

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

IN THE MATTER CONCERNING
JUDGE PATRICK E. CONNOLLY

DECISION AND ORDER IMPOSING
PUBLIC ADMONISHMENT

This disciplinary matter concerns Judge Patrick E. Connolly, a judge of the Los Angeles County Superior Court since 2009. His current term began in 2015. Pursuant to rule 116 of the Rules of the Commission on Judicial Performance, Judge Connolly and his attorney, Edith R. Matthai, appeared before the commission on March 24, 2021, to contest the imposition of a tentative public admonishment issued on December 15, 2020. Judge Connolly 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 Connolly 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 statement of facts and reasons set forth below.

As described below, Judge Connolly displayed improper demeanor toward two criminal defense attorneys during an arraignment and, in a different criminal case, made an inappropriate remark about the jury's verdict to a defendant who had been acquitted. The commission determined that a public admonishment was warranted due to Judge Connolly's significant prior discipline (a public admonishment in 2016 and a private admonishment in 2010) and his failure to fully acknowledge that his conduct was inconsistent with the California Code of Judicial Ethics.

STATEMENT OF FACTS AND REASONS

I. People v. Felipe Ramirez and Jorge Ramirez

Attorney Martin Lijtmaer represented criminal defendant Jorge Ramirez, and attorney Rachel Steinback represented co-defendant Felipe Ramirez, in *People v. Ramirez* (TA151719), a matter pending before Judge Connolly. On March 20, 2020, the day after Governor Gavin Newsom announced the statewide stay-at-home order due to COVID-19, Mr. Lijtmaer called Judge Connolly's clerk to request permission to appear by telephone for the arraignment scheduled that afternoon, based on his and Ms. Steinback's concern about having been exposed to the COVID-19 virus and the possibility of spreading it at the courthouse. Judge Connolly spoke to Mr. Lijtmaer over the phone and said his clerk would call back to communicate his decision. In the meantime, Mr. Lijtmaer and Ms. Steinback attempted to find another attorney who could appear at the arraignment of their clients in their stead, but they were unable to do so. At approximately 2:00 p.m., the clerk told Mr. Lijtmaer that the judge had agreed to allow counsel to appear at the arraignment by telephone later that day.

That afternoon, Mr. Lijtmaer and Ms. Steinback appeared by telephone. Their clients, co-defendants Jorge Ramirez and Felipe Ramirez, were in custody and appeared in person. After arraignment, Mr. Lijtmaer asked that his client, Jorge Ramirez, be released on his own recognizance, citing, among other reasons, health concerns outlined in a recent letter in Mr. Lijtmaer's possession. The following exchange occurred:

THE COURT: How am I going to see that letter, if you're not in my courtroom?

MR. LIJTMAER: Well --

THE COURT: How am I going to see that letter if you are not in my courtroom? I'm not going to, am I?

MR. LIJTMAER: As an officer of the court --

THE COURT: All right.

MR. LIJTMAER: -- I'd ask the court to --

THE COURT: Is there anything further? Is there anything further, sir? Anything further, sir?

MR. LIJTMAER: Yes, your honor. I have letters -- Yes. I have letters from both --

THE COURT: Which I cannot see, because you have not come to my courtroom? [¶] All right.

MR. LIJTMAER: Your honor, respectfully, the reason I didn't --

THE COURT: Respectfully? You have not come to the courtroom.

MR. LIJTMAER: Your honor --

THE COURT: All right. So, with that, I'm going to set -- I am going to set -- I am speaking, sir. I am speaking. [¶] We are setting the preliminary hearing at this time for April 13th, for each. Bail is going to be set for Mr. Ramirez, Jorge, for \$150,000; and for Felipe at \$100,000. [¶] If you have those letters, you can bring those in at the time.

Ms. Steinback asked to be heard and requested that her client, Felipe Ramirez, be released on his own recognizance because, among other reasons, he has a compromised immune system that makes him “particularly vulnerable to the condition --.” Before Ms. Steinback finished explaining that her client was vulnerable to complications from COVID-19, which he was more likely to contract if he remained in custody, Judge Connolly asked: “And how do you know this? And how do you know this?” Ms. Steinback responded that she had learned about her client’s medical history from his family. The judge replied: “I suggest you bring in that paperwork at the time of the preliminary hearing.” Ms.

Steinback said that her client has a family to support and a full-time job that has been deemed essential under the stay-at-home orders, and that he would lose that job if he were not released from custody. Judge Connolly responded as follows:

Okay. I'm going to stop you there. Because we're done. [¶] All right. I am not releasing either of these people, with these charges. There are multiple charges. If you wished to present this evidence, you should have been here or had someone represent you. [¶] . . . [¶] Bail for Jorge in the amount of \$150,000, and for Felipe at \$100,000.

In Judge Connolly's response to the preliminary investigation letter, he acknowledged that he "should not have demonstrated irritation or impatience with defense counsel" and that he "spoke too sharply" to them. He asked the commission to "take into account the highly unusual circumstances present at that time." He stated that, as of March 20, 2020, the court had not yet implemented operations to conduct matters remotely, which was becoming necessary due to the public health crisis; it was not yet clear how long the Governor's stay-at-home order would be in effect; and there was no clear guidance about how to handle the attorneys' request to appear telephonically at a criminal proceeding. The commission acknowledges that the circumstances caused by the public health crisis were unusual and presented challenges, but notes that the unusual circumstances and challenges affected the defense attorneys as well as the court. The commission concluded that the initial lack of clarity about how to handle court proceedings during the public health crisis did not excuse or explain the judge's mistreatment of the attorneys.

In his objections to the notice of tentative public admonishment, Judge Connolly objected to the commission's conclusion that his conduct toward the attorneys constituted improper action. He argued that, in *Offutt v. United States* (1954) 348 U.S. 11, 17, the United States Supreme Court said that a "modicum

of quick temper” must be allowed even judges. But the court made that comment in the context of a judge being provoked by contumacious counsel and citing the attorney for contempt. Here, there is no evidence of provocative conduct by counsel. Before the hearing, the attorneys requested, and Judge Connolly granted, permission for them to appear by telephone, due to the stay-at-home order and concern that one of the counsel was experiencing COVID symptoms. At the hearing, Judge Connolly exhibited irritation that Mr. Lijtmaer referred to a letter the judge did not have, but the situation caused by the stay-at-home order arose unexpectedly, through no fault of the attorneys. When Mr. Lijtmaer tried to discuss the letter with the judge, the judge did not allow him to do so.

At his appearance before the commission, Judge Connolly claimed—for the first time—that he spoke with Mr. Lijtmaer on the telephone twice and told Mr. Lijtmaer to send whatever information he had to present to the court before the hearing, but that he had not received anything from Mr. Lijtmaer. Judge Connolly told the commission that, during the telephone arraignment, he did not mention his earlier instruction to Mr. Lijtmaer because he was cognizant of the relationship between the attorneys and their clients who were standing in his courtroom.

First, the commission does not consider new evidence at an appearance, absent certain circumstances not present here.¹ In his response to the preliminary investigation letter, Judge Connolly stated that he spoke to Mr. Lijtmaer once, asked Mr. Lijtmaer if he could find another attorney to appear in his and Ms. Steinback’s stead, and told Mr. Lijtmaer that he would make a

¹ Rule 116(b) provides that factual representations not previously presented to the commission during the preliminary investigation will not be considered unless it is shown that the new factual information is either: (1) (a) material to the question of whether the judge engaged in misconduct or the appropriate level of discipline, and (b) could not have been discovered and presented to the commission with reasonable diligence during the preliminary investigation, (2) offered to correct an error of fact in the notice of tentative public admonishment, or (3) necessary to prevent a miscarriage of justice.

decision later that afternoon. The judge further stated that he later instructed his clerk to call Mr. Lijtmaer and inform him that his request to appear telephonically had been granted. There is no mention in the judge's response of any instruction to Mr. Lijtmaer to provide anything to the court before the hearing.

Second, the commission was not persuaded by Judge Connolly's explanation for why, during the telephonic hearing, he did not question Mr. Lijtmaer about why he had not provided the letter to the court before the hearing. If Judge Connolly had instructed Mr. Lijtmaer by telephone to provide the court with whatever he had before the hearing, Judge Connolly likely would have brought that up during the arraignment. Instead of asking Mr. Lijtmaer why he had not provided the letter to the court before the hearing, Judge Connolly rebuked him by stating four times that Mr. Lijtmaer had not come to the courtroom. Further, the commission found that, as far as the potential effect of the judge's comments on the attorney-client relationship, there would be no difference between chastising Mr. Lijtmaer in front of his client for not coming to the courtroom and chastising him for not providing a letter before the hearing. Hence Judge Connolly's rationale for not asking Mr. Lijtmaer why he did not provide the letter before the hearing, if the judge had asked him to do so, was not convincing.

Mr. Lijtmaer tried to respond to Judge Connolly's inquiry about how he was going to see the letter if Mr. Lijtmaer was not in his courtroom. When Mr. Lijtmaer said "Your honor, respectfully," Judge Connolly interrupted him with "Respectfully?", which seems sarcastic. Mr. Lijtmaer tried to respond. The judge cut him off again. Similarly, Judge Connolly also interrupted Ms. Steinback, displayed impatience toward her ("And how do you know this? And how do you know this?"), and cut her off ("I'm going to stop you there. Because we're done.") The attorneys, in contrast, appear polite and respectful. There is no apparent justification for the judge's display of impatience and irritation, which he admitted and which is clearly reflected in the transcript of the proceeding.

At his appearance before the commission, Judge Connolly acknowledged that the transcript “looks bad,” but he did not acknowledge committing misconduct or display any contrition. Rather, he stated that he did not treat the defense attorneys any differently because they were not in the courtroom.

The commission found that Judge Connolly’s poor demeanor toward the defense attorneys violated canon 3B(4) (a judge shall be patient, dignified, and courteous to those with whom the judge deals in an official capacity), canon 2 (a judge shall avoid impropriety and the appearance of impropriety in all of the judge’s activities), and canon 2A (a judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary).

2. *People v. Hall-Singh, et al.*

On August 20, 2018, in *People v. Indra Hall-Singh, Dalisha Monique Jordan, and Eugene C. Germany* (TA145484), after the jury announced its verdict convicting defendants Hall-Singh and Jordan and acquitting defendant Germany, and after the jurors left the courtroom, Judge Connolly said to Mr. Germany:

. . . let me tell you, you’ve been given a gift from God because there’s no question in my mind that you’re guilty of this crime. [¶] Now, with that, though -- well, I’ll tell you, chivalry is not dead. If you’d taken the deal, Ms. Jordan would have had that six year deal. She’s going to get a lot more time than that. So, you know, take that into consideration. [¶] All right. But you’ve been given a gift. What you do with it is your choice. Fair enough?

Mr. Germany responded, “Yeah.”

At his appearance before the commission, Judge Connolly asserted that it was his “duty” and his “responsibility” as a judge to advise defendant Germany that he had been “given a gift from God” so that Mr. Germany would take advantage of opportunities he has been given. But Judge Connolly said,

“[T]here’s no question in my mind that you’re guilty of this crime” after the jury had rendered a verdict of acquittal, thereby disparaging the jury’s determination that the defendant had not been proven guilty. The jury system is an essential pillar of American democracy. The judge’s role in a jury trial is to be neutral. Judge Connolly’s remark was likely to undermine public confidence in the independence of the jury and its important role in the justice system.

Further, contrary to Judge Connolly’s assertion, a judge does not have a duty to advise a criminal defendant that the defendant has been given the gift of an acquittal. While a judge may encourage a defendant to make better choices and take advantage of opportunities in the future, the judge must not do so at the expense of the jury and its verdict.

Judge Connolly did not demonstrate that he understands why his comments to Mr. Germany were improper. In his objections to the notice of tentative public admonishment, he argued that they were not improper. And at his appearance before the commission, he stated, with regard to those comments, that he thinks what he did “was right” and “what [he] should have done.”

The commission found Judge Connolly’s remarks to Mr. Germany to be gratuitous, undignified, and improper, in violation of canons 2A and 3B(4).

Judge Connolly’s conduct in both cases was, at a minimum, improper action.

In imposing this public admonishment, the commission considered Judge Connolly’s prior discipline to be a significant aggravating factor. (Policy Declarations of Com. on Jud. Performance, policy 7.1(2)(e).) In 2016, Judge Connolly received a public admonishment for a course of conduct reflecting embroilment with a criminal defense attorney and for setting multiple post-trial hearings regarding possible contempt charges, which was an abuse of his authority. In 2010, Judge Connolly received a private admonishment for using

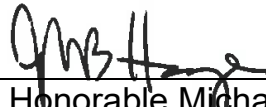
profanity during a judicial profile interview and in chambers discussions with attorneys.

The commission also considered Judge Connolly's failure to fully appreciate his misconduct as an additional aggravating factor. (Policy Declarations of Com. on Jud. Performance, policy 7.1(2)(a).)

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

Date: 4/2/2021

On behalf of the
Commission on Judicial Performance,



Honorable Michael B. Harper
Chairperson