



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC Nos. 14-0557-DI, 14-0609-DI, 14-0617, 14-0687-DI, 14-0693-DI, AND 14-0795-DI

PUBLIC REPRIMAND

**HONORABLE ERIC CLIFFORD
6TH JUDICIAL DISTRICT COURT
PARIS, LAMAR COUNTY, TEXAS**

During its meeting on August 12 - 14, 2015, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable Eric Clifford, Judge of the 6th Judicial District Court of Paris, Lamar County, Texas. Judge Clifford was advised by letter of the Commission's concerns and provided written responses. Judge Clifford appeared before the Commission on August 14, 2015, and gave testimony. After considering the evidence before it, the Commission entered the following Findings and Conclusions:

FINDINGS OF FACT

1. At all times relevant hereto, the Honorable Eric Clifford was Judge of the 6th Judicial District Court,¹ Paris, Lamar County, Texas.

LAMAR NATIONAL BANK

2. Judge Clifford was one of the original founding shareholders of Lamar National Bank ("Bank") in 1981. Since that time, the judge has continued to serve as one of the Bank's directors.
3. Judge Clifford and his family currently own 28% of the Bank's stock and have an ownership interest in the Bank worth more than \$10,000,000.

¹ The 6th Judicial District Court covers Lamar and Red River Counties.

4. After being elected judge of the 6th Judicial District Court and taking the bench in 2009, Judge Clifford's judicial title was included on the page identifying him as a director on the Bank's website.
5. As of 2014, the Bank had approximately 90 shareholders and more than ten individuals unrelated to Judge Clifford with an ownership interest.
6. During his appearance before the Commission, Judge Clifford testified that he was aware that the Texas Code of Judicial Conduct prohibited his service on the Bank's board of directors, but that he continued to serve after assuming the bench in order to look after his family's "substantial investment."

THE CPS PLACEMENT HEARING

7. Attorney Donald Haslam represented Stanley Maggard (Stanley), in Case No. 82433, styled; *In the Interest of E.A.M. and W.R.M, Children* (the "Maggard CPS Case."); Stanley is the father of E.A.M and W.R.M.
8. On June 6, 2013, Judge Clifford held a placement hearing in the Maggard CPS Case after Stanley was charged with a felony count of "Indecency with a Child." Haslam also represented Stanley in his criminal matter.
9. The children's mother, Mary Maggard, was also charged with sexually inappropriate behavior. Both charges stemmed from the parents' interaction with their own children.
10. After Haslam and Stanley left Judge Clifford's courtroom upon the conclusion of the CPS placement hearing, Judge Clifford began talking about Stanley's criminal case in front of the attorneys and litigants who remained in the courtroom awaiting their cases to be called.
11. According to witnesses, Judge Clifford commented, "I cannot believe that guy, do you know what he has been charged with, he has been charged with so many counts of sexual assault of a child. His children." The judge also expressed his belief that Stanley was "going away for a long time."
12. On or about June 13, 2013, as a result of Judge Clifford's comments following the CPS placement hearing, Haslam filed a motion to recuse the judge from presiding over Stanley's criminal case.
13. In response, Judge Clifford voluntarily recused himself from the criminal case.

STATE V. ERSKINE

14. Kathleen Erskine was indicted for murder in connection with the October 12, 2012 death of her husband, Rocky Vigil.
15. Prior to the indictment, Judge Clifford attended a local Kiwanis Club meeting where he answered questions from the audience about the case and expressed his opinion as to the facts of the case.
16. During the meeting, Judge Clifford made disparaging remarks about Rocky and expressed his opinion that some people "need to be killed."
17. Judge Clifford also opined that "the state will never get an indictment" in the case.
18. Subsequently, the case was filed in Judge Clifford's court and the state's charge was reduced to manslaughter.

19. On January 23, 2014, Judge Clifford met with Erskine's attorney, David Turner, in the judge's office where, in the absence of a prosecutor, they discussed a possible plea deal in the case.
20. On February 10, 2014, the state filed a motion to recuse Judge Clifford based on the judge's comments at the Kiwanis Club meeting and the improper *ex parte* conversation with Turner.
21. In response, Judge Clifford voluntarily recused himself from the case.
22. Judge Clifford's recusal received local media attention.

STATE V. BAKER

23. Prior to July 2012, Judge Clifford received information that Jason Baker had violated his probation by failing a required drug test. The judge received this information from one of Baker's relatives.
24. Shortly thereafter, Judge Clifford contacted Larry Jordan, Chief Adult Probation Officer with the Lamar County Adult Probation Department, and questioned him as to why no action had been taken to revoke Baker's probation.
25. On July 2, 2012, the state filed a motion to revoke Baker's probation and to proceed with an adjudication of guilt. Baker was represented by attorney Donald Haslam.
26. Shortly thereafter, Lamar County and District Attorney Gary Young and Haslam learned of Judge Clifford's prior contact with Jordan and that the judge had conducted his own investigation into whether Baker had violated his probation.
27. Subsequently, the state entered into a plea agreement for Baker to serve the remainder of his probation term in jail.
28. On August 20, 2012, the plea agreement was presented to Judge Clifford, who stated that he would not entertain any negotiated agreement; instead, the judge notified the parties that the case would be called at 1:30 PM that afternoon.
29. At 1:30 PM, the state moved to dismiss the case; however, Judge Clifford refused to grant the state's motion and called the case to be heard.
30. After the state notified the judge that it would not be presenting any arguments and/or calling any witnesses, Judge Clifford ordered Baker's probation officer to the stand and questioned the officer about Baker's failed drug test.
31. At the conclusion of the hearing, Judge Clifford found that Baker had violated his probation and ordered Baker to serve ninety (90) days in jail.
32. On August 29, 2012, as a result of Judge Clifford's involvement in the Baker case, Haslam filed a motion to recuse the judge. In response, Judge Clifford voluntarily recused himself.
33. During his appearance before the Commission, Judge Clifford testified that he was "mad" when the state asked him to dismiss the case and admitted that he had become too involved.
34. In his written responses to the Commission's inquiry, Judge Clifford further reasoned that his actions were necessary because "Paris is a small town."
35. Judge Clifford added that "When someone is on probation and continues to use drugs its (sic) not long before it is public knowledge. For this to be publically known and no action taken, reflects badly on the judicial system, the court, and the probation office."

STATE V. BRATCHER

36. After the criminal case of *State v. Bratcher* was filed in his court, Judge Clifford told Assistant County Attorney Jill Drake that he “would give Defendant, Tracy Bratcher, 180 days in jail as a condition of his probation,” and that Bratcher would “serve every day of that condition, because he deserves it.”
37. At the time, Bratcher was represented by attorney Barney Sawyer, who was not present when Judge Clifford made the statements to Drake.
38. On November 1, 2013, Sawyer filed a motion to recuse Judge Clifford on grounds that the judge’s “impartiality might be questioned” in the Bratcher case based on his statements to Drake.
39. On November 4, 2013, Judge Clifford voluntarily recused himself from the case.
40. During his appearance before the Commission, Judge Clifford admitted that his statement to Drake was an “err [sic] in judgment.”

COMPLIANCE WITH THE LAMAR COUNTY INDIGENT DEFENSE PLAN

41. The Lamar County Indigent Defense Plan provides that judges of Lamar County are to appoint attorneys to represent indigent defendants from a rotational public appointment list (“wheel”) pursuant to the Texas Fair Defense Act as incorporated into the Texas Code of Criminal Procedure.
42. During his appearance before the Commission, Judge Clifford testified that Lamar County has two wheels: one for misdemeanors and another for felonies.
43. On June 25, 2013, Judge Clifford sent the Lamar County District Clerk an e-mail ordering the temporary removal of attorney Donald Haslam from the felony wheel until Haslam’s case load had been depleted.
44. Prior to sending the e-mail, Judge Clifford failed to obtain the majority vote of the judges required to suspend or remove Haslam from the felony wheel, pursuant to the Lamar County Indigent Defense Plan.
45. From July 9, 2013 through September 30, 2014, attorneys: Jennifer Gibo, David Turner, Jeff Starnes, Jerry Coyle, Diane Sprague, Michael Mosher, and Brady Fisher were listed on the felony wheel.
46. During this period, Judge Clifford approved fee vouchers for Turner in the amount of \$82,062.60. This was the highest amount paid to any attorney on the felony wheel.
47. According to records from the Lamar County Auditor’s Office, Judge Clifford appointed attorney David Turner to represent indigent defendants in a disproportionately high percentage of criminal cases compared to other attorneys on the felony wheel.
48. During his appearance before the Commission, Judge Clifford testified that the reason Turner received a disproportionate number of appointments was because he felt Turner was the most qualified and experienced attorney on the list and that he preferred to appoint Turner in murder cases because he believed that cases handled by Turner would have less chance of coming back to the judge on appeal.

State v. Black

49. In January 2014, Mitzi Black was charged with felony drug possession. At the time, she had a pending misdemeanor matter in the judge's court and was represented by attorney Donald Haslam.
50. Prior to January 17, 2014, Mitzi's grandmother spoke with Judge Clifford about Mitzi's case and requested that the judge replace Haslam with another attorney. Judge Clifford did not speak with Mitzi concerning the matter but told Mitzi's grandmother that he would do as she requested.
51. On or about January 17, 2014, the Lamar County Clerk's Office received Mitzi's application for a court appointed attorney in her felony case. Judge Clifford instructed his assistant, Kathy Coker, to notify the clerk's office that he wanted Turner appointed as Mitzi's counsel despite knowing that Haslam was already handling Mitzi's misdemeanor case.
52. On January 23, 2014, Haslam was appointed to represent Mitzi in her felony case.
53. The following day, Judge Clifford entered an order replacing Haslam with Turner.
54. During his appearance before the Commission, Judge Clifford testified that he replaced Haslam after Mitzi's grandmother told him that Haslam was treating members of her family "like dogs" and that Haslam was a "genuine asshole."
55. In his written responses to the Commission's inquiry, Judge Clifford also stated that he did "not know if the appointment of Turner was in compliance with the Texas Indigent Defense Act."

State v. Neeley

56. David Neeley is a Vietnam Veteran whose deceased father, Charles, was a former mayor of Paris, Texas. Charles also served as a Paris councilmember when Judge Clifford was the mayor of Paris from 1995-1998.
57. Neeley is an auto mechanic who has worked on Judge Clifford's automobiles and, at one time, resided in the judge's hangar at the local airport. In the past, in addition to working on the judge's cars, Neeley also ran errands for the judge.
58. Neely has also worked at Dollins Bail Bond which is owned by Keith Flowers, a friend of Judge Clifford.
59. On June 2, 2013, Neeley was arrested for possession of a controlled substance (Cocaine) while riding Judge Clifford's scooter.
60. On November 13, 2013, Neeley was indicted on a felony charge of possession of a controlled substance and the criminal case was filed in Judge Clifford's court.
61. Judge Clifford appointed attorney David Turner to represent Neeley.
62. Neeley subsequently entered a plea deal with the state which resulted in a five (5) year sentence under community supervision.
63. On January 10, 2014, Judge Clifford accepted the plea deal.
64. Judge Clifford continued to preside over Neeley's case until August 17, 2015, when he entered a Bench Exchange Order, effectively removing himself from the case.
65. During his appearance before the Commission, Judge Clifford testified that he appointed Turner to be Neeley's attorney because they were both "veterans."

State v. Mitchell

66. On September 12, 2013, Jessica Mitchell was indicted on felony drug charges and the case was filed in Judge Clifford's court.
67. On February 10, 2014, the state filed a motion to recuse Judge Clifford based on allegations that the judge had engaged in improper *ex parte* conversations with Mitchell.
68. According to the recusal motion, Mitchell had advised others that Judge Clifford had: (1) invited her and her son to visit him at his airport hangar; (2) told her to plead guilty to her offenses and request that he sentence her because he would not send her back to prison; (3) told her that he was not going to send her away and would take care of her; (4) told her he does not sleep at night because he has sleep apnea; and (5) told her he would help her get her kids back.
69. Judge Clifford subsequently signed an order assigning David Turner to be Mitchell's attorney after Mitchell filed an application for a court appointed attorney.
70. Judge Clifford voluntarily recused himself from the case on February 11, 2014. The judge's recusal received local media attention.
71. In his written responses to the Commission's inquiry, Judge Clifford indicated that he first met Mitchell at Dollins Bail Bonds when she "came in to pay on a bond for someone" believed to be her boyfriend.
72. According to Judge Clifford, at the time, he advised Mitchell that she needed to go see Turner and "stay away from the man she was seeing" because the man had assaulted his former girlfriend.
73. Judge Clifford also testified that when Mitchell attempted to talk to him about her own criminal matter, he told her that he could not discuss her case but could appoint Turner to be her attorney.

VETERINARY BILLS

74. On or about May 17, 2011, a dog belonging to Judge Clifford's daughter sustained injuries after a confrontation with another dog owned by the judge's neighbor, William Mattoon.
75. According to Judge Clifford, between May 18, 2011 and August 3, 2011, he incurred veterinarian bills totaling \$1,162.87.
76. On August 29, 2011, Judge Clifford sent Mattoon a letter written on judicial letterhead itemizing the veterinarian bills and demanding that Mattoon send him a check reimbursing him for said amount before September 29, 2011.
77. On October 13, 2011, after Mattoon failed to respond to the initial demand letter, Judge Clifford sent another letter, again on judicial letterhead, stating that if Mattoon did not pay the amount by October 23, 2011, the judge would "pursue legal action and/or charges with the City of Paris."
78. During his appearance before the Commission and in his written responses to the Commission's inquiry, Judge Clifford admitted that his assistant, Kathy Coker, had written the two letters and signed them on his behalf.
79. The judge acknowledged that he should have handled the matter differently.

THREATENING A LAW ENFORCEMENT OFFICER

80. Sometime prior to August 26, 2013, Judge Clifford instructed his court reporter, Terry Spangler, to inform Paris Police Officer Forrest Bigler that he wanted to meet with Bigler in his court office to discuss Spangler's allegations that Bigler's children were harassing some of her relatives.
81. On August 26, 2013, Bigler met with Judge Clifford at the Lamar County Courthouse in response to the judge's request.
82. During the meeting, Judge Clifford threatened Bigler and told him that he would call the Chief Juvenile Probation Officer concerning Spangler's allegations if Bigler did not "take care it." The judge also told Bigler that he may involve the police if the matter was not resolved.
83. In his written responses to the Commission's inquiry, Judge Clifford initially denied meeting with Bigler and/or calling law enforcement concerning Spangler's allegations.
84. Upon review of an audio recording of the meeting, Judge Clifford admitted that he had met with Bigler, but denied contacting the Lamar County Juvenile Probation Department about the harassment.
85. During his appearance before the Commission, Judge Clifford clarified that he "likely" called Darrell Bruce (Lamar County Chief Juvenile Probation Officer) on or about August 26, 2013 regarding Spangler's allegations.

RELEVANT STANDARDS

1. Article V, Section 1-a(6)A of the Texas Constitution provides that a judge may be disciplined for willful violation of the Code of Judicial Conduct, or willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice.
2. Canon 2A of the Texas Code of Judicial Conduct provides, "A judge shall comply with the law and should act at all time in a manner that promotes public confidence in the integrity and impartiality of the judiciary."
3. Canon 2B of the Texas Code of Judicial Conduct provides, "A judge shall not allow any relationship to influence judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interest of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge..."
4. Canon 3B(1) of the Texas Code of Judicial Conduct provides, "A judge shall hear and decide matters assigned to the judge except those in which disqualification is required or recusal is appropriate."
5. Canon 3B(2) of the Texas Code of Judicial Conduct provides, "A judge should be faithful to the law and shall maintain professional competence in it. A judge shall not be swayed by partisan interest, public clamor, or fear of criticism."
6. Canon 3B(4) of the Texas Code of Judicial Conduct provides, in pertinent part, "A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity...."

7. Canon 3B(5) of the Texas Code of Judicial Conduct provides, “A judge shall perform judicial duties without bias or prejudice.”
8. Canon 3B(8) of the Texas Code of Judicial Conduct provides, in pertinent part, “A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law. A judge shall not initiate, permit, or consider *ex parte* communications or other communications made to the judge outside the presence of the parties between the judge and a party [or] an attorney...concerning the merits of a pending or impending judicial proceeding.”
9. Canon 3B(10) of the Texas Code of Judicial Conduct provides, in part, that: “A judge shall abstain from public comment about a pending or impending proceeding which may come before the judge’s court in a manner which suggests to a reasonable person the judge’s probable decision on any particular case.”
10. Canon 4D(2) of the Texas Code of Judicial Conduct provides, that a “judge shall not be an officer, director or manager of a publicly owned business.” For purposes of this Canon, a “publicly owned business” is a business having more than ten owners who are not related to the judge by consanguinity or affinity within the third degree of relationship.

CONCLUSIONS

The Commission concludes, based on the facts and evidence before it, that Judge Clifford allowed his name and judicial title to be used to promote the private interests of Lamar National Bank and his family, in violation of Canon 2B of the Texas Code of Judicial Conduct. The Commission further concludes that Judge Clifford violated Canon 4D(2) of the Texas Code of Judicial Conduct by continuing his service as a director of Lamar National Bank, a publicly owned business, after he assumed the bench.

The Commission also concludes that legitimate concerns about the judge’s impartiality were raised by Judge Clifford’s (1) public comments about the *Maggard* and *Erskine* cases; (2) independent investigation into Jason Baker’s alleged probation violations; (3) prosecution of the state’s motion to revoke Baker's probation; (4) improper *ex parte* communications with the prosecutor in the *Bratcher* case; and (5) improper *ex parte* communications with criminal defendant Jessica Mitchell. The Commission concludes that Judge Clifford’s conduct in these cases constituted willful and/or persistent violations of Canons 2A, 3B(2), 3B(5), 3B(8) and 3B(10) of the Texas Code of Judicial Conduct.

The Commission further concludes that Judge Clifford failed to comply with the Texas Fair Defense Act and the Lamar County Plan as evidenced by (1) the disproportionately high percentage of indigent court appointments received by attorney David Turner between July 9, 2013 through September 30, 2014 and (2) by Judge Clifford’s removal of attorney Donald Haslam from the felony appointment list without the approval of a majority of the Lamar County judges. The Commission concludes that Judge Clifford’s method of handling of court appointments and his disregard for the requirements of the Lamar County Plan constituted willful and/or persistent violations of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.

Additionally, the Commission concludes that Judge Clifford misused his position and the prestige of judicial office when he (1) used official judicial letterhead to demand that William Mattoon reimburse veterinary bills incurred by the judge; and (2) summoned Officer Bigler to his office and threatened to report him to the Lamar County Juvenile Probation Department concerning a private dispute between Officer Bigler’s children and relatives of Judge Clifford’s court reporter. The

Commission concludes that Judge Clifford's conduct constituted willful and/or persistent violations of Canons 2A, 2B, and 3B(4) of the Texas Code of Judicial Conduct.

Finally, the Commission concludes that Judge Clifford's initial lack of candor during the Commission's investigation into these allegations proved to be an aggravating factor in reaching a final decision in this case.

In condemnation of the conduct described above that violated Canons 2A, 2B, 3B(1), 3B(2), 3B(4), 3B(5), 3B(8), 3B(10) and 4D(2) of the Texas Code of Judicial Conduct, and Article V, §1-a(6)A of the Texas Constitution, it is the Commission's decision to issue a **PUBLIC REPRIMAND** to the Honorable Eric Clifford, Judge of the 6th Judicial District Court, Paris, Lamar County, Texas.

Pursuant to the authority contained in Article V, §1-a(8) of the Texas Constitution, it is ordered that the actions described above be made the subject of a **PUBLIC REPRIMAND** by the Commission.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this 5th day of September, 2015.

ORIGINAL SIGNED BY

Honorable Steven L. Seider, Chair
State Commission on Judicial Conduct