

PUBLIC ADMONISHMENT OF JUDGE THOMAS R. ADAMS

The Commission on Judicial Performance ordered Judge Thomas R. Adams publicly admonished, pursuant to article VI, section 18(d) of the California Constitution and commission rule 113, as set forth in the following statement of facts and reasons found by the commission:

STATEMENT OF FACTS AND REASONS

Judge Thomas R. Adams has been a judge of the Santa Barbara County Superior Court since 1983. His current term began in 2021.

As set forth below, the commission found that Judge Adams violated his duties to be patient, dignified, and courteous to an attorney appearing before him, and exhibited a lack of candor and failed to cooperate with the commission during a prior investigation into his conduct.

1. Poor Demeanor

Judge Adams presided over *People v. Daniel Lucena*, No. 23CR07002, a criminal case. On November 13, 2023, Deputy Public Defender Reem Yassin filed, on the defendant's behalf, a Request for Court Pre-Trial Diversion and noticed it for hearing in Judge Adams's department on November 21, 2023, when the case was also on calendar for continued arraignment.

Ms. Yassin, the defendant, and Deputy District Attorney Justin Greene appeared, in person, at the November 21 hearing. During the hearing, Ms. Yassin handed Judge Adams a copy of the request for pre-trial diversion. Mr. Greene objected to the request on various grounds (arguing, among other things, that the request was formally deficient and improperly served, and that the arraignments department was not the proper forum for such a request), which led to a discussion between Mr. Greene and Ms. Yassin, who was standing at the podium between the tables for counsel. The following exchange occurred.

COURT: Let me interrupt. I'm sorry. I'm -- counsel, counsel, please. This is not the time that I'm supposed to play referee between public defender and district attorney. Okay? I just don't have the time or the patience to do that. Okay? If you want to have a fistfight with the DA, take it outside --

MS. YASSIN: I -- Your Honor --

COURT: But don't put -- don't put that on me. Okay? I have a whole bunch of people sitting here waiting for their cases to be

called. I just don't need this, okay? I just don't need it. This is not the first time it's happened. So, we're all on -- we're all on notification [sic].

And, I'm sorry. [removes eyeglasses]
Don't shake your head at me like, "Oh don't give me this crap," okay?

MS. YASSIN: No, Your Honor, I'm not shaking my head at you.

COURT: No, you are. [points at Ms. Yassin] I'll come back later. [stands up] You guys can have a seat right there, okay? I just don't need this from you [points at Ms. Yassin] today, okay? Are we on the same page? You're asking the court to do you a big favor. [flings papers toward Ms. Yassin]

MS. YASSIN: Thank you, Your Honor.

COURT: Yeah -- For what? "Thank you" for what?

MS. YASSIN: I thought you said "recess."

COURT: I am taking a recess. I want the 20- or 30-page police report. I'll read that. I'll impose on all of these people while I read your 20- or 30-page report that, for the very first time, you've now told me you think that I should read that.

[points at the defendant and then at the empty chair behind the defense table] You have a seat there, young man, okay?

[leaves the bench]

DEFENDANT: That was crazy.

(Court Audio at 5:40–7:28; Court Video at 9:55:40–9:57:28.)

During this exchange, Judge Adams became angry, expressed impatience with Ms. Yassin, raised his voice and rose from the bench when addressing her, threw off his glasses and pointed at Ms. Yassin, and flung her moving papers at her, causing them to land in front of the podium where she was standing. At the time, Ms. Yassin was a new

attorney, having been admitted to the practice of law three months earlier. She was so distressed by the incident that her superiors sent her home during the recess and temporarily reassigned her cases to other attorneys. She did not return to court until the following week. After the incident, Judge Adams sent Ms. Yassin an apology letter in which he acknowledged that his conduct at the November 21 hearing was “inappropriate.”

In his response to the preliminary investigation letter, Judge Adams stated that he was “aware of reports of other issues that Ms. Yassin had with court personnel” and cited events that, if true, would seem to cast doubt on her professionalism. Judge Adams did not submit details or evidence supporting these supposed events, which appear unrelated to the judicial conduct at issue.

The commission determined that Judge Adams’s conduct was discourteous, interfered with the attorney-client relationship, and constituted violations of his duties to be patient, dignified, and courteous to lawyers and others with whom he deals in an official capacity (canon 3B(4)); to refrain from engaging in speech, gestures, or other conduct that would reasonably be perceived as bias, prejudice, or harassment (canon 3B(5)); and to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary, and refrain from making statements that are inconsistent with the impartial performance of adjudicative duties of judicial office (canon 2(A)).

2. Misleading Statements to the Commission

Judge Adams was the subject of another recent preliminary investigation, which resulted in the commission issuing a private admonishment to him on June 23, 2023, for (among other things) initiating an ex parte communication with a jury foreperson and failing to disclose it to counsel; failing to cooperate with other judges and court officials in the administration of court business; and engaging in speech, gestures, or other conduct that would reasonably be perceived as bias, prejudice, or harassment, including bias based on sex or gender.

In Judge Adams’s April 17, 2023 response to the commission’s preliminary investigation letter in that matter (“2023 Response”), Judge Adams stated that he was retiring, that his last day on the bench was April 7, 2023, and that he would not be returning to the bench, due to his medical conditions and his desire to avoid “additional missteps.” The following are excerpts from Judge Adams’s 2023 Response.

- “After nearly half of a century as a Superior Court judge, Judge Adams’ last day on the bench was April 7, 2023. He is scheduled for hip surgery and his retirement date will be set after calculation of the sick leave and vacation time that he has earned. He will not be returning to the bench.”
- “Even though Judge Adams made some missteps, Judge Adams hopes that the commission will conclude that, in light of nearly half of a century’s career on the bench and Judge Adams’ retirement, his missteps do not warrant the imposition of discipline.”

- “Since his last day on the bench was April 7, 2023, he will not be inviting a jury foreperson to meet with him after a verdict again. In light of the impossibility of this happening again, Judge Adams asks discipline not be imposed.”

Judge Adams made similar representations in the Conclusion section of the 2023 Response.

Judge Adams is most distressed that the end of his long career on the bench is marred by both the allegations in the commission’s letter that are not accurate and the allegations that have informed him of conduct that was not appropriate. The self-reflection generated by the commission’s letter and the work responding to the letter has convinced Judge Adams that it is time for him to make the hard decision to retire. He has treasured the opportunity to serve as a judge and continues to believe that his work on the bench has been a valuable contribution to his court and to the community. However, in light of his current medical conditions and because he does not want to make additional missteps, no matter how well intentioned he may be, he will not return to the bench following his vacation and medical leave of absence.

Judge Adams’ last day on the bench was April 7, 2023, and he will not be returning to the bench. He has not formally filed his retirement papers since the correct retirement day must be calculated taking into account the medical issues surrounding hip replacement surgery and the accumulated vacation time that he has earned. We will update the commission on the retirement date and the formal retirement notification when the date has been determined.

In light of the information provided with this letter and in light of Judge Adams’ retirement, we ask that the commission close this investigation.

The excerpts above reflect Judge Adams’s argument that commission discipline was not warranted in light of (among other things) his assurances that he would not be returning to the bench following his April 7, 2023 departure.

On May 12, 2023, Judge Adams sent a five-page letter to Santa Barbara Superior Court Presiding Judge Pauline Maxwell, which reported the following regarding a telephone conversation that his wife had on or around May 10 with an Associate Human Resources Analyst for the Judicial Council.

[W]hen [my wife] laid out for [the Judicial Council associate] what all we were trying to accomplish before our “official” retirement, and that we were currently working off my 34 days of accumulated vacation time and that thereafter I probably had no alternative but to return to court in whatever you, my PJ, might choose for me until such time that I was cleared for the [hip replacement] surgery.

Judge Adams’s letter to Judge Maxwell also stated the following.

- “I promise you I will be happy to return to court duties and make myself available in whatever capacity that you might use me in.”
- “So, with the prospect of my vacation time running out and with everything being considered I was assuming that I probably would need to return to court whenever said vacation time expired and avail myself of whatever duties you as my PJ might designate[,] whether they be the arraignment calendar or handling of all of the preliminary hearings for each of the criminal departments, or whatever. I was assuming that would be for as long as it took for me to once and for all get the hip surgery over with and behind me.”
- “. . . I was hoping to take advantage of my continued judicial salary until after [the hip replacement] surgery and after I had experienced some significant healing time from that surgery.”

The letter also contained the following comments from Judge Adams regarding the prior commission matter, which was pending at the time.

In closing, and on an entirely different matter, I contacted [my attorney in the prior matter] who had helped me with the Judicial Council [sic] situation. She basically said that she had filed our “response” with said committee [the commission] and that it was submitted “on time.” She went on to suggest that she doubted that they would make any definitive decisions regarding my matter until at least July [2023] as they apparently have a great deal of matters that they are having to devote their attention to. UGH!!! I was hoping that would all be behind me much sooner than that so that I could begin resting a bit easier in that regard.

On May 22, 2023, Judge Maxwell sent Judge Adams an email stating: “[Judge Adams’s judicial secretary] is desperate to know whether you will be here next week. She needs coverage.” Judge Adams sent a reply, also on May 22, stating: “Absolutely I WILL BE HERE. Where do I report?” On May 23, Judge Adams’s secretary

emailed him, stating that Judge Adams would be covering for Judge Maxwell on June 1 and June 2. The May 22 and May 23 email exchanges reflect Judge Adams's understanding on those dates, respectively, that he would be returning to court for the four-day workweek beginning on May 30 to preside over the calendars of one or more of his fellow judicial officers, and that, specifically, he would be presiding over Judge Maxwell's calendars on June 1 and June 2.

Judge Adams returned to work on May 30 for the four-day workweek. On June 1 and June 2, he presided over all of Judge Maxwell's calendars, which included more than 100 felony and misdemeanor matters. He went back on leave immediately thereafter. Four months later, on October 2, 2023, Judge Adams returned to the bench, where he has continued to preside over cases.

In his responses to the current preliminary investigation letters ("current responses"), Judge Adams submitted that he did not intend to mislead the commission regarding his retirement and "last day" on the bench because, at the time of the 2023 Response, he "honestly and sincerely believed that [his] retirement was imminent." He also asserted that, at the time, he "did not anticipate that [his] hip surgery would be delayed multiple times." Judge Adams's 2023 Response, however, did not state that his retirement or promises to remain off the bench were contingent on his hip surgery, or on anything else. It stated that his decision not to return to the bench resulted from his medical conditions and his desire not to make "additional missteps," and characterized his filing of retirement papers as a formality, pending a calculation of "the correct retirement day." The commission also notes that, in his current responses, Judge Adams enclosed an email that he sent to Judge Maxwell on April 4, 2023—13 days *before* he submitted the 2023 Response to the commission—stating that his hip surgery likely would not take place until two to three months from then, and that he "would be hopeful of being available to hear [other judges'] preliminary hearings, time-impacted jury trials, or any other criminal court matters," as needed, before the surgery.

Moreover, in May and June 2023, Judge Adams was aware that the commission's decision in the prior matter remained pending. Despite this awareness, Judge Adams did not notify or update the commission regarding his anticipated May 30 return to court and resumption of bench duties or regarding his assumption that he would continue presiding over matters until "after [he] had experienced some significant healing time from [the hip] surgery." Judge Adams also did not notify or update the commission regarding his June 1-2 return to the bench after the commission issued its notice of tentative private admonishment to him on June 2, 2023, before the private admonishment took effect on June 23, or at any time thereafter. Judge Adams additionally failed to notify or update the commission regarding his (ongoing) return to the bench on October 2, 2023, or regarding his intention (as stated in his current responses) to remain on the bench "at least for the foreseeable future." Nor did Judge Adams otherwise correct the inaccurate statements from the 2023 Response.

The commission determined that Judge Adams's unequivocal representations in his 2023 Response—that his last day on the bench was April 7, 2023, and he would not be returning, and that his retirement was imminent—were misleading. These representations

appear throughout the 2023 Response and feature prominently in Judge Adams's arguments that discipline was not warranted in light of his assurances that he would not be returning to the bench. The statements were of a nature to influence the commission's determinations on whether discipline was warranted and/or the level of discipline to be imposed, and the commission naturally and reasonably considered them when making those determinations. Judge Adams's failure to notify or update the commission regarding his resumption of judicial duties rendered his statements misleading and constituted a lack of candor and a failure to cooperate with the commission.

In his current responses, Judge Adams submitted that he did not engage in a lack of candor or a failure to cooperate with the commission because the statements were not "material to the [2023] investigation of [his] conduct," and because the commission did not communicate that it had relied on them. While Judge Adams's employment status was indeed unrelated to *the incidents* underlying the prior investigation, this issue became relevant because Judge Adams presented it in mitigation. The commission need not announce that it is considering information respondent judges present for its consideration.

The commission determined that Judge Adams's conduct constituted a lack of candor as well as violations of Government Code section 68725 (requiring that judges "cooperate with and give reasonable assistance and information to the commission . . . in connection with [commission investigations]") and Rules of the Commission on Judicial Performance, rule 104(a) ("A respondent judge shall cooperate with the commission in all proceedings in accordance with Government Code section 68725."). They also constituted violations of the judge's duties to cooperate with judicial and lawyer disciplinary agencies (canon 3D(4)); to respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary (canon 2A); and to avoid impropriety and the appearance of impropriety in all of the judge's activities (canon 2).

Judge Adams's conduct constituted, at a minimum, improper action.

In determining to issue this Notice of Tentative Public Admonishment, the commission considered Judge Adams's prior discipline to be an aggravating factor. In June 2023, the commission privately admonished Judge Adams for failing to cooperate with other judges and court officials in the administration of court business; and for engaging in speech that would reasonably be perceived as bias, prejudice, or harassment, including based on sex or gender, when the judge said, "I'll stipulate to that," in response to a defendant's remark that a female attorney was "so beautiful." The discipline also included Judge Adams's engaging in an ex parte communication with a jury foreperson, which he failed to disclose to counsel in the matter.

Judge Adams also received an earlier private admonishment in 1993, for ordering that a pro se family law litigant be taken into custody for two days, without a contempt hearing. The commission found that Judge Adams's conduct constituted "an egregious violation of due process." Although not cited as a basis for discipline, the commission also noted discourteous language that Judge Adams used when addressing the litigant: "Knock off the crap about talking to your wife, or obviously we'll terminate this right now."

The commission further considered, in aggravation, statements in Judge Adams's current responses that appear to discredit, or cast in a bad light, Reem Yassin and another witness, for their supposed conduct in incidents unrelated to the conduct at issue.

Commission members Dr. Michael A. Moodian; Hon. Lisa B. Lench; Ms. Kay Cooperman Jue; Mr. Richard A. Long; Mani Sheik, Esq.; and Ms. Beatriz E. Tapia voted for the Notice of Tentative Public Admonishment. Hon. Michael B. Harper would have referred the matter to be evaluated for formal proceedings. Commission member Rickey Ivie, Esq. was recused from this matter, pursuant to commission policy declaration 6.1. Commission member Hon. William S. Dato did not participate. Two public member positions were vacant.

Date: December 10, 2024