



**BEFORE THE STATE COMMISSION
ON JUDICIAL CONDUCT**

CJC Nos. 16-1070-DI, 16-1157-DI AND 17-0279-DI

**PUBLIC REPRIMAND AND
ORDER OF ADDITIONAL EDUCATION**

**HONORABLE MARTIN MUNCY
109TH JUDICIAL DISTRICT COURT
ANDREWS, ANDREWS COUNTY, TEXAS**

During its meeting on December 6-8, 2017, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable Martin Muncy, 109th Judicial District Court, in Andrews, Andrews County, Texas. Judge Muncy was advised by letter of the Commission's concerns and provided a written response. After considering the evidence before it, the Commission entered the following Findings and Conclusion:

FINDINGS OF FACT

1. The Honorable Martin Muncy was sworn in as District Judge of the 109th Judicial Court in Andrews, Andrews County, Texas on January 1, 2011.¹
2. Before taking the bench, Judge Muncy was appointed as counsel to represent Armando Madrid in his appeal for a Sexual Assault of a Child case on May 1, 2009.
3. On October 8, 2009, Judge Muncy sent a letter notifying Mr. Madrid of a brief filed to overturn a ruling by Judge James Rex. In his letter, Judge Muncy stated, "Should the Appellant [sic] Court overturn the ruling by Judge Rex, you will hopefully be granted DNA testing of those articles of clothing."
4. On August 29, 2013, Judge Muncy signed an order granting Mr. Madrid's motion for DNA testing of biological material on his Sexual Assault of a Child appeal.

¹ The 109th Judicial District Court serves Andrews, Crane and Winkler Counties.

5. On January 25, 2016, the Department of Public Safety issued a lab report for evidence re-submitted on November 17, 2015, by Andrews Police Chief Ronnie McCarver. The lab report included the following statement: “Per phone call between DNA Section Supervisor David Young and Judge Martin Muncy of Andrews, the Appellate court has determined that the post-conviction testing is not necessary and will be closed with no analysis. We will return the evidence to the District court in Andrews.”
6. On August 9, 2016, Complainant filed a Motion to Recuse Judge Muncy, citing the judge’s prior representation of him as counsel. He stated, “As a then practicing attorney, his performance in the trial may be found ineffective for failing to test the requested forensic DNA testing that this motion to recuse is made for. An obvious conflict of interest exists in this matter.”
7. On October 24, 2016, Complainant filed a Writ of Mandamus to force Judge Muncy to recuse himself. He accused the judge of failing to provide the DNA results of evidence tested on his case. Complainant said he had been waiting for those results for four years. The El Paso Court of Appeals denied the writ on December 7, 2016.
8. On December 5, 2016, Judge Muncy voluntarily recused himself and requested the assignment of another judge to the case.
9. In his responses to the Commission, Judge Muncy stated “my sole representation of Mr. Madrid was limited to a single appeal which I submitted over a year before being elected as 109 Dist. Court Judge.”
10. When asked about his involvement in the case as the presiding judge, the judge stated he “did not preside over any hearings in this matter and always appointed a visiting judge to hear or resolve any matters raised [by] Mr. Madrid.”
11. Judge Muncy recalled a telephone conversation with DPS regarding “the issue of lab reports.” He stated he believed “certain testing was not necessary and would not yield any additional scientific data. I can assure you I did not tell, suggest, or advise the lab as to how they should do their job.”

RELEVANT STANDARDS

1. Canon 2A of the Texas Code of Judicial Conduct states, in pertinent part: “A judge shall comply with the law.”
2. Canon 2B of the Texas Code of Judicial Conduct states, in pertinent part: “A judge shall not lend the prestige of judicial office to advance the private interests of the judge.”
3. Canon 3B(1) of the Texas Code of Judicial Conduct states, in pertinent part: “A judge shall hear and decide matters assigned to the judge except those in which disqualification is required or recusal is appropriate.”
4. Article V, §1-a(6)A of the Texas Constitution provides that a judge may be disciplined for “willful or persistent violation of rules promulgated by the Supreme Court of Texas, incompetence in performing the duties of the office, 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.”

5. Texas Rule of Civil Procedure 18b(a)(1) a judge to disqualify himself in “any proceeding” in which the judge “has served as a lawyer in the matter in controversy...”

CONCLUSION

After considering the facts and evidence before it, the Commission concludes that Judge Muncy failed to disqualify himself on the case of his former client, Armando Madrid, and directed David Young not to test DNA evidence in his former client’s case.

Based on this conduct, the Commission concludes that Judge Muncy’s actions constituted willful violations of Canons 2A, 2B and 3B(1) of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.

In condemnation of the conduct violative of Canons 2A, 2B and 3B(1) of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution recited above, it is the Commission’s decision to issue a **PUBLIC REPRIMAND WITH ORDER OF ADDITIONAL EDUCATION** to Martin Muncy, the 109th District Court Judge, in Andrews, Andrews 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 WITH ORDER OF ADDITIONAL EDUCATION** by the Commission.

Pursuant to this Order, Judge Muncy must obtain **four hours** of instruction with a mentor, in addition to his required judicial education for Fiscal Year 2018. In particular, the Commission desires that Judge Muncy receive this additional education in the area of recusal/disqualification and judicial independence.

Pursuant to the authority contained in § 33.036 of the Texas Government Code, the Commission authorizes the disclosure of certain information relating to this matter to the Texas Justice Court Training Center to the extent necessary to enable that entity to assign the appropriate mentor for Judge Muncy.

Judge Muncy shall complete the additional **four hours** of instruction recited above within **60 days** from the date of written notification from the Commission of the assignment of a mentor. Upon receiving such notice, it is Judge Muncy’s responsibility to contact the assigned mentor and schedule the additional education.

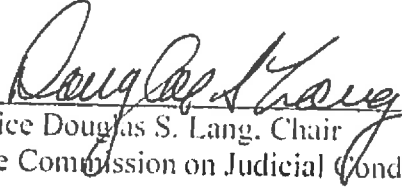
Upon the completion of the **four hours** of instruction described herein, Judge Muncy shall sign and return the Respondent Judge Survey indicating compliance with this Order. Failure to complete, or report the completion of, the required additional education in a timely manner may result in further Commission action.

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 WITH ORDER OF ADDITIONAL EDUCATION**.

The Commission has taken this action with the intent of assisting Judge Muncy in his continued judicial service, as well as 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 the 10th day January, 2018.


Justice Douglas S. Lang, Chair
State Commission on Judicial Conduct