



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC Nos. 02-0650-JP AND 02-0895-JP

PUBLIC REPRIMAND

**HONORABLE BENNIE OCHOA, III
JUSTICE OF THE PEACE, PRECINCT 1, PLACE 1
PORT ISABEL, CAMERON COUNTY, TEXAS**

During its meeting in Austin, Texas, on December 5-6, 2002, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Bennie Ochoa, III, Justice of the Peace for Precinct 1, Place 1; Port Isabel, Cameron County, Texas. Judge Ochoa was advised by letter of the Commission's concerns and provided a written response. Judge Ochoa appeared before the Commission on December 6, 2002 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, Judge Bennie Ochoa, III, was the Justice of the Peace for Precinct 1, Place 1, in Port Isabel, Cameron County, Texas.
2. Natalia Melchor ("Melchor"), a resident of Port Isabel, reported to Judge Ochoa that Francisco Loza Lopez ("Loza") was spreading the rumor that she was having an extramarital affair with a Port Isabel police officer, an allegation that Melchor strongly denied.
3. On February 7, 2002, based on a complaint by Melchor, Judge Ochoa issued an invalid arrest warrant for Loza for the non-existent criminal offense of "False Accusations."
4. Judge Ochoa forwarded the invalid arrest warrant to the Cameron County Precinct 1 Constable's office to effectuate Loza's arrest.

5. Upon receipt of the invalid arrest warrant, and believing that there was no criminal offense known as "False Accusations," Deputy Constable Joe V. Garza ("Garza") contacted the Cameron County District Attorney's office for guidance on how to proceed. The district attorney's office confirmed Garza's belief about the alleged offense and instructed Garza not to serve the arrest warrant. This information was also conveyed to Judge Ochoa by the district attorney's office.
6. Upon receiving the message from the district attorney's office, Judge Ochoa, who still wanted Loza to appear before him, called his cousin, Port Isabel Chief of Police Joel Ochoa, and asked for his assistance in bringing Loza before him.
7. Thereafter, Police Chief Ochoa dispatched two Port Isabel police officers to locate Loza. Upon doing so, the police officers assumed custody of Loza, told him that the judge wanted to see him at that time, and, after some discussion, reluctantly agreed to allow Loza to follow them to the court in his own vehicle.
8. Loza believed that he was not free to leave, and that he was required to appear immediately before Judge Ochoa.
9. When Loza arrived at the court, where Melchor was still present, Judge Ochoa asked Loza if he had time for the judge to "run trial on [Loza] for these charges." After informing Judge Ochoa that he wanted to resolve the matter at that time, the judge placed Loza and Melchor under oath. After listening to the parties, Judge Ochoa ordered Loza to stop spreading false information about Melchor. Loza agreed to do so and was released.
10. At the hearing before the Commission, Judge Ochoa admitted that he knew he was acting outside the law at the time he issued the invalid arrest warrant.

RELEVANT STANDARDS

1. Article V, Section 1-a(6)A of the Texas Constitution provides that any Texas justice or judge may be disciplined for 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 states, "A judge shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."

CONCLUSION

Based on the facts and evidence before it, the Commission concludes that by issuing an invalid arrest warrant for the non-existent offense of "False Accusations" and for subsequently using the Port Isabel police to place Loza in their custody after the judge had been informed that there was no such criminal offense, Judge Ochoa did not comply with the law, in violation of Canon 2A of the Texas Code of Judicial Conduct. The Commission further concluded that Judge Ochoa's actions in this case were willful and persistent, and clearly inconsistent with the proper performance of his duties, in violation of Article V, §1-a(6)A of the Texas Constitution.

In condemnation of the above-described conduct that violated Article V, §1-a(6)A of the Texas Constitution and Canon 2A of the Texas Code of Judicial Conduct, it is the Commission's decision to issue a **PUBLIC REPRIMAND** to Judge Bennie Ochoa, III, Justice of the Peace for Precinct 1, Place 1, Port Isabel, Cameron County, Texas.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the conduct 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 17th day of December, 2002



Honorable Kathleen Olivares, Chair
State Commission on Judicial Conduct