: I just, I can't get any -- I'm applying. I've worked for my dad a couple of times, and he's been able to [*sic*]. But I'm trying to work.

THE COURT: Are these children in a pre-adoptive or permanent placement? Because it doesn't sound to me like they are going home.

THE FATHER: They're with my parents.

THE COURT: And so that makes you feel okay?

THE FATHER: No.

THE COURT: That's one of the problems with children being placed with relatives is you don't feel like you have to step up to the plate to get them home.

THE FATHER: I'm trying to step up.

THE COURT: No, you have not. You have not drug tested once. That is not somebody stepping up to the plate.

THE FATHER: For three and a half months I drug tested every single time, and you still yelled at me. I missed one that first court date. And I was working full time. I still

got yelled at. And I'm trying. I'm homeless, I live in a van, have no phone.

THE COURT: Then get into treatment and get into doing your drug testing and quit using drugs, and get out of your van and go to a shelter. Get into residential treatment. Get a job. There's [sic] lots of things that if you told me that you were doing any of those things that I'd say, you know, you're right, you're trying as hard as you can. No. You two are still using drugs, you're not drug testing, you're sleeping in your van, you're not in a home, and you're not going to services. So don't tell me you are doing the best you can.

(R.T. 143:6-144:14.)

After ordering that reunification services be continued, Judge Roberts ended the hearing by saying, "And if you don't turn this around, these children are going to be placed permanently with the grandparents. See you then."

The commission found that the judge's remarks to the parents were impatient and discourteous, in violation of canons 1, 2A, and 3B(4).

j. *In re: I.V.*

On May 20, 2020, *In re: I.V.* was before Judge Roberts for disposition. The mother and child each had counsel and an assistant county counsel appeared on behalf of Children's Services. The paternal grandmother was present, but the father was not. The judge expressed dismay at the father's failure to appear, and twice told the parties that she wanted the father to "face the music." Judge Roberts spoke to the parties as follows:

THE COURT: All right. Well, I'm encouraging father to come. [¶] Where is he?

SOCIAL WORKER: Your Honor, [social worker], at last weeks' [sic] meeting with the relatives and [the mother], the mother-in-law that was present, we did have an interpreter present, and we did explain to them the importance of father showing up to court.

THE COURT: Where is he?

SOCIAL WORKER: They were going to try to encourage him to come.

THE COURT: Mother, where is Father? No. You.

[MOTHER'S ATTORNEY]: Your Honor –

THE COURT: Where is the father?

THE MOTHER: He's at home.

[MOTHER'S ATTORNEY]: My client –

THE COURT: I'm sorry. What did she say?

[ASSISTANT COUNTY COUNSEL]: "He's at home."

THE COURT: He's at home. He doesn't care about this?

[MOTHER'S ATTORNEY]: Your Honor, I would object to my client being asked questions about somebody who has a different potential interest than her.

THE COURT: I have every right to ask where the father is. This is a father and him not coming to court [sic]. This couple is together. It's not as if he's separated and living somewhere else. [¶] As far as I know they are together. They have produced three children together. They are not able to take care of any of these children. I want father here to face the music. [¶] Now, if he refuses to come, we'll still look at the relatives, but I don't understand why a father would not come to court to advocate what's right for his child.

(R.T. 9:9-10:16.)

Later in the proceeding, after a discussion about the mother possibly nominating a guardian, Judge Roberts spoke harshly to the crying 20-year-old mother.

THE COURT: This is a very sad situation. [¶] Mother, what are you doing about the drug problem?

THE MOTHER: I'm quitting.

THE COURT: I'm sorry?

THE MOTHER: I'm quitting. I'm trying to go to rehab.

THE COURT: You're going to quit, and you're going -- you have given birth to three drug addicted babies. That is not okay. You have sentenced them to a lifetime of problems. [¶] And I don't understand what's wrong with you as to why you would continue to get pregnant when you continued to abuse drugs and bring drug addicted babies in

this world. It's not okay. You either go get some permanent birth control, or you quit using drugs. This is not okay.

(R.T. 12:9-26.)

The commission found that Judge Roberts's questioning of the mother as to the father's whereabouts, while her attorney tried to object, was discourteous. The commission also found that Judge Roberts's other comments, excerpted above, were harsh and discourteous. Judge Roberts's demeanor and remarks violated canons 1, 2A, and 3B(4).

2. The commission found that, in one case, Judge Roberts was discourteous to the attorneys and the social worker.

During the same May 20, 2020 hearing in *In re: I.V.*, discussed above, an attorney appeared on behalf of a local family who was about to adopt the child's older sister. That family also wished to care for the child, but Children's Services denied placement with them. Instead, Children's Services was considering placing the child with either the father's relatives or the out-of-county family who had adopted the child's other sister. When the attorney for the local family asked about visitation, the social worker told the court that the child was having video-conferencing visits with both her mother and the out-of-county family, but not the local family. The judge then interrupted the social worker, threw her arms up, and, with a raised voice, said, "What? With a newborn baby. That's ridiculous."

Later, when the assistant county counsel told Judge Roberts that the last judicial officer on the case approved of the video-conferencing, Judge Roberts appeared upset and responded by giving Children's Services full discretion for any and all visits and setting a further hearing date of July 22nd. When the attorney for the local family pointed out that Judge Roberts said she wanted the next hearing to be earlier than July, Judge Roberts responded, "I'm not interested. Sorry. I've said my peace [*sic*]. It's been rejected, so I'll see you in July."

The commission found that Judge Roberts was discourteous to the social worker and the attorneys. She raised her voice, threw her arms up, interrupted the social worker, twice suggested that the video-conferencing visits were "ridiculous," and appeared upset after the assistant county counsel told her another judge supported the video-conferencing visits. The judge's conduct was contrary to canons 1, 2A, and 3B(4).

3. The commission found that, over the course of four hearings in the *In re: K.S. and J.S.* matters, Judge Roberts became embroiled and abused her authority regarding the mother's prescription use of marijuana and methadone.

During the February 25, 2019 hearing, when Judge Roberts asked the mother if she planned to reduce her dose of methadone, the mother explained that she had a plan to decrease her prescription methadone use mapped out with her doctor. Judge Roberts requested a copy of the plan saying, "Let's get a copy of the plan she has,

because we don't do a lot of good to these parents if they're taking so much methadone with no plan to get off it and decrease it. I would rather you be on methadone than heroin, but I would rather you be off methadone altogether." Later in the hearing Judge Roberts said, "I have people sit in this courtroom who are on methadone who are so doped up they can barely even talk. So it's not a foregone conclusion just because you're on methadone that it's the appropriate dose and the minimum dose you can take to keep from having to go back to heroin, but enough that you can function." During the same hearing, the father's attorney reminded Judge Roberts that she had authorized the father's use of opioids and marijuana because they were medically cleared.

At the March 14, 2019 hearing, despite an earlier authorization, Judge Roberts ordered the mother not to use marijuana. The judge also said the following:

THE COURT: I would like to see some kind of plan to get Mother off the methadone. We don't stay on methadone forever. Methadone is a treatment to help you stay clean from heroin, and if we don't have any plan in place to start decreasing the amount of methadone, we have a Mother who is quite potentially is [sic] doped up every day. She doesn't appear to be under the influence when she comes into this courtroom, but we don't know what time she gets her dose, how much her dose is, is it going up, is it decreasing? We don't know because Mother refuses to cooperate. [¶] I think Father is doing much better. Father appears to be cooperating. Father appears to be drug testing as asked by the Court. He does appear to be using opiates and marijuana, but he appears to be using it [sic] appropriately. He does have significant medical conditions.

(R.T. 68:2-18.)

Judge Roberts also noted that the father "doesn't seem to have the animosity and anger towards the Court or the system that Mother seems to have."

As discussed above, at the June 6, 2019 hearing, Judge Roberts argued with the parents about authorizing, and then subsequently prohibiting, the mother's marijuana use, saying, "You know what, I don't care if you have -- a prescription or not, I ordered you to quit." With a raised voice, Judge Roberts then said, "I can order you to not do anything that I say I am ordering you not to do it [sic]."

During the October 3, 2019 hearing, Judge Roberts said to the mother, "I want to know why you're on methadone, and why we are not trying to get off methadone. So I really want you to think about this. And I've read the records, and supposedly you're on a really high dose because of some kind of metabolism issue. I don't believe it for a minute. I have been on the bench for 22 years, and I have never heard of somebody having such a high metabolism, or whatever this is, that they have to stay on a high

dose of methadone.” Judge Roberts also discussed, at some length, her view that methadone was having a negative impact on the mother’s personality.

“Embroidment is the process by which the judge surrenders the role of impartial factfinder/decisionmaker and joins the fray.” (Rothman, et al., Cal. Judicial Conduct Handbook (4th ed. 2017) § 2.1, p. 58.) Additionally, a judge’s role is constrained to consideration of the evidence before her. A judge may not supplement that evidence, however lacking, with independent investigation.

The commission found that over the course of the four hearings, the judge abused her authority by substituting her own judgment for that of the mother’s doctor on the issue of prescription marijuana and methadone use. Judge Roberts also abandoned the role of neutral arbiter and became embroiled when she argued with the parents about the mother’s marijuana use and repeatedly and negatively commented on the mother’s prescription use of methadone. Judge Roberts’s conduct violated canons 2A and 3 (a judge shall perform the duties of judicial office impartially, competently, and diligently).

The commission found that on January 8, 2020, Judge Roberts engaged in undignified, discourteous, and abusive treatment of court staff and, the following day, discourteously raised her voice to another judge.

For several years, Judge Roberts was the presiding judge of the juvenile dependency court in the Chico courthouse. A commissioner handled juvenile delinquency cases in the Oroville courthouse, under the supervision of a criminal judge. In 2019, the Board of Judges voted to consolidate the two juvenile divisions under one presiding judge. They agreed, however, that the two juvenile courts would not be formally joined until Judge Roberts retired. The Board of Judges also voted to move the dependency court from the Chico courthouse to the Oroville courthouse. Judge Roberts did not agree with the consolidation plan and had concerns about the move and the size of her new courtroom and its single-inmate holding cell.

On January 8, 2020, Judge Roberts had her first dependency calendar in Oroville. One of the difficulties she faced was a court-wide internet outage. As all the dependency court files were digital, the outage delayed Judge Roberts’s already-full calendar. Sometime during the morning, a court staff member entered Judge Roberts’s courtroom to bring the courtroom clerk a message. Judge Roberts appeared frustrated and upset by the lack of internet service and yelled, “This is ridiculous!” The court staff member immediately left the courtroom to find someone who could help with tech support.

Sometime later that morning, another court employee, who was in a room off the internal hallway that connects the courtrooms to chambers and the clerk’s office, heard Judge Roberts come out of her courtroom yelling, “This isn’t working! This isn’t working!” As Judge Roberts walked down the internal hall toward the clerk’s office, her voice continued to be raised, but the court employee could no longer clearly hear what she was saying.

Also sometime that morning, another court staff member was at her desk when she heard Judge Roberts yelling in the internal hallway as she approached the clerk's office. She could not tell what Judge Roberts was saying, but said she heard Judge Roberts yelling loudly. Judge Roberts then approached her desk and was very angry about issues in her courtroom. Judge Roberts yelled at this court staff member words to the effect of, "This is my worst nightmare coming to Oroville. I never wanted this to happen. Fix it immediately!" The court staff member, who had worked for the court for many years, said she had never seen Judge Roberts, or any other judge, act this way. She offered to see if she could move the judge to another courtroom, but Judge Roberts yelled that she wasn't moving to another courtroom. Then Judge Roberts turned and loudly stomped back down the internal hallway in the direction of the courtroom and her chambers.

At some point during the lunch hour, Judge Roberts returned to the clerk's office and entered the juvenile room. She loudly demanded that a juvenile clerk request that a courtroom be opened in the Chico courthouse, as a matter on Judge Roberts's afternoon calendar was incorrectly noticed for Chico. Several court employees were in the clerk's office and observed that Judge Roberts was upset. The juvenile clerk contacted a supervisor who said that the court staff in Chico decided not to open another courtroom. When the juvenile clerk relayed this information to Judge Roberts, the judge appeared to be very upset and left the clerk's office.

After either the first or second outburst in the clerk's office, court staff heard Judge Roberts return to her chambers and slam both her outer and inner doors. Later, when a court supervisor repeatedly knocked on Judge Roberts's closed outer door, Judge Roberts refused to respond.

As the court supervisor walked back from Judge Roberts's chambers toward the clerk's office, she encountered another supervisor in the internal hallway. The second supervisor heard that Judge Roberts had yelled at her staff and was going to chambers to talk with her. The first supervisor explained that the judge would not respond to her knocking, and both court employees returned to the clerk's office to talk with the juvenile clerk.

The supervisors were in the juvenile room, with three other staff members, for only a few minutes when Judge Roberts returned. Judge Roberts was very upset and appeared to have been crying. Judge Roberts began screaming and pointing her finger at one of the supervisors, demanding that court staff open a courtroom in Chico. The supervisor attempted to calm Judge Roberts and explain the alternative plan to opening the courtroom. But Judge Roberts refused to listen, repeatedly interrupted, and continued to scream and point her finger. Judge Roberts then turned and walked out of the juvenile room with the supervisor following. Judge Roberts suddenly stopped in the middle of the Criminal Division of the clerk's office and turned to face the supervisor. In front of a number of court employees, Judge Roberts yelled, "Fine! I'll just do this myself!" Shortly thereafter, Judge Roberts left the courthouse after emailing the presiding judge to tell her that she was sick and going home. Court staff expressed concern for Judge Roberts and concern that the public may have overheard her

outbursts in the clerk's office. The following day, Judge Roberts returned to the courthouse and apologized to court staff for her behavior.

On January 9, 2020, at the request of both Judge Roberts and the presiding judge, the assistant presiding judge observed Judge Roberts's dependency calendar. During a recess, the judges went to Judge Roberts's chambers to talk. Judge Roberts asked the assistant presiding judge why she couldn't be moved to another specific courtroom. When the assistant presiding began to explain, Judge Roberts spoke to her with a raised voice. The assistant presiding judge told Judge Roberts that she was going to leave if Judge Roberts continued to yell. She also said that it was not acceptable for Judge Roberts to yell at her or at court staff. As the assistant presiding judge left chambers, Judge Roberts said, in a manner that reflected derision, "Thanks for the support."

"Judges must conduct themselves in a judicious and professional manner in relation to courtroom staff and other court employees." (Rothman, et al., Cal. Judicial Conduct Handbook (4th ed. 2017) § 6:27, p. 367.) As Judge Rothman also states, "Canon 3B(4) of the Code of Judicial Ethics requires a judge to be 'patient, dignified, and courteous to ... others with whom the judge deals in an official capacity' This includes court personnel." (Rothman, et al., Cal. Judicial Conduct Handbook (4th ed. 2017) § 3.18, p. 142.)

The commission found that Judge Roberts engaged in significant and repeated abusive conduct toward court staff, including yelling in the courtroom and entering the clerk's office three separate times, inappropriately raising her voice to three specific court employees. She also yelled in the internal hallway, stomped her feet, slammed both her chambers' doors, and refused to answer her door when court employees sought to resolve the matter with her privately. The commission also found that Judge Roberts raised her voice and spoke derisively to the assistant presiding judge while in chambers. Judge Roberts's conduct violated canons 1, 2A, and 3B(4).

Judge Roberts's harsh and discourteous remarks to parents, attorneys and a social worker, discussed above, constituted misconduct. Describing, among other things, parties' conduct as "pathetic" and "ridiculous," as well as using sarcasm and a raised voice, constitute failures by a judge to be dignified and courteous to those with whom the judge deals in an official capacity. "Improper judicial demeanor impacts the fairness of judicial proceedings and respect for the judicial institution. The canons' insistence on appropriate judicial demeanor rests on the idea that such demeanor is one of those things that is central to the appearance and reality of fairness and impartiality in judicial proceedings." (Rothman, et al., Cal. Judicial Conduct Handbook (4th ed. 2017) § 2.46, p. 116.)

In response to the commission's preliminary investigation, Judge Roberts acknowledged that, on January 8, 2020, she should not have made the remark regarding the father's boots in the *In re: T.P., et al.* matter, should not have said unspecified things in the *In re: A.V.* matter, and should have let the mother offer her suggestions in the *In re: X.N.* matter. She pointed to the stress of the dependency court

move, the significant delay in her calendar, and/or her frustration with the parents' behavior as an explanation for her conduct. She otherwise contended that her conduct was appropriate and that "[j]udges are human and courts have recognized that judges cannot be held to a 'superhuman standard' that would allow no expression of emotion. (*Railey v. Webb* (6th Cir. 2008) 540 F.3d 393, 411; *Jones v. Luebbers* (8th Cir. 2004) 359 F.3d 1005, 1013.)" She also asserted that "expressions of impatience, dissatisfaction, annoyance, and even anger are within the bounds of what imperfect men and women selected as judges sometimes display. (*Liteky v. United States* (1994) 510 U.S. 540, 555-556.)" The commission found those cases inapposite as they discuss, not the standards of proper judicial conduct under the canons, but rather the degree of judicial bias or partiality that would require recusal or disqualification in order to avoid a due process violation. With respect to her treatment of parents, Judge Roberts stated that she employed a "tough love" approach that she also used while presiding in drug court, arguing that her approach was necessary to compel parents to gain awareness of the harm they were causing their children and to change their behavior. The commission, however, found that belittling and demeaning litigants is not appropriate in any court, dependency, criminal, or otherwise. Such conduct violates the Code of Judicial Ethics.

Judge Roberts acknowledged her mistreatment of staff, her misconduct in the courthouse, and her discourtesy to the assistant presiding judge. She stated that she sincerely regrets her lack of composure on January 8 and 9, 2020, and recognizes that her behavior was not appropriate.

In determining to issue a public admonishment, the commission considered that Judge Roberts's misconduct involved harsh and degrading treatment of multiple vulnerable and struggling parents in dependency. The number and nature of these incidents indicate a pattern of misconduct.

The commission considered the impact of the judge's remarks on the public's regard for the integrity and impartiality of the court system. In determining to issue a public admonishment, notwithstanding Judge Roberts's retirement and lack of prior discipline, the commission considered the judge's apparent lack of remorse for the harm her "tough love" approach caused parents appearing before her, as well as her significant misconduct directed at court staff and her discourtesy to another judge.

The commission found that Judge Roberts's conduct in the matters described above was, at minimum, improper action.

Commission members Hon. Michael B. Harper; Dr. Michael A. Moodian; Hon. William S. Dato; Mr. Eduardo De La Riva; Ms. Sarah Kruer Jager; Hon. Lisa B. Lench; Nanci E. Nishimura, Esq.; Victor E. Salazar Esq.; Mr. Richard Simpson; and Mr. Adam N. Torres voted for the Notice of Tentative Public Admonishment. Ms. Kay Cooperman Jue did not participate.

Date: February 18, 2021