

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

IN THE MATTER CONCERNING
FORMER JUDGE ROBERT F.
COCHRAN

DECISION AND ORDER IMPOSING
PUBLIC ADMONISHMENT

This disciplinary matter concerns Judge Robert F. Cochran, a former judge of the Del Norte County Superior Court from January 2019 until January 2025. Pursuant to rule 114 of the Rules of the Commission on Judicial Performance, Judge Cochran and his attorney, Randall A. Miller, appeared before the commission on January 30, 2025, to contest the imposition of a tentative public admonishment issued on October 31, 2024. Judge Cochran 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 Cochran 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.

STATEMENT OF FACTS AND REASONS

As set forth below, the commission found that Judge Cochran conveyed the appearance of embroilment and bias, and exhibited discourtesy, toward a victim of domestic violence by his conduct at a Domestic Violence Restraining Order (DVRO) hearing and a change of plea hearing in a criminal matter. At the DVRO hearing, Judge Cochran faulted the victim for staying in an abusive relationship, called her “manipulative” on a number of occasions, and told the respondent that he had fallen into her “trap.” At the change of plea hearing in the

criminal matter, the judge denied the victim an opportunity to be heard and made demeaning comments to her, in violation of Marsy's Law.

1. DVRO HEARING

On May 25, 2023, Judge Cochran presided over a DVRO hearing in *Melinda Cairns v. Thomas Rodriguez* (No. CVDV 23-1001). Ms. Cairns and Mr. Rodriguez represented themselves at the hearing. Ms. Cairns and Mr. Rodriguez had one son together – R. Ms. Cairns also had a son and daughter from a previous relationship.

Ms. Cairns testified that, while in a relationship with Mr. Rodriguez, he assaulted her hundreds of times, often in front of the children. She provided photographs of injuries, which depicted bloody head wounds, black eyes, strangulation bruising, and a bloody split lip. Ms. Cairns testified that she watched the children and contributed up to \$1,000 per month toward household expenses (including \$400 per month paid to Mr. Rodriguez's father for housing). Ms. Cairns testified that, following each episode of abuse, Mr. Rodriguez and his father threatened to "kick her out" of the house, when the following exchange occurred.

THE COURT: So[,] you aren't interested in getting any money out of the house? You treated it just as rent; is that what you're saying?

[MS. CAIRNS]: No. It wasn't rent. I did want my money. I wanted to be able to --

THE COURT: *Okay. Now answer my question when I ask it.*

[MS. CAIRNS]: I'm sorry. I'm sorry.

THE COURT: You said -- and you kind of lost me. You are just going like this.

[MS. CAIRNS]: I'm sorry.

THE COURT: \$400 a month you were paying to his father or to him?

[MS. CAIRNS]: I gave Thomas 950 to 1,000 a month; 400 of that was for his father that he told me he was paying his father. And then for, like, the last --

THE COURT: Oh, okay. As it turns out, he, apparently, did not pay his father.

[MS. CAIRNS]: That's not what they told me.

THE COURT: Okay[.]

[MS. CAIRNS]: But I cannot verify because I did not get receipts from him, but I did have an agreement signed with him twice.

THE COURT: All right. But that's a separate issue.

[MS. CAIRNS]: Yeah. No.

THE COURT: Those financial issues you -- you weren't married --

[MS. CAIRNS]: No.

THE COURT: -- so you --

[MS. CAIRNS]: The issue --

THE COURT: -- can sue his father if you want -- if you feel that you purchased the home or you can sue him, perhaps, because you weren't married.

(R.T. 8:13-9:17, italics added.)

Ms. Cairns testified that she attempted to work out an agreement with Mr. Rodriguez to return some of her money in exchange for her moving out. She testified that, because Mr. Rodriguez and his father were taking her money each month and threatening to kick her out of her home (if she did not give up custody of R.), she decided to move out. In response, Judge Cochran stated, "All right. What I'm -- I'm not so interested -- although economic coercion is one of the

elements of the domestic violence. I've got pictures here. You look like somebody had just been beating the crap out of you." (R.T. 11:1-5.)

Ms. Cairns testified that Mr. Rodriguez tried to kill her multiple times. She described how she received the injuries depicted in the photographs. She testified that the head wounds were caused by Mr. Rodriguez stabbing her with his car keys, the neck bruises were caused by Mr. Rodriguez strangling her, the black eye was caused by Mr. Rodriguez assaulting her, and the split lip was caused by an exposed staple in a wall when Mr. Rodriguez hit her head into the wall. She testified that he once hit her in the back of the head with a Nintendo Switch so hard that she lost consciousness. Ms. Cairns testified that Mr. Rodriguez regularly screamed at her, threatened to kill her, pulled her hair out, and spit on her. During Ms. Cairns's description of abuse, the following exchange occurred.

THE COURT: *[I]f this is true what you're telling me, why you're [sic] still in that home with this person a year later.*

[MS. CAIRNS]: I couldn't give you a good answer to that, honestly. I feel really stupid about all of it. I was afraid to get help. I didn't see a way out. I didn't really have somewhere to go.

(R.T. 16:13-18, italics added.)

Ms. Cairns testified that, after she broke up with Mr. Rodriguez, she brought her daughter to visit him. The daughter reported that Mr. Rodriguez locked her in a bedroom with her two brothers all night while Mr. Rodriguez went out drinking.

Mr. Rodriguez admitted causing the head wounds and giving her black eyes. He denied locking the daughter in the bedroom and testified that Ms. Cairns liked being "choked in bed." (R.T. 22:14-15.)

While Mr. Rodriguez was cross-examining Ms. Cairns, the following exchange occurred.

THE COURT: Let me ask -- I do have a question.
Does -- *it's your position that she's forcing you into an ongoing relationship with her?*

MR. RODRIGUEZ: Not necessarily --

THE COURT: *Is that your position?*

MR. RODRIGUEZ: -- a relationship, but --

THE COURT: I want --

MR. RODRIGUEZ: -- a camel pack mule.

THE COURT: Excuse me.

MR. RODRIGUEZ: Not much a relationship, more like a camel pack mule.

(R.T. 25:3-13, italics added.)

Mr. Rodriguez testified that Ms. Cairns forced him to enter therapy. He stated that, if he did not do what she told him to do, she would say, “[Y]ou’re going to have to deal with your consequences again.” (R.T. 29:6-7.) The following exchange then occurred.

THE COURT: *So, basically, you’re saying she’s manipulative and wanted -- the reason she didn’t leave is she wanted to have an ongoing relationship with you so she would have her pack mule to pay her bills and take care of things. That’s your position?*

MR. RODRIGUEZ: So[,] she did technically pay some of her bills because she gets financial aid from the government. But child support technically pays for that. I’m not saying I paid for that. [¶] But she would just -- she would get her money, and she would give it to me. . . . [¶] . . . [¶] . . . [E]verything is always me trying to be against her. Like, I’m a villain. But in reality --

THE COURT: Well, it's --

MR. RODRIGUEZ: -- it does seem like that.

THE COURT: -- real obvious, you two --

MR. RODRIGUEZ: Don't work together.

THE COURT: -- can't have a relationship. [¶] But right -- my decision today -- and, you know, you're making it easy because you're acknowledging that you -- and the -- none of the reasons and --

MR. RODRIGUEZ: Reaction.

THE COURT: -- *the fact that she's a manipulator and --*

MR. RODRIGUEZ: And hits her kids.

THE STENOGRAPHER: Please don't interrupt the judge.

THE COURT: *The fact that she's a manipulator and took advantage of your kind heart, willing to help her out doesn't justify the domestic violence. It just doesn't justify it.*

(R.T. 29:8-30:20, italics added.)

Before concluding Mr. Rodriguez's cross-examination of Ms. Cairns, the following exchange occurred.

THE COURT: *I do not understand why she would stay in a home -- or in a relationship where someone is just beating the crap out of her all the time. That -- she's got a problem. There's no doubt about it.*

[MS. CAIRNS]: Most of those happened after I --

THE COURT: *Excuse me. I don't need any comments. [¶] She's got a problem. There's no doubt about it. But her problem doesn't justify your behavior. That's -- you can't -- you can't beat somebody up because -- because*

they're a manipulator or taking advantage of you. You just can't do it.

(R.T. 31:17-27, italics added.)

The parties then discussed a series of texts. There was a dispute as to the context and meaning of the texts. While discussing the texts, the following exchange occurred.

THE COURT: Well, just give me -- let me read -- I've read through these. And I got the clear impression --

[MS. CAIRNS]: Thomas said --

THE COURT: Excuse me.

[MS. CAIRNS]: Sorry.

THE COURT: *I do not want to hear anything -- when I need something from you, I'll ask you a question. [¶] I'm telling you the way I read them. And I'm looking for -- it was -- it was clear that -- and it's, apparently, you that's doing what he said, trying to get him --*

[MS. CAIRNS]: I had asked him to come --

THE COURT: *-- to stop being abusive after everything.*

[MS. CAIRNS]: And most of those are from a long time before the abuse started[,] too, the screenshots. That was more taken --

THE COURT: Well, you talk about the abuse and stuff in your responses. So[,] it's not a long time after.

[MS. CAIRNS]: No. But a lot of these assaults happened after I had broken up with him[,] too[,] though. They weren't in the relationship. That was after he had already moved out and was coming back to the house. And same with, like, taking my cards and stealing things from my house. He --

THE COURT: *I'm not going to get you to admit you think that you've got a problem. So[,] I won't waste any time doing that. That's just my observation.*

[MS. CAIRNS]: Okay.

THE COURT: *You got a problem. To stay in a relationship like that under these circumstances --*

(R.T. 34:3-35:2, italics added.)

Mr. Rodriguez testified that Ms. Cairns isolated him, made him “unfriend” Facebook contacts, and that he was constantly doing things for her. When Mr. Rodriguez testified that he was trying to “get right for my kid,” Judge Cochran stated that he was “sympathetic.” (R.T. 42:4-21.)

After Mr. Rodriguez testified, Judge Cochran interjected questions in the following exchange.

THE COURT: *I'd like you to address those -- it sounds like you're saying that, for example, the neck injuries, that's because she likes rough sex.*

MS. CAIRNS: No.

[MR. RODRIGUEZ]: It's possible that they're from that. I don't know when she took her photos. However, I did -- I have --

THE COURT: I'll ask her about that. [¶] Okay. And the black eyes, you acknowledge punching her at least on occasion?

[MR. RODRIGUEZ]: I wouldn't say the twenty times that she claims, but I know it happened once or twice.

THE COURT: Okay. And the -- you've explained the keys on the head thing.

[MR. RODRIGUEZ]: Yeah.

(R.T. 47:1-15, italics added.)

At the end of the hearing, the following exchange occurred.

THE COURT: Because in the meantime -- in the meantime, based on what I've got, the evidence and abuse in front of the kids, that's the testimony that I have. *I don't have any real choice but to make restraining orders.* I don't --

MR. RODRIGUEZ: I have --

THE COURT: *At this point I just don't have a choice. I can't have this kind of evidence put in front of me and ignore it. These things happened. And so -- and, you know, if -- and I know you're concerned that she's done all this just to get an advantage in taking your son. But if -- I would say you played right into her hands. You've -- you've made her case for her.*

(R.T. 56:2-13, italics added.)

THE COURT: *So[,] you've made -- you know, if her goal in doing all of what she's done -- and I -- I don't read things the way she's trying to interpret them. I read those texts as her manipulating you, insisting on you coming back, and asking for forgiveness and -- you know, I see she was applying a lot of pressure on you to get back with her in that -- that's the way I read those statements. That's the way I read them. [¶] She's tried to characterize them some other way. I don't accept that. I think your characterization of the relationship is accurate. She was manipulating you, trying to get you back into the relationship for whatever reasons. She liked being beat up, let's say.*

MR. RODRIGUEZ: I think that and it wasn't much of a relationship. Just --

THE COURT: I -- okay. I don't know. *It's a sick relationship.*

MR. RODRIGUEZ: Okay.

THE COURT: *It's not a healthy relationship at all. And her wanting to have you back in the face of all the*

abuse -- and now she files for this. So[,] this is what I'm dealing with. [¶] And, based on what's in front of me, restraining orders are appropriate. You have played into her trap. If this was a plan that she had -- if this was a plan, a long-term plan, you've just made her day. You played right into her hands on it. [¶] If she's got mental issues the way you say, that she's the problem, she's possessive or, perhaps, likes being beat up or whatever, it -- even -- even that doesn't justify the physical violence. [¶] So, anyway -- yeah. It -- your relationship -- both of you are better off separate. There's no doubt about that.

MR. RODRIGUEZ: I've known that for years.

THE COURT: *And you ought to be thankful that she's found someone else because if that's the way -- if that's the way she deals with men, it's not -- it wasn't going to get any better. And now he's going to have to deal with that issue. [¶] So you ought to be thankful that she's let you go. And not only is she letting you go, she's actually pushing you away with forcing -- putting legal steps distance between you.*

(R.T. 57:19-59:4, italics added.)

Ms. Cairns told Judge Cochran that Mr. Rodriguez had omitted information from the texts and that he was fired from a job for “getting in an argument with and groping a different ex of his publicly.” (R.T. 59:9-14.) Judge Cochran responded, “*Stop. We don't need to throw any more daggers. Okay.*”

(R.T. 59:20-21, italics added.)

In rebuttal, Ms. Cairns stated that Mr. Rodriguez's father lied during his testimony. She stated that there was more than one incident in which Mr. Rodriguez locked the children in a bedroom, when Judge Cochran interrupted with the following exchange.

THE COURT: All right. You say the children were locked in the -- and you -- you know that because your daughter said it?

MS. CAIRNS: My daughter. And then Thomas has also told me while having me supply food for his house while taking my cards because, apparently, according to him, his father --

THE COURT: Well, I'm talking -- let's talk about one issue at a time.

MS. CAIRNS: Okay. Thomas --

THE COURT: Just a second.

MS. CAIRNS: Okay.

THE COURT: We're talking about locking your daughter in the room. And all of a sudden you're talking about broken credit cards. Don't switch gears on me like that.

MS. CAIRNS: Okay.

THE COURT: Let's talk about one thing at a time. [¶] I want to hear about -- you said he told you that your daughter was locked in the bedroom.

MS. CAIRNS: He told me that on that occasion and my daughter told me that. [¶] And then on another occasion he told me he had locked the boys in the room all the [sic] day, the entire day, and slept the whole day. And he told me he didn't feed them or do anything. [¶] I told him, why are you having me buy food for your house if you're not even going to feed it to them?

THE COURT: All right. So he told you that he locked --

MS. CAIRNS: The boys.

THE COURT: -- the boys in the bedroom. When did that happen?

MS. CAIRNS: That was after I started at Apple Peddler, which was September. So[,] it would have been August, I think.

THE COURT: All right. *And then you let him take the kids for -- Christmas to the bay area for -- after that happened?*

MS. CAIRNS: That scenario, I shouldn't have let him do it. He -- like, I thought he was going to be freaking out at me if I didn't. And I thought we could just do a peaceful situation and --

THE COURT: *I'm sorry. But, you know, this -- none of this makes sense to me.*

MS. CAIRNS: I know.

THE COURT: *Yeah. Yeah. That you -- you sent me -- you're telling me that in September he tells you that he locked your kids in a bedroom for all day and didn't feed them and you did nothing about that. And when he wanted to take them for a holiday vacation, you let him take them.*

MS. CAIRNS: I was --

THE COURT: *No. I'm telling you, this makes no sense to me. This makes no sense to me. [¶] You're fortunate you've got those pictures. There's clear evidence that there's been abuse. But I want to tell you, you need to get some help.*

MS. CAIRNS: I know.

THE COURT: *You need to get some serious psychiatric treatment. You've got some problem [sic]. I can -- I can just see that. Again, I can't order it. But I can tell you what I see in this courtroom.*

MS. CAIRNS: I fully intend to get trauma therapy as soon as I get medical coverage.

THE COURT: *Well, it's not trauma therapy. You've got -- that -- that's -- it's not his fault that you need help.*

MS. CAIRNS: I'm aware of that.

THE COURT: *Because all of the stuff that I'm hearing, you need help. It's way bigger than him. The help that you need is way bigger than him. And you can't blame --*

MS. CAIRNS: I wasn't --

THE COURT: *-- this on him.*

MS. CAIRNS: I wasn't blaming that on him. I was just saying I had trauma therapy, battery issues. I actually had Elizabeth Kemper tell me before with a different domestic violence situation that that was what I needed. So[,] I was just basing it off of that.

THE COURT: Some previous relationship?

MS. CAIRNS: Yeah.

THE COURT: *Yeah. Well, I can believe there have been relationships like that. You've got some serious problems that you need to deal with. [¶] And you've got a daughter who you're setting a bad, bad example for. If she sees abuse going on and you being abused in her presence and you stay in those relationships, you're telling her, hey, women are second-class citizens. If they get beat up, it's their fault or whatever. You're giving her some real, real bad medicine. That -- and that's from a legal standpoint. I see that in relationships. [¶] But I'm telling you, you're going to get your restraining orders. But this isn't all his fault.*

MS. CAIRNS: I know.

THE COURT: *It's not all his fault. But he -- but you having problems doesn't justify him assaulting you. So -- but -- but he needs some help. He needs some help. And you need some help. The fact that you would stay in the relationship -- you know, and this is a common situation. Victims of abuse, it's like there's a magnet with abusive people. And you end up in those kinds of relationships. [¶] I would take a serious look at this boy, man, you've hooked up with, check out his history. Be sure you don't -- you're not just repeating that. You*

shouldn't do that. For your children you shouldn't do that. You're giving the young men seeing that -- they're pretty young. But seeing that going on, then that means, hey, that's what men do. Men beat up on women.

MS. CAIRNS: Yes.

THE COURT: They see that. They will repeat that. History will repeat itself. [¶] You -- you're the one that can stop that.

(R.T. 60:12-64:9, italics added.)

Ms. Cairns's father stated that Ms. Cairns had been in counseling, but the counselor moved during the pandemic. In response, Judge Cochran stated, "But it's obvious to me from the evidence that I've heard that *you've got some serious issues you need to deal with.*" (R.T. 65:10-13, italics added.)

Judge Cochran issued a three-year DVRO, but did not require Mr. Rodriguez to attend a batterer's program. After discussing visitation, Judge Cochran set a future date in a related paternity case, when the following exchange occurred.

THE COURT: If you -- if you think that your child is in danger from being with him, we'll deal with that later. But if -- because I don't -- even though the kids were exposed to it, I --

MS. CAIRNS: He threw --

THE COURT: *I'm not convinced he's a horrible guy. I'm convinced that this is a -- just a --*

MR. RODRIGUEZ: Situation.

THE COURT: -- *horrible relationship.*

MR. RODRIGUEZ: It's a situational --

THE COURT: *That's kind of what I'm seeing. I don't see him as being -- I think this is a relationship, not --*

MS. CAIRNS: He has tossed [A.] on multiple --

THE COURT: Okay. He's -- okay. What I'm saying is if his child is in danger from being around him, that's -- if you believe that, we'll deal with those issues later -- later on. Right now, it will stay as it is. [¶] *I want you to go to mediation and be realistic about it, not about -- not about -- not about punishing for beating you up, but is your child -- is your child in danger from visiting with him.*

(R.T. 78:12-79:4, italics added.)

In Judge Cochran's response to the commission's preliminary investigation letter and in his objections to the notice of tentative public admonishment, Judge Cochran argued that, while his comments at the hearing were "unartful," they were made with good intentions, and, in part, because he wanted to impress upon Ms. Cairns the dangers of modeling "unhealthy relationships" to her children. The commission concluded that, no matter his intention, many of Judge Cochran's comments were, at a minimum, gratuitous, not relevant to a determination of whether to grant the DVRO, and also reflected offensive and outdated stereotypes and beliefs regarding victims of domestic violence.

The commission found that Judge Cochran's conduct at the DVRO hearing reflected bias, embroilment, impatience, and discourtesy, and was of a nature that could reasonably undermine public respect and confidence in the integrity of the judicial system.

The commission further concluded that, by repeatedly questioning Ms. Cairns why she did not leave Mr. Rodriguez and stating she had a "problem" for staying in the relationship, Judge Cochran questioned her credibility and appeared to blame her for the abuse she suffered. Judge Cochran's comments ("I do not understand why she would stay in a home -- or in a relationship where someone is just beating the crap out of her all the time," "[S]he's got a problem," "I'm not going to get you to admit you think that you've got a problem," "She liked

being beat up,” “[Y]ou need to get some help,” “This makes no sense to me,” “You’re fortunate you’ve got those pictures,” “You need to get some serious psychiatric treatment,” “[I]t’s not his fault that you need help,” and “[Y]ou can’t blame ... [¶] ... this on him,”) improperly shamed Ms. Cairns for staying in the relationship, in violation of canons 3B(4) (duty to be patient, dignified, and courteous to litigants and lawyers), 3B(5) (duty to perform judicial duties without bias or prejudice), 3B(8) (duty to dispose of all judicial matters fairly, promptly, and efficiently, and to manage the courtroom in a manner that provides all litigants the opportunity to have their matters fairly adjudicated in accordance with the law), 2 (duty to avoid impropriety and the appearance of impropriety in all of a judge’s activities), and 2A (duty to respect and comply with the law and to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary; and to not make statements that are inconsistent with the impartial performance of the adjudicative duties of judicial office).

The commission additionally found that Judge Cochran conveyed the appearance of bias and embroilment by suggesting answers and arguments for Mr. Rodriguez; mischaracterizing Mr. Rodriguez’s testimony; stating he did not have a choice in granting the DVRO; and admonishing Ms. Cairns more harshly for interrupting, even though both parties equally interrupted the judge or each other. For example, Judge Cochran said, “And he says you’re coercing him into being with you,” although Mr. Rodriguez never used the word “coerce.” In a second example, Ms. Cairns testified that Mr. Rodriguez stabbed her in the head with keys. Mr. Rodriguez testified that Ms. Cairns’s head wound was caused when he shoved her down and still had keys in his hand. Judge Cochran characterized it as “the keys on the head thing” and an “accident.” (R.T. 47:13-24, 22:2-3.) Third, the judge repeatedly said that Ms. Cairns liked being beat up, although Mr. Rodriguez never said that Ms. Cairns liked being beat up. Finally, Judge Cochran stated, “If she’s got mental issues the way you say,” (R.T. 58:17) even though Mr. Rodriguez never said that Ms. Cairns had mental issues.

The commission further found that Judge Cochran displayed the appearance of bias for Mr. Rodriguez (and against Ms. Cairns) and embroilment when he remarked about “play[ing] right into her hands,” “I’m sympathetic,” “You have played into her trap,” “[Y]ou’ve just made her day,” and “[Y]ou ought to be thankful that she’s found someone else because if that’s the way -- if that’s the way she deals with men, it’s not -- it wasn’t going to get any better.” The commission found the judge’s conduct in conveying the appearance of bias and embroilment violated canons 3B(4), 3B(5), 2, and 2A.

In Judge Cochran’s response to the commission’s preliminary investigation letter, Judge Cochran asserted that when he called Ms. Cairns a “manipulator,” he was paraphrasing Mr. Rodriguez’s testimony. Mr. Rodriguez never used any version of the word “manipulate.” Judge Cochran, however, called Ms. Cairns a “manipulator” or “manipulative” six times. Similarly, Judge Cochran also talked about Ms. Cairns setting a “trap” for Mr. Rodriguez. The commission concluded that, even if “manipulative” was an accurate paraphrase of Mr. Rodriguez’s testimony, it was unnecessarily demeaning to call Ms. Cairns “manipulative” or a “manipulator” repeatedly in open court.

In Judge Cochran’s response to the commission’s preliminary investigation letter, his objections to the notice of tentative public admonishment, and at his appearance before the commission, Judge Cochran asserted that he had questions regarding Ms. Cairns’s credibility, unrelated to her allegations of physical abuse. He also described Ms. Cairns as an “extraordinarily difficult individual” and asserted that her conduct during the hearing had bearing on his evaluation of her overall believability. In the commission’s view, Ms. Cairns’s credibility on peripheral issues was of little relevance in that Judge Cochran conceded that the evidence that Mr. Rodriguez had violently and repeatedly attacked Ms. Cairns was clear. The commission concluded that, even if Judge Cochran questioned Ms. Cairns’s credibility on other issues, it did not excuse his improper comments.

The commission also found that Judge Cochran’s repeated comments that the parties were in a “sick,” “unhealthy,” or “horrible” relationship were gratuitous and discourteous in violation of canons 3B(4), 2, and 2A.

2. CHANGE OF PLEA HEARING

In *People v. Rodriguez* (No. CRF 23-9397), Mr. Rodriguez was convicted of a felony violation of Penal Code section 273.5(a) for some of the conduct described by Ms. Cairns at the DVRO hearing, on May 25, 2023. Judge Cochran presided over a change of plea hearing in *Rodriguez* on October 30, 2023. Attorney Keith Morris represented Mr. Rodriguez and Deputy District Attorney Jolanda Ingram represented the People. Pursuant to a plea agreement with the prosecutor, Mr. Rodriguez agreed to plead no contest to a felony in exchange for felony probation and credit for time served (one day), with no additional time in custody.

Judge Cochran asked Ms. Ingram to provide a factual basis for the plea. Ms. Ingram stated that Mr. Rodriguez “pulled [Ms. Cairns] to the floor, hit her with a closed fist[,] and banged keys on the top of her head, causing a laceration.” (R.T. 6:15-16.) Ms. Ingram stated that “[t]he photo didn’t show anything. There was no corroborating evidence to the alleged domestic violence incident.”¹ (R.T. 6:17-19.)

After Ms. Ingram finished, Ms. Cairns asked to be heard in the following exchange.

MS. CAIRNS: Can I speak? Because almost everything you said is not accurate. Filed that seven months after it happened, and I --

□ . . . □

¹ The photo presented at the DVRO hearing showed a puncture wound on Ms. Cairns’s head and blood running down her face.

I filed that seven months after it happened. There was a police report made. It included evidence in it. He did tell the officers he assaulted me when they showed up. I did turn in image evidence, which you have seen. [¶] I really don't understand how it is that he can stab me in the head with a key and already be on felony probation in another county for assaulting me and be given just felony probation here. And I did not say that he just --

THE COURT: Well, there's not --

MS. CAIRNS: He's on felony probation in Sonoma County for assaulting me there in November. I don't understand how --

THE COURT: *Well, you'll need to talk to the probation department. They're going to be -- this is going to be referred to them.*

THE DEFENDANT: I've spoken to head of probation in Sonoma, Joanne. She's waiting for your sentencing.

THE COURT: *Well, let me tell you what we're going to do: We're going to refer this to our probation department for a recommendation. They're going to want a victim statement. You tell them why you think this isn't fair.*

MS. CAIRNS: I absolutely believe this is endangering me and my child.

THE COURT: Okay. Well, he's going to be -- not be allowed around you. He's going to have to take a batterer's intervention program. The conditions --

MS. CAIRNS: Well, the issue in the scenario was you dropped our custody stuff from calendar, saying we had to wait until the end of this sentencing. [¶] So[,] does that mean that I have to go back and then be forced to see him because of our child? Or how does that work? Because I don't even have a court date for the custody. You told us to wait until his sentencing.

THE COURT: Well, what's the current order?

MS. CAIRNS: You said to continue with the reasonable visitation where I have my father doing supervision on Tuesdays for --

THE COURT: Okay. Then that's going to continue.

MS. CAIRNS: My father is not physically really capable of --

THE COURT: *You're going to have to file something in civil court.*

MS. CAIRNS: I don't understand why the court should have to order for the visitation when he is the perpetrator of the crime. I don't know why the victim --

THE COURT: *Look I'm not going to fight with you. You're the victim. I have to be sympathetic to that, but you're not impressing me right now.* [¶] These are serious felony -- he's placed on a felony probation with some very strict rules and things that are very protective to you.

MS. CAIRNS: Your Honor, he's already on felony probation, and I have received death --

THE COURT: *Look, we're done. We're done. You go to the probation department, file a victim complaint with them and let -- and let's see -- they may recommend something entirely different. And we'll take a look at that when it gets here. Okay.*

(R.T. 6:26-9:11, italics added.)

The probation department prepared a report recommending that Mr. Rodriguez serve six months in custody. On December 14, 2023, Judge Cochran sentenced Mr. Rodriguez in conformance with the plea agreement that provided for no additional time in custody. Ms. Cairns was unable to attend the sentencing hearing but prepared a written statement objecting to the sentence.

The Victims' Bill of Rights, also known as Marsy's Law, provides victims due process by affording them an opportunity to be heard in criminal proceedings

concerning the prosecution, punishment, and release of those who victimized them. Marsy's Law enumerates 17 rights, which include the following:

- To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment, and abuse, throughout the criminal or juvenile justice process. (Cal. Const., art. I, § 28(b)(1).)
- To be reasonably protected from the defendant and persons acting on behalf of the defendant. (Cal. Const., art. I, § 28(b)(2).)
- *To be heard, upon request, at any proceeding*, including any delinquency proceeding, *involving a* post-arrest release decision, *plea*, sentencing, postconviction release decision, or any proceeding in which a right of the victim is at issue. (Cal. Const., art. I, § 28(b)(8) [italics added].)

Penal Code section 679 (Rights of Victims and Witnesses of Crimes) states that it is the Legislature's intent that victims be treated with "dignity, respect, courtesy, and sensitivity," and that their rights "are honored and protected by . . . judges in a manner no less vigorous than the protections afforded criminal defendants." Penal Code section 679.02(a)(3) provides that a victim has the right "to be notified of all sentencing proceedings, and of the right to appear, to reasonably express their views . . . and to have the court consider their statements"

Marsy's Law expressly provides that a victim be heard, upon request, at any proceeding, including a plea hearing. By telling Ms. Cairns to take her concerns to the probation department, after a plea was entered, the judge denied her the opportunity to influence his decision to accept the plea agreement, in violation of article I, section 28(b)(2) and (b)(8). Judge Cochran also violated Marsy's Law by failing to treat Ms. Cairns with dignity, respect, courtesy, and sensitivity, in violation of article I, section 28(b)(1); and failed to honor her rights in a manner no less vigorous than the protections he afforded Mr. Rodriguez.

(See Pen. Code, § 679.) By interrupting Ms. Cairns, telling her to “talk to the probation department,” telling her to “file something in civil court,” and saying, “We’re done,” Judge Cochran failed to allow Ms. Cairns to be fully heard at the change of plea hearing, which involved a plea, as required by Marsy’s Law. (Cal. Const., art. I, § 28(b)(8).) The commission concluded that Judge Cochran’s failure to allow Ms. Cairns to make a full statement at the change of plea hearing also violated canons 3B(2) (duty to be faithful to the law regardless of partisan interests, public clamor, or fear of criticism, and to maintain competence in the law), 3B(7) (duty to accord every person who has a legal interest in a proceeding the full right to be heard according to law), 3B(8), 2, and 2A.

In his objections to the notice of tentative public admonishment, Judge Cochran conceded that he erred in denying Ms. Cairns the right to testify at the plea hearing. He asserted, however, that his ruling constituted solely legal error. In *Oberholzer v. Commission on Judicial Performance* (1999) 20 Cal.4th 371, the California Supreme Court held that discipline may be based on perceived legal error if it clearly and convincingly reflects bad faith, bias, abuse of authority, disregard for fundamental rights, intentional disregard of the law, or any purpose other than the faithful discharge of judicial duty. (*Id.* at p. 398, citing *Kloepfer v. Commission on Judicial Performance* (1989) 49 Cal.3d 826, 849–54 and *Cannon v. Commission on Judicial Qualifications* (1975) 14 Cal.3d 678, 695–698, respectively.) The commission concluded that this was not a matter of mere erroneous determination of a legal issue. As Rothman states: “A judge is expected to know the law and follow it, particularly with respect to an individual’s fundamental rights.” (Rothman et al., Cal. Judicial Conduct Handbook (4th ed. 2017), § 3:48, p. 198.) The commission concluded that denying Ms. Cairns an opportunity to be heard, given the clear language of Marsy’s Law expressly providing that a victim be heard, upon request, at a plea hearing, clearly and convincingly reflected a disregard for Ms. Cairns’s fundamental rights.

The commission further found that Judge Cochran’s comments about Ms. Cairns (“Look I’m not going to fight with you. You’re the victim. I have to be sympathetic to that, but you’re not impressing me right now.”) reflected bias, embroilment, and discourtesy, in violation of canons 3B(5), 3B(4), 2, and 2A.

The judge’s conduct, at the DVRO hearing and the change of plea hearing described above, at a minimum, constituted improper action.

DISCIPLINE

In imposing this public admonishment, the commission concluded that Judge Cochran’s treatment of Ms. Cairns constituted serious misconduct (Policy Declarations of Com. on Jud. Performance, policy 7.1(1)(b)) that negatively affected a victim of domestic violence (Policy Declarations of Com. on Jud. Performance, policy 7.1(1)(f).) In further aggravation, Judge Cochran did not appear to fully appreciate the impropriety of his comments towards Ms. Cairns. (Policy Declarations of Com. on Jud. Performance, policy 7.1(2)(a).)

Commission members Dr. Michael A. Moodian; Hon. Lisa B. Lench; Hon. William S. Dato; Hon. Michael B. Harper; Ms. Kay Cooperman Jue; Mr. Richard A. Long; Mani Sheik, Esq.; Mr. Gerald C. Shelton; and Ms. Beatriz E. Tapia voted to impose the public admonishment. Commission member Rickey Ivie, Esq. did not participate. One public member position was vacant.

Date: February 19, 2025



Dr. Michael A. Moodian
Chairperson