



DOCKET NO. SCR 19-0001

SPECIAL COURT OF REVIEW

**IN RE INQUIRY CONCERNING HONORABLE GUY WILLIAMS
CJC NOS. 17-1239-DI, 17-1488, 17-1489, 17-1490, and 17-1523**

OPINION

This Special Court of Review¹ was assigned to conduct a trial de novo of the two Public Reprimands issued by the State Commission on Judicial Conduct (the “Commission”) against Respondent, the Honorable Guy Williams, the former Judge of the 148th Judicial District Court in Corpus Christi, Nueces County, Texas. *See* TEX. GOV’T CODE ANN. § 33.034(e)(2) (review of a sanction issued in an informal proceeding is by trial de novo). We note at the outset that the function of the Commission “is not to punish; instead, its purpose is to maintain the honor and dignity of the judiciary and to uphold the administration of justice for the benefit of the citizens of Texas.” *In re Slaughter*, 480 S.W.3d 842, 844-45 (Tex. Spec. Ct. Rev. 2015) (per curiam) (quoting *In re Lowery*, 999 S.W.2d 639, 648 (Tex. Rev. Trib. 1998, appeal denied)). Similarly, a special court of review is not charged with punishing but with providing guidance to judges and protection to the public. *In re Davis*, 82 S.W.3d 140, 150 (Tex. Spec. Ct. Rev. 2002).

¹ *See* TEX. GOV’T CODE ANN. § 33.034(c). This Special Court of Review consists of The Honorable Liza A. Rodriguez, Justice of the Fourth Court of Appeals, presiding by appointment; The Honorable Beth Watkins, Justice of the Fourth Court of Appeals, participating by appointment; and The Honorable Meagan Hassan, Justice of the Fourteenth Court of Appeals, participating by appointment.

RELEVANT ETHICAL STANDARDS

This matter involves the ethical standards from the Texas Code of Judicial Conduct and the Texas Constitution set forth below.

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.” TEX. CONST. art. V, § 1-a(6)(A).

Canon 2A of the Code of Judicial Conduct provides, “[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.” TEX. CODE JUD. CONDUCT, Canon 2A, *reprinted in* TEX. GOV’T CODE ANN., tit. 2, subtit. G, app. B.

Canon 3B(2) of the Code of Judicial Conduct provides, “[a] judge should be faithful to the law and shall maintain professional competence in it.” *Id.*, Canon 3B(2).

Canon 3B(5) of the Code of Judicial Conduct provides, in relevant part, “[a] judge shall perform judicial duties without bias or prejudice. *Id.*, Canon 3B(5).

BACKGROUND

Five complaints alleging three distinct types of willful conduct in violation of the above-quoted Canons of Judicial Conduct and constitutional provision were filed with the Commission against Judge Williams. The factual circumstances giving rise to each alleged act of misconduct are summarized below.

Family Law Cases (CJC No. 17-1239-DI)

Two family law cases styled *In the Matter of the Marriage of Melissa Ann Martinez and Guadalupe Martinez, Jr.*, and *In the Matter of the Marriage of Guadalupe Martinez, Jr. and Iris Yvonne Martinez*, Cause Nos. 2015-FAM-1270-E and 08-04460-00-0-E, respectively, were consolidated and pending before Judge Williams. Each case involved a child fathered by Guadalupe Martinez, Jr. with the respective mothers, Melissa

Martinez Benavidez and Iris Martinez Barraza. The mothers were the primary caretakers of their children since birth. After divorce, the father's visitation with the children was restricted and supervised due to a history of domestic violence. In 2016, Mr. Martinez filed a motion to modify visitation in each case.

On July 26, 2017, the parties appeared for a joint hearing before Judge Williams. Ms. Benavidez had filed a motion for enforcement of child support against the father. Prior to commencing the hearing, Judge Williams met in chambers with the mothers' attorney, the father's attorney, the amicus attorney (Jeanette Cantu-Bazar), and the court-appointed counselor (Rebecca Campbell) for the children. No record of the in-chambers discussion was made. When Judge Williams took the bench, he immediately announced his finding that the mothers had been alienating the father and refusing to comply with court orders, and ruled that the children were to be removed from their mothers' custody and full custody was awarded to the father. Specifically, Judge Williams stated on the record,

I have conferred with my amicus in chambers, along with counsel, and also with the amicus without counsel in chambers, and . . . the amicus and I have also spoken with Rebecca Campbell in chambers, and I'm making the following orders:

The children are to be removed from the mothers and given to the biological father. Mothers are to have visitation every Saturday for one hour at QL&L.² No phone calls with the children during father's visitation. Child support will be ceased immediately, and Rebecca Campbell will direct . . . future visitation for the mothers, and if the mothers continue this conduct . . ., this Court will remove those children and give those children to the father and restrict visitation severely with the pair [sic] mothers. You have incurred the wrath of this Court and the extreme displeasure of this Court by not following this Court's orders.

You have just allowed for one month ago to have these children see this father. These children want to see this father. They are going to see this father. If I find out there's any more parental alienation between you two, then these orders will remain in effect and you will be paying child support.

Judge Williams finished by asking, "[n]ow, anything else, Counsel?" When Jerry Guerra, the mothers' attorney, started to speak, Judge Williams interrupted by stating, "[t]hose are my sanctions and those are my orders." Judge Williams then immediately left the bench without permitting Mr. Guerra to lodge any objection

² QL&L is a supervised child exchange service.

or put any statement on the record. Judge Williams did not hear any evidence before or after the in-chambers discussion and immediately announced his ruling when he took the bench. Judge Williams did not sign a written order and vacated his verbal order the next day. Ms. Benavidez filed a complaint with the Commission against Judge Williams based on his in-court conduct.

Conduct at Havana Club Event (CJC Nos. 17-1488, 17-1489, 17-1490)

On August 9, 2017, Judge Williams attended a social function honoring Municipal Court Judge Young Burkett at the Havana Club. Three public officials lodged complaints with the Commission based on Judge Williams' conduct toward them at the function. District Judge Sandra Watts complained that Judge Williams engaged in offensive touching against her while they were taking a group photo. Specifically, Judge Watts stated that Judge Williams "put his left arm around me with his hand reaching around my waist and across the left portion of the midriff and pulled me toward him" and "as his hand left the front of my waist, his open hand slid from my waist down the side of my body to my buttock and across my butt area." Judge Watts added, "[h]is hand was firm and pressing on my body as it moved." Judge Watts stated she told Judge Williams to stop "and he smiled and laughed and then reached down and literally grabbed and squeezed my butt." After Judge Watts again told him to stop, Judge Williams "smiled and continued to feel over my buttock area and squeezed my butt again." Later that evening, Judge Watts received a text message from Judge Williams with the group picture attached and the message "nice body for a 70 year old." Judge Watts stated that Judge Williams' conduct left her "stunned." Judge Watts subsequently filed a complaint with the Commission based on Judge Williams' conduct at the Havana Club function.

Anne Lorentzen, the Nueces County District Clerk, also complained that Judge Williams inappropriately touched her at the same Havana Club function where "many attorneys, city officials, county officials and their staff" were in attendance. Ms. Lorentzen stated that Judge Williams pulled the woman sitting next to her "out of her seat" so he could sit beside her. She explained, "[a]s he sat down beside me, he ran his hand down my right side from underneath my breast, down my waist and around my bottom." Ms. Lorentzen stated she was so

shocked that she “just looked at him . . . and he grinned back at me.” Ms. Lorentzen stated she moved over “so he couldn’t touch me again,” made light conversation about his cell phone, and then “got up to go get another drink just to get away from him.” She decided to go home after the group photograph was taken. Ms. Lorentzen filed a complaint with the Commission based on Judge Williams’ inappropriate conduct.

Nueces County District Clerk Chief Deputy Lilia Ann Gutierrez was the third person to report that Judge Williams inappropriately touched her at the Havana Club function. She described the attendees at the event as “a lot of people that are affiliated with [a]ll District, County and Municipal Courts.” Judge Williams sat down on the couch between Ms. Gutierrez and Ms. Lorentzen. Ms. Gutierrez stated she was taking a “selfie” with her friend on the other side of her when she felt someone “nudge me on my arm and then a rub [sic] on my right breast.” When she looked up, she saw Judge Williams rubbing his left elbow on her breast. Ms. Gutierrez put her right arm up to defend herself and told him, “What are you F***** doing, Stop it!” She stated that Judge Williams “just smiled.” Ms. Gutierrez stated she was “just shocked that Judge Williams would do this to me.” A short time later, Ms. Gutierrez was showing a video of her granddaughter to the same friend when “Judge Williams placed [his] hand on my lower back and touched my buttocks.” She told him, “Stop F***** touching me” and “once again he just smiled and turned his face the other way.” Ms. Gutierrez stated that Judge Williams’ conduct made her very upset and she recalled crying “because I felt humiliated and violated. All I could think about was what gave him the right to do this to me.” Ms. Gutierrez subsequently filed a complaint with the Commission about the incident.

Comments About Nueces County District Attorney’s Office (CJC No. 17-1523)

A confidential complaint was filed with the Commission stating that Judge Williams was rude to defendants and attorneys in his court. As part of its investigation, the Commission obtained statements that Judge Williams made on the record about the District Attorney’s Office in two family violence cases. On October 8, 2014, Judge Williams made the following statements during a hearing on the defendant’s motion to travel outside the country in the *State v. Insil Anderson* case (Cause No. 14-AR-2717-E):

Well, let me just say for the record that I know the prosecution doesn't really care what the victim wants. All the prosecution is interested on the victim is - - well, if the victim's position is in favor of the prosecution, then the prosecution wants to do what the victim wants to do. Well, when the victim wants to dismiss the case or not prosecute and the prosecution still moves forward, well then the prosecution is doing what they want to do and not what the victim wants to do. So I really don't listen to the prosecution anymore when it comes to what victims do or not want to do, so I want to make that clear on the record just in case anybody has any question about what Guy Williams feels about what the District Attorney's Office manipulates and uses victims as to their advantage, that's my position on the record.

On May 7, 2015, Judge Williams made the following statements to the family violence victim during arraignment in the *State v. Steven Velasquez* case (Cause No. 15-CR-0701-E):

It's up to the District Attorney's Office to dismiss this case or to prosecute this case. And the District Attorney's Office is apparently moving forward against your wishes, against the victim's wishes, again, because - - again, I'm getting tired of the District Attorney's Office using the victims as their own tools in my Court. When the victim wants to prosecute, they're all for prosecuting; when the victim wants to dismiss, they're all for prosecuting. So, you know, they don't really care what the victim says and I keep repeating myself so I'm sorry the District Attorney's Office doesn't really care about your wishes. I have no control over the District Attorney's Office.

Public Reprimands

After informal proceedings in CJC No. 17-1239-DI, the Commission found that during the family law hearing Judge Williams: (1) "failed to be dignified and courteous to Melissa and Iris in making his rulings and by his statements" in violation of Canon 3B(4) of the Code of Judicial Conduct; (2) "denied Melissa and her attorney the right to be heard" in violation of Canon 3B(8); (3) "failed to follow the law when he issued orders affecting the custodial rights of Melissa and Iris regarding their children in the absence of a verified pleading or affidavit in accordance with the Texas Rules of Civil Procedure" in violation of Canons 2A and 3B(2), as well as Texas Family Code section 105.001(c); and (4) engaged in conduct toward Melissa and Iris which "cast public discredit upon the judiciary or administration of justice, and was clearly inconsistent with the proper performance of his duties" in violation of article V, 1-a(6)(A) of the Texas Constitution. Based on its findings, the Commission issued a public reprimand against Judge Williams. *See* TEX. CONST. art. V, § 1-a(8).

In CJC Nos. 17-1488, 17-489, 17-490, and 17-1523, which were considered together, the Commission found that Judge Williams: (1) "failed to follow the law, and failed to be patient, dignified and courteous to

individuals with whom he deals in an official capacity, when he inappropriately touched Judge Sandra Watts, District Clerk Anne Lorentzen, and District Clerk Chief Deputy Lilia Ann Gutierrez” in violation of Canons 2A and 3B(4) of the Code of Judicial Conduct; (2) “failed to be dignified and courteous to Judge Sandra Watts when he sent her an offensive text message” in violation of Canon 3B(4); (3) engaged in conduct toward Judge Sandra Watts, Anne Lorentzen, and Lilia Ann Gutierrez which “cast public discredit upon the judiciary and the administration of justice” in violation of article V, 1-a(6)(A) of the Texas Constitution; (4) “failed to treat the assistant district attorneys in the *Anderson* and *Vasquez* cases with patience, dignity and courtesy, and . . . exhibited prejudice against the assistant district attorneys when he made disparaging comments about the Nueces County District Attorney’s Office in court” in violation of Canons 3B(4) and 3B(5); (5) made statements which “cast public discredit upon the judiciary and [the] administration of justice” in violation of article V, 1-a(6)(A) of the Texas Constitution; and (6) “Judge Williams’ willful and persistent conduct in both the *Anderson* and *Vasquez* cases is clearly inconsistent with the proper performance of his duties,” in violation of article V, 1-a(6)(A) of the Texas Constitution. Based on its findings and conclusions, the Commission issued a second public reprimand against Judge Williams. *See* TEX. CONST. art. V, § 1-a(8).

Judge Williams invoked his right to appeal both public reprimands by trial de novo before this Special Court of Review. *See* TEX. GOV’T CODE ANN. § 33.001(a)(10).

CHARGES

In its charging document filed after appointment of this Special Court of Review, the Commission alleged thirteen charges³ of willful conduct by Judge Williams that violated the following ethical standards:

A. Charge I: Canon 2A

Judge Williams violated Canon 2A’s mandate that he comply with the law by issuing orders affecting the custodial rights of Melissa Benavidez and Iris Martinez regarding their children in the absence of a verified pleading or affidavit in accordance with the Texas Rules of Civil Procedure.

³ *See* TEX. GOV’T CODE ANN. § 33.034(d) (commission may file additional charges).

B. Charge II: Canon 3B(2)

Judge Williams violated Canon 3B(2)'s mandate that he maintain competence in the law by issuing orders affecting the custodial rights of Melissa Benavidez and Iris Martinez regarding their children in the absence of a verified pleading or affidavit in accordance with the Texas Rules of Civil Procedure.

C. Charge III: Canon 3B(4)

Judge Williams violated Canon 3B(4)'s mandate to be patient, dignified, and courteous to litigants with whom the judge deals in an official capacity in his rulings and actions towards Melissa Benavidez and Iris Martinez, including without limitation his statement that they had incurred the "wrath" of the court.

D. Charge IV: Canon 3B(8)

Judge Williams violated Canon 3B(8)'s mandate to afford a litigant a right to be heard by not allowing Jerry Guerra, the attorney for Melissa Benavidez, to speak during the hearing on July 26, 2017.

E. Charge V: Texas Constitution, Art. V, sec. 1-a(6)(A)

Through his ruling and his statements at the hearing, Judge Williams cast public discredit on the judiciary and the administration of justice in violation of Article V, Section 1-a(6)(A) of the Texas Constitution.

F. Charge VI: Texas Constitution, Art. V, sec. 1-a(6)(A)

Through his ruling and his statements at the hearing, Judge Williams engaged in willful conduct "that is clearly inconsistent with the proper performance of his duties" in violation of Article V, Section 1-a(6)(A) of the Texas Constitution.

G. Charge VII: Canon 2A

Judge Williams violated Canon 2A's mandate that he comply with the law by inappropriately touching Judge Sandra Watts, District Clerk Anne Lorentzen, and District Clerk Chief Deputy Lilia Ann Gutierrez.

H. Charge VIII: Canon 3B(4)

Judge Williams violated Canon 3B(4)'s mandate to be patient, dignified, and courteous by inappropriately touching Judge Sandra Watts, District Clerk Anne Lorentzen, and District Clerk Chief Deputy Lilia Ann Gutierrez, with whom the judge deals in an official capacity.

I. Charge IX: Canon 3B(4)

Judge Williams violated Canon 3B(4)'s mandate to be patient, dignified, and courteous by sending an offensive text message to Judge Sandra Watts, with whom the judge deals in an official capacity.

J. Charge X: Canon 3B(4)

Judge Williams violated Canon 3B(4)'s mandate to be patient, dignified, and courteous when he made disparaging comments about the Nueces County District Attorney's Office in court.

K. Charge XI: Canon 3B(5)

Judge Williams violated Canon 3B(5)'s mandate to perform his judicial duties without bias or prejudice when he made disparaging comments about the Nueces County District Attorney's Office in court.

L. Charge XII: Texas Constitution, Art. V, sec. 1-a(6)(A)

By inappropriately touching Judge Sandra Watts, District Clerk Anne Lorentzen, and District Clerk Chief Deputy Lilia Ann Gutierrez, Judge Williams cast public discredit on the judiciary and the administration of justice in violation of Article V, Section 1-a(6)(A) of the Texas Constitution.

M. Charge XIII: Texas Constitution, Art. V, sec. 1-a(6)(A)

By making disparaging comments about the Nueces County District Attorney's Office in court, Judge Williams cast public discredit on the judiciary and the administration of justice in violation of Article V, Section 1-a(6)(A) of the Texas Constitution.

DISCUSSION

This Special Court of Review timely convened a trial de novo at which both sides presented witnesses and documentary evidence. *See* TEX. GOV'T CODE ANN. § 33.034(e), (h). As this review is governed to the extent practicable by the rules of law, evidence, and procedure that apply to the trial of a civil action, the Commission had the burden to prove the charges against Judge Williams by a preponderance of the evidence. *See* TEX. GOV'T CODE ANN. § 33.034(f); *In re Sharp*, 480 S.W.3d 829, 833 (Tex. Spec. Ct. Rev. 2013). Having considered the evidence, the arguments of counsel, and the pre-trial and post-trial briefing of the parties, we issue our decision disposing of the appeal. Based on our disposition, we need not address every one of the charges alleged against Judge Williams, but have chosen to address one charge under each of the three distinct types of conduct.

I. Family Law Cases: Charge II (Canon 3B(2))

In Charge II, the Commission alleges that Judge Williams violated Canon 3B(2) when he issued orders affecting the custodial rights of Melissa Martinez Benavidez and Iris Martinez Barraza in the absence of a verified pleading or affidavit as required by the Texas Rules of Civil Procedure, thereby failing to maintain competence in the law. As quoted above, Canon 3B(2) requires a judge to be faithful to the law and to maintain professional competence in the law. TEX. CODE JUD. CONDUCT, Canon 3B(2). Section 105.001(c) of the Family Code expressly states that, "[e]xcept on a verified pleading or an affidavit in accordance with the Texas Rules of Civil Procedure, an order may not be rendered: (1) attaching the body of the child; (2) taking the child into the

possession of the court or of a person designated by the court; or (3) excluding a parent from possession of or access to a child. TEX. FAM. CODE ANN. § 105.001(c).

At the de novo trial, no copy of a verified motion or other sworn pleading was presented to this Court. The only documentary evidence presented on the question of whether a verified motion or pleading was before Judge Williams on the day of the hearing consisted of two docket sheets. The Commission presented the computerized docket sheet or “Register of Actions” under the Benavidez case number which was admitted as Exhibit #3; it shows a “M4 Enforcement” (which the parties agreed meant a motion to enforce child support) was set to be heard on July 26, 2017. Judge Williams presented his handwritten docket sheet, admitted as Exhibit #10, which shows a “status hearing” was set for that date; it contains his notes, “by Amicus; Mom’s [sic] do not want to pay.” While Judge Williams testified he assumed the father’s motion to modify visitation filed in October 2016 was verified, there was no documentary evidence that established that fact.⁴

We do not believe the fact that the Commission did not prove the absence of a verified pleading on the date of the hearing is dispositive of the charges against Judge Williams in this matter. While Charge I focuses on Judge Williams’ failure to “comply” with the law requiring a verified pleading or affidavit before issuing an order excluding the mothers from possession, Charge II focuses on his failure to maintain “competence” in his knowledge of such law. At the de novo hearing, Judge Williams admitted that he was not aware of the law requiring a verified pleading or affidavit to be pending before him in order to issue an order removing the children from the mothers’ custody and giving full custody to the father.

During his testimony at the de novo trial, Judge Williams recalled believing that Ms. Benavidez was not in compliance with the court’s orders in the case and agreed that he stated on the record that he was going to “take

⁴ Judge Williams did not make an uncontroverted assertion that the father’s motion to modify visitation was verified. The transcript shows that when asked by Justice Hassan about the need for verified pleadings to change custody from the mother to the father, Judge Williams answered, “I never had that issue come up before . . . I would think they’d be verified pleadings . . . I always assume there are appropriate pleadings before me.” In addition, when his attorney asked him whether “[i]f a party has filed a motion to modify the terms of an agreement or otherwise regarding their children, they’ve done it as a verified pleading, . . . Do you have the ability to basically do whatever you think is in the best interest of the child . . . ?” Judge Williams answered, “That was my understanding.” Neither amounts to affirmative testimony that the motion to modify in the family law case was verified.

away these kids from the mothers.” When asked why he did that, Judge Williams replied, “I wanted to get their attention.” He also admitted “cutting off” Ms. Benavidez’s attorney when he attempted to put a statement on the record. When asked why, Judge Williams stated, “I was there to shock the clients” and “make a point.” He explained, “I kept admonishing them and kept making different orders and kept trying to improve the situation, but every time they’d come back, they just refused to do anything I asked them to do” He described the in-chambers conversation as the attorneys discussing the issues as recurring. Judge Williams stated that, “Rebecca Campbell and Jeanette Cantu-Bazar [sic] were very emphatic that something needed to be done because of the parental alienation and the obstruction that was going on by the two mothers.” He also believed that parental alienation of the father was occurring in the cases. Judge Williams agreed, however, that he did not hear any testimony in court regarding parental alienation and that the in-chambers discussion did not constitute evidence. Judge Williams stated he had no personal feelings toward the mothers, and his only concern was the children’s best interests. His order was intended to “shock” the mothers and “move them off center.”

Judge Williams confirmed at the de novo trial that he stood behind his statements and the action he took. Judge Williams explained that his practice was to “lay the hammer down” to defendants and other litigants to make them realize the seriousness of their situation, and then tell their attorney to reset the matter for a week later at which time he would rescind his order. He stated, “I wasn’t aware that as a judge, that wasn’t appropriate. I thought I could scare the bee-jee-bees [sic] out of people - - out of litigants and parties and defendants.” Judge Williams added, “I never signed an order - - that order - - you know, Monday morning that order was verbally rescinded just like it was verbally given. It was just put in there to let those . . . people know that if they don’t start doing what I tell them to do, you know, this is what could happen.”⁵ Judge Williams conceded that he did not speak to the father that day and the father had not indicated he wanted the children removed from the mothers and given to him. Judge Williams confirmed, “that was my own idea.” When asked whether a proper verified pleading was before him on that date, Judge Williams replied that he “always assume[s] there are appropriate

⁵ The July 26, 2017 hearing was held on a Wednesday.

pleadings before me.” He conceded that he was not a family law expert and admitted he did not know that a verified pleading was required before he could order a child removed from a parent’s custody. He agreed that, as a judge, it is his responsibility to know the law. Judge Williams admitted that, after reflection, “I can see that was probably inappropriate for my position,” adding, “I just didn’t know any better.”

In his post-trial briefing, Judge Williams argues that he only had the children’s best interest in mind, he was faced with two mothers who were not complying with visitation orders, and his “temporary” order removing the mothers’ possession “seemed to work.” Essentially, Judge Williams argues that he acted in good faith with the intent to “shock” the mothers into compliance with his other court orders and to later vacate the ruling. He contends the Commission failed to prove that he committed “legal error.” *See In re Barr*, 13 S.W.3d 525, 545 (Tex. Rev. Trib. 1998) (op. on orig. submission). All of Judge Williams’ arguments pertain to Charge I regarding his compliance with the law, rather than Charge II regarding his competence in the law. The only argument Judge Williams makes with respect to Charge II is that he “truly believed his ruling was allowed.” But, under Canon 3B(2), a judge has a duty to inform himself of the law. It is incumbent on a trial judge to determine the scope of his lawful authority before exercising it. Given Judge Williams’ admission that he did not know the applicable law in a family law case over which he was presiding, i.e., section 105.001(c), we find that he violated Canon 3B(2) as alleged in Charge II.

II. Conduct at Havana Club Event: Charge VII (Canon 2A)

In Charge VII, the Commission alleges that Judge Williams failed to comply with the law when he inappropriately touched Judge Sandra Watts, District Clerk Anne Lorentzen, and District Clerk Chief Deputy Lilia Ann Gutierrez at the Havana Club function, thereby violating Canon 2A. As stated above, Canon 2A requires a judge to “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.” Section 22.01(a)(3) of the Penal Code criminalizes conduct that intentionally or knowingly causes physical contact that the person knows or should reasonably believe will be regarded by the other person as offensive or provocative. TEX. PENAL CODE ANN. 22.01(a)(3). Each of the three

complainants testified in detail at trial about Judge Williams' unwanted conduct toward them at the Havana Club function on August 9, 2017.

District Judge Sandra Watts testified that the Havana Club event was to honor the U.S. citizenship and re-seating of her colleague Young Burkett as a municipal court judge. Judge Watts described the attendees as predominately "courthouse personnel," including judges and their staff, district attorneys, and members of the public. Judge Watts identified a group photograph of the elected officials taken at the event and it was admitted into evidence. The photograph shows Judge Watts standing in the middle with Judge Burkett on one side and Judge Williams on her other side. Judge Watts testified that while the photograph was being taken the officials were told to "get in closer" and the following occurred:

Judge Williams, who was to my right, he, in fact, took his hand, put it above my waist, went down the side of my body and pulled me in, all right, to make us come in closer. And then he firmly, in effect, traced my buttocks area with his hand. And I turned to him, and I said, "Stop that." And he smiled and he had a little laugh or smirk, and then he literally squeezed my buttocks. I turned again - - and this is all while the pictures are being taken. And I turned again and I - - "Stop that. Your wife is taking the picture." Then the last thing he did is right at that point, when we broke up, he just squeezed it one more time. So there was one offensive touching across my midriff and butt, and then there were two squeezes.

Judge Watts testified there was "no question" that Judge Williams heard her when she told him to "stop it" because he reacted by smiling or "smirking." She further stated there was "no question" that his action was intentional — "[i]t was not something that just accidentally occurred. You don't accidentally squeeze somebody's buttocks." Judge Watts stated she was "[a]bsolutely stunned" and "offended." Mrs. Theresa Williams was taking the photograph and Judge Watts did not want to "make a scene" in front of her.

After the photograph was taken, Judge Watts walked over to Judge Missy Medary and told her, "You're never going to guess what happened, Judge Williams just groped me." Judge Watts then left the event, saying some goodbyes on the way out. Judge Watts later noticed that she had received a text message at 7:36 p.m. from Judge Williams which stated, "Nice body for a 70 year old." The group photograph was attached to the message, but it was not a group text. Judge Watts testified that the text message was "offensive and demeaning" because "[i]t was a reflection on what had happened previously, and I was still just amazed that someone would take that

kind of liberty with a colleague.” Judge Watts did not respond to the text message. Judge Watts described her relationship with Judge Williams prior to the party as a “professional relationship” in which they would sometimes discuss legal matters, attend board meetings and judicial conferences, and go out to eat as a group with the other judges. She did not discuss personal matters with Judge Williams and did not exchange text messages with him. Judge Watts testified that Judge Williams had failed to treat her with dignity and courtesy at the Havana Club.

Judge Missy Medary testified that Judge Watts walked up to her seconds after the photograph looking “startled” and the first thing she said was, “You’re never going to believe what just happened . . . Judge Williams just groped me.” Judge Medary did not hear Judge Watts tell Judge Williams to “stop” during the photograph, but there was music playing and it was hard to hear. Judge Medary testified she received the group photograph from Judge Williams that evening, but there was no accompanying text message. When asked in what capacity she attended the event, Judge Medary replied, “not really official capacity, but we were there as - - as judges . . . everybody in that room knew the judges were there . . . they knew who we are.” Judge Medary further stated, “[w]e are judges 24 hours out of a day. And . . . especially here, we were out at a function helping or congratulating another one of the judges . . . Judge Burkett.”

Anne Lorentzen, the District Clerk for Nueces County, also attended the Havana Club event. Ms. Lorentzen stated she has known Judge Williams for twenty years and was friendly with him and his wife. Ms. Lorentzen testified she was sitting on the end of a semicircle couch with court clerk Melinda Molina, Chief Deputy Lilia Ann Gutierrez, and Sandra Banuelos who was sitting on the other end of the couch. Judge Williams’ wife was sitting on an ottoman nearby. Judge Williams approached the group and pulled Ms. Molina up from her seat and sat down in the space created between Ms. Lorentzen and Ms. Gutierrez. Ms. Lorentzen testified that as Judge Williams sat down he raised his arms as if he was going to rest his arms on the back of the couch. Ms. Lorentzen testified that instead Judge Williams “ran his right arm, his hand, down my side and under my buttocks.” Ms. Lorentzen confirmed at trial that in her statement she described Judge Williams’ arm as moving “down my right side from underneath my breast . . . down my waist and around my bottom.” Ms. Lorentzen

explained her reaction, stating, “I was in shock. I was tightened up . . . and I thought, ‘I’ve got to get out of here. I don’t know what just happened. I don’t want to think what just happened.’ And so I got up . . . and I left the couch at that time.” She walked over to the bar and started talking to another person “for a while just to calm down.” She briefly returned to the couch before everyone was called together for the group photo; her purse was still at the couch. After the photograph, Ms. Lorentzen left the party. She later received a text message from Ms. Gutierrez which stated, “I went home, not by my choice. I’ll tell you later.”

Lilia Ann Gutierrez, the Chief Deputy of the Nueces County District Clerk’s office, testified Judge Williams also touched her inappropriately at the Havana Club event. She was sitting on the same couch as Ms. Lorentzen when Judge Williams pulled Melinda Molina out of the middle seat and sat down between them. As Ms. Gutierrez leaned over to take a “selfie” with Sandra Banuelos on her other side, she felt Judge Williams touch her breast with his elbow. Specifically, “[h]e had his elbow out, like stretched out, and he was like rubbing against me.” Ms. Gutierrez turned to Judge Williams and asked him “what the f***** are you doing?” He did not reply, but merely “gave [her] a weird smile;” she observed that if the touching had been accidental, he would not have responded that way. Ms. Gutierrez turned back to her friend Ms. Banuelos who confirmed that she had seen what happened, stating, “Oh my God, I can’t believe what he did to you.” Ms. Gutierrez stated she was shocked and became very upset. As they talked, Ms. Banuelos tried to calm her by asking to see a photo of her granddaughter. Ms. Gutierrez retrieved her phone from her purse and positioned the purse between her and Judge Williams. However, when she turned to show Ms. Banuelos the photo on her phone Judge Williams touched her again. Ms. Gutierrez testified that the “next thing I feel is a hand going all the way down my butt, and I turned around and it’s Judge Williams again.” She told him, “You need to f***** stop it already.” Then, she turned to Ms. Banuelos, who had also seen the second touching, and stated that she needed to get out of there because “[t]his is not right” and “I don’t know why he thinks its okay to do this to me.” She and Ms. Banuelos got up and left the party.

Ms. Gutierrez testified that she had known and worked with Judge Williams since 1992 and through his conduct at the Havana Club he had not treated her with dignity and respect. Ms. Gutierrez testified that the

touching of her breast was not a natural movement that someone would make while stretching and it was not accidental touching. Ms. Gutierrez testified that she had been a police officer since 1994 and Judge Williams' actions were deliberate, not inadvertent or misunderstood. She stated that both Ms. Banuelos and Ms. Molina later told her they heard Mrs. Williams say, "Guy, stop." Ms. Gutierrez admitted that she did not see Judge Williams "do anything" to Anne Lorentzen and that he had a drink in his right hand.

Sandra Banuelos, court manager for the 319th District Court, testified she was sitting on the end of the couch when Judge Williams sat down in the middle of the women between Ms. Gutierrez and Ms. Lorentzen. Either right before or after taking a selfie with Ms. Gutierrez, she heard Ms. Gutierrez exclaim, "What are you doing?" and "Can you f**** stop?" Ms. Banuelos stated she herself was "kind of freaking out because I'm thinking, 'Did I just see him rub his arm against her breast?'" Ms. Gutierrez confirmed to her that Judge Williams had been touching her breast. While discussing it, they shifted away from Judge Williams on the couch. Ms. Banuelos then noticed Judge Williams' arm "coming from behind Lilia Ann" and "saw his hand go down" and heard her again tell him, "What are you doing" and "Can you f**** stop?" Ms. Banuelos testified she immediately heard Judge Williams' wife say, "Guy, stop." She "spoke loudly and firmly" and "she was upset." Ms. Banuelos stated she was just "stunned" by the incidents, while Ms. Gutierrez was "extremely upset," "frantic" and "angry." They walked out to the parking lot, where Ms. Banuelos assured Ms. Gutierrez that she too had seen Judge Williams' behavior because it was "too obvious" not to notice. Ms. Banuelos testified Judge Williams' action with his arm could not have been "just stretching" based on Ms. Gutierrez's facial expression and verbal reaction and Mrs. Williams' admonishment; he was not trying to get into the selfie. On cross, Ms. Banuelos clarified that on the first touching incident she saw Judge Williams' whole arm, including his elbow, making a rubbing motion against the side of Ms. Gutierrez's breast and "it was very obvious." The second touching incident occurred within three to five minutes after the first incident when Ms. Gutierrez told him to stop.

The morning after the Havana Club event, Ms. Gutierrez told her boss, Ms. Lorentzen, about how Judge Williams had touched her inappropriately and Ms. Lorentzen stated the same thing happened to her. They decided

to seek Judge Watts' advice and went to her chambers where they told her about Judge Williams' conduct. Judge Watts revealed the same type of offensive touching also happened to her at the event. The three public officials discussed the matter and decided not to file criminal charges, but to instead file complaints with the Judicial Conduct Commission. Judge Watts stated it was only after she analyzed what occurred that she decided she had to take some action. After the incidents were reported by the news, Judge Williams commented to Ms. Lorentzen, "I understand you're one of my victims, too." Ms. Lorentzen testified that Judge Williams' actions did not feel accidental and he did not treat her with dignity and courtesy. Ms. Lorentzen stated she had a very friendly relationship with Judge Williams and had become very good friends with his wife. However, she filed the complaint because "I did not appreciate being treated like that, and no woman should take that."

During the defense portion of the de novo trial, both Judge Williams and his wife Theresa Williams testified about the Havana Club events. Mrs. Williams stated she took the group picture of the elected officials that night. She denied seeing Judge Williams touch anyone's breast or buttocks or hearing anyone tell him to stop touching them. She also denied saying, "Guy, stop it" or seeing any behavior by him that would make her upset. She gave conflicting testimony on whether she saw her husband's text message to Judge Watts. Mrs. Williams stated it is not Judge Williams' demeanor at public functions to act that way; he respects women.

During his testimony, Judge Williams denied touching Judge Watts on her buttocks during the photo. He stated they were instructed to get in closer for the photo, so he told Judge Watts, "Bring it in, Judge" and "grabbed her by the waist." They were close and "touching each other" but he did not do anything inappropriate "at all," noting that "everybody's eyes were on us." Judge Williams stated he had a conversation with Judge Watts after the photo in which they discussed her recent weight loss and staying fit. He explained that is why he added the message "Nice body for a 70 year old" to his text with the group photo; he did not think it was inappropriate – it was intended as a compliment and a follow-up to their conversation. He was not trying to be offensive. With respect to Anne Lorentzen's allegation of offensive touching, Judge Williams stated he did not know what she was talking about and it did not happen; he had a drink in his right hand. Judge Williams stated that when he sat

down on the couch between Ms. Lorentzen and Lilia Ann Gutierrez, “[w]e were in close quarters. When I did get in there, I know my elbows [sic] rubbed up against her [Ms. Gutierrez]. I said, ‘Excuse me,’ and then I put my arm around her.” He conceded that his elbow “brushed along her [Ms. Gutierrez’s] breast” when he sat down, but he apologized. Judge Williams testified that none of the three women said anything to him about touching them inappropriately or told him to stop anything he was doing.

In his post-trial brief, Judge Williams asserts the allegations of offensive touching are “not clearly defined” and are “incredible and/or impossible;” to wit: the incidents did not happen. In support, he points out inconsistencies in the testimony and challenges the credibility of the witnesses. As the factfinder in this de novo trial, we find the complaining witnesses and the corroborative testimony to be credible and strong evidence. Each of the complaining witnesses are public officials who testified they had known Judge Williams in a professional capacity for many years and felt offended and disrespected by Judge Williams’ inappropriate touching at the function, leading them to each make the decision to speak out and file a complaint with the Commission. Their testimony was corroborated by two additional eyewitnesses who observed Judge Williams’ behavior at the Havana Club. Each of the three complaining witnesses testified that she felt shocked and offended and that Judge Williams’ physical contact with her buttocks and/or her breast was intentional and could not have been accidental or misinterpreted. Further, when told to stop what he was doing, all three complaining witnesses stated that Judge Williams’ only response was to smile at them; he did not reply “what?” or say the touching was an accident. Canon 2A requires a judge to “comply with the law.” TEX. CODE JUD. CONDUCT, Canon 2A. Based on the testimony presented at the de novo trial, we find that Judge Williams failed to comply with the law when he engaged in three separate instances of assault by offensive touching in violation of the Texas Penal Code. *See* TEX. PENAL CODE ANN. 22.01(a)(3) (a person commits the offense of assault if he “intentionally or knowingly causes physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative”).

Judge Williams also argues in his post-trial brief that even if the offensive touching incidents did happen, his conduct was not committed in his “official judicial capacity” and thus did not violate any of the judicial canons. He points to testimony that the judges were not introduced and did not wear nametags at the Havana Club event, and asserts it was merely an “after-hours social function” for friends of Young Burkett to celebrate her citizenship. However, Canon 2A requires a judge to act “at all times” in a manner that promotes public confidence in the integrity of the judiciary.⁶ TEX. CODE JUD. CONDUCT, Canon 2A. The Code of Judicial Conduct does not distinguish between misdeeds committed in a judge’s official capacity and those committed as a private citizen. *In re Lowery*, 999 S.W.2d 639, 656-57 (Tex. Rev. Trib. 1998, appeal denied). As the Commission points out, “[b]y seeking and accepting the responsibilities of the office of judge . . . a judge undertakes to conduct herself or himself both officially and personally in accordance with the highest standards that the citizens of Texas can expect.” *In re Barr*, 13 S.W.3d at 536. “Does the Code of Judicial Conduct intrude into a judge’s private life? Most definitely. But that is a path chosen when the decision to seek office is made.” *In re Lowery*, 999 S.W.2d at 657. Judge Williams’ intentional offensive touching committed against three other public officials at the event violated the principle set forth in Canon 2A.

We therefore conclude that Judge Williams violated Canon 2A by failing to comply with the law and by failing to “act at all times in a manner that promotes public confidence in the integrity . . . of the judiciary,” as alleged in Charge VII.

II. Comments Against District Attorney’s Office: Charge XI (Canon 3B(5))

In Charge XI, the Commission alleges that Judge Williams failed to perform his judicial duties without bias or prejudice when he made disparaging comments about the Nueces County District Attorney’s Office from the bench, thereby violating Canon 3B(5). As stated above, Canon 3B(5) requires a judge to perform his judicial duties without bias or prejudice. TEX. CODE JUD. CONDUCT, Canon 3B(5). The Commission bases its allegation

⁶ Because this section of the opinion focuses on Charge VII alleging a violation of Canon 2A, we need not address Judge Williams’ arguments based on Canon 3B(4) with regard to the Havana Club matter.

on statements Judge Williams made from the bench in the *Anderson* and *Vasquez* family violence cases. The transcripts of both proceedings were introduced into evidence at the de novo trial and show the comments were made by Judge Williams as quoted above.

At the de novo trial, Judge Williams testified that he “stood by” his comments about the District Attorney’s Office as true – it was “absolutely” a correct analysis of what was going on at the District Attorney’s office during the 2014—2015 time frame.⁷ Judge Williams stated he made his comments on the record because, “I wanted to let the victim and the defendant know that I had no control over what the district attorney’s office does, but I wanted to let them know that they don’t take into consideration the victim’s feelings about whether - - whether or not they want to prosecute, whether or not . . . the defendant’s guilty or not guilty. They just had a policy of prosecute and don’t dismiss any family violence cases.” Judge Williams stated it was “frustrating” because those cases wasted a lot of time in his court. At trial, Judge Williams explained his frustration with the District Attorney’s Office, stating,

I was tired of them slowing my docket down with trials that were - - that became not guilty and was obvious they were not guilty . . . they were tying up my court with cases that should have never been tried . . . I was trying to just get them aligned and . . . tell them I don’t appreciate what they’re doing. And I wanted the victims to know that I understand what’s going on, and I want the defendants to know that I understand what’s going on, and I want the DA’s office to know that I’m not stupid.

Judge Williams testified that his comments in the *Vasquez* and *Anderson* cases also expressed his frustration with the District Attorney’s Office for repeatedly assigning new prosecutors to his court. He stated that the District Attorney and Judge Watts were “in collusion” to keep his court’s numbers down so they “put all the rookies in my court so they would slow my court down.” During a continuation of the hearing in the *Anderson* case, Judge Williams stated on the record in court,

All right so let’s make it clear that the District Attorney’s Office feels like my court must be a training ground for prosecutors. I don’t know what the District Attorney’s Office is thinking about

⁷ Judge Williams was specifically asked and expressly disclaimed relying on the First Amendment in defense of his comments about the District Attorney’s Office. Indeed, when a person undertakes the responsibility of serving as a judge, he or she accepts certain restrictions on their constitutional right to free speech. See *In re Lowery*, 999 S.W.2d at 657-58 (recognizing that a judge’s right to free speech must be balanced against the State’s right to promote and preserve the integrity of the judicial system). For these reasons, we need not address any potential chilling effect this opinion may have on the free speech rights of Texas judges.

running 11 prosecutors through my court within the timeframe of less than 4 years . . . Put that on the record too just in case there's any question for my opponent.

During his trial testimony, Judge Williams agreed “100%” that a judge’s role is to be the neutral party in the courtroom and not have a bias in favor of one side or the other. While initially stressing that he is fair and impartial as a judge, he later conceded that, after reflection, he could see how making those statements about the District Attorney’s Office in open court might indicate that he had “a bias against them, a prejudice against them.” Judge Williams explained that he was “angry and frustrated after months and months of this going on in my courtroom” and he “just lost it.”

In his post-trial brief, Judge Williams asserts that his comments must be viewed in their larger context and that his feelings about the District Attorney’s Office at that time were shared by other attorneys and “possibly other judges.” He concedes that, “when taken in a vacuum,” his statements might sound unfair but argues he did not intend to disparage the District Attorney’s Office; rather, he was responding to concerns from victims who did not want to prosecute these particular cases. We have reviewed the entire context of the transcripts provided to us in evaluating Judge Williams’ statements about the District Attorney’s Office for bias or prejudice. Considering the text and context of the comments along with Judge Williams’ testimony explaining that his comments were broader expressions of his frustration and anger with the procedures of the District Attorney’s Office, after months of “slowing [his] docket down,” we find that Judge Williams’ statements expressed bias or prejudice in violation of Canon 3B(5). Indeed, Judge Williams recognized at the de novo hearing that his comments could be viewed as showing a bias or prejudice against the District Attorney’s Office. We therefore find that Judge Williams violated Canon 3B(5) as alleged in Charge XI.

III. Article V, Section 1-a(6)(A) of the Texas Constitution — Casting Public Discredit on the Judiciary and the Administration of Justice

In Charges V, XII, and XIII, the Commission alleges that Judge Williams engaged in willful conduct, i.e., his ruling and statements in the family law case, his inappropriate touching of the public officials, and his disparaging comments about the Nueces County District Attorney’s Office, that cast public discredit on the

judiciary and the administration of justice in violation of the state constitution. 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.” TEX. CONST. art. V, § 1-a(6)(A). For purposes of article V, section 1-a, “willful or persistent conduct that is clearly inconsistent with the proper performance of a judge’s duties” includes a willful violation of a provision of the Texas penal statutes or the Code of Judicial Conduct. TEX. GOV’T CODE ANN. § 33.001(b)(2). Willful conduct requires a showing of intentional or grossly indifferent misuse of judicial office, involving more than an error of judgment or lack of diligence. *In re Davis*, 82 S.W.3d at 148; *In re Bell*, 894 S.W.2d 119, 126 (Tex. Spec. Ct. Rev. 1995). A judge need not have specifically intended to violate the Code of Judicial Conduct; a willful violation occurs if the judge intended to engage in the conduct for which he or she is disciplined. *In re Davis*, 82 S.W.3d at 148; *In re Barr*, 13 S.W.3d at 534-35, 539. Here, the evidence shows that Judge Williams intended to engage in all of the conduct discussed above. He expressly “stood by” his disparaging comments about the Nueces County District Attorney’s Office as “true,” and stated that the order removing possession from the mothers and giving it to the father in the family law case was “his own idea” as a strategy to shock the mothers into compliance with his orders. As for his offensive touching of three female public officials at the Havana Club event, each of the three complainants testified that there was “no question” that his actions were intentional and not accidental.

Based on our discussion and analysis above, we find that Judge Williams engaged in willful conduct in each of the three scenarios that publicly discredited the judiciary and the administration of justice. TEX. CONST. art. V, § 1-a(6)(A). Therefore, we find Charges V, XII, and XIII to be true.

IV. Appropriate Sanctions

Upon a finding of judicial misconduct, the imposition of sanctions must necessarily be decided on a case-by-case basis. *In re Canales*, 113 S.W.3d 56, 73 (Tex. Rev. Trib. 2003, appeal denied).

The purpose of sanctions in cases of judicial discipline is to preserve the integrity and independence of the judiciary and to restore and reaffirm public confidence in the administration of justice. The discipline we impose must be designed to announce publicly our recognition that there has been misconduct; it must be sufficient to deter respondent from engaging in such conduct; and it must discourage others from engaging in similar conduct in the future. Thus, we discipline a judge not for purposes of vengeance or retribution, but to instruct the public and all judges, ourselves included, of the importance of the function performed by judges in a free society. We discipline a judge to reassure the public that judicial misconduct is neither permitted nor condoned.

In re Barr, 13 S.W.3d at 560 (quoting *In re Kneifl*, 217 Neb. 472, 351 N.W.2d 693, 700 (1984)). When determining an appropriate sanction, courts have considered the following nonexclusive factors:

(a) whether the misconduct is an isolated instance or evidenced a pattern of conduct; (b) the nature, extent and frequency of occurrence of the acts of misconduct; (c) whether the misconduct occurred in or out of the courtroom; (d) whether the misconduct occurred in the judge's official capacity or in his private life; (e) whether the judge has acknowledged or recognized that the acts occurred; (f) whether the judge has evidenced an effort to change or modify his conduct; (g) the length of service on the bench; (h) whether there have been prior complaints about this judge; (i) the effect the misconduct has upon the integrity of and respect for the judiciary; and (j) the extent to which the judge exploited his position to satisfy his personal desires.

In re Deming, 736 P.2d 639, 659 (Wash. 1987).

Here, Judge Williams served approximately eight years on the bench. This opinion deals with a total of five complaints filed with the Commission against Judge Williams based on his conduct inside the courtroom and outside the courtroom. The complaints arising out of the Havana Club social function reveal that Judge Williams' offensive and intentional conduct was repeated against three different public officials during the evening. With respect to his comments disparaging the District Attorney's Office, he repeated the statements from the bench in two different cases several months apart. Judge Williams has admitted that his sua sponte custody ruling in the family law case and his statements against the District Attorney's Office were due to his frustration and anger with the situations pending before him — he admitted he “just lost it” in the family violence cases. He has acknowledged having an anger management problem and has recently sought treatment. However, Judge Williams has failed to acknowledge any wrongdoing during the Havana Club event and has refused to admit the offensive touching incidents occurred. Viewing Judge Williams' conduct in all three scenarios as a whole, it creates a significant negative impact on the integrity of the judiciary and the public's respect for the judiciary.

Accordingly, to preserve the integrity of the judiciary and restore and reaffirm public confidence in the administration of justice, we conclude that a public reprimand is appropriate in the family law case and in the combined offensive touching and biased comments cases. Therefore, after considering the pleadings, all of the evidence, the arguments of counsel, and the parties' pre-trial and post-trial briefing, we issue two public reprimands against Judge Williams for his violations of the Code of Judicial Conduct and the Texas Constitution set forth above.

CONCLUSION

In summary, we find that Judge Williams willfully violated Canons 3B(2), 2A, and 3B(5) of the Code of Judicial Conduct and article V, section 1–a(6)(A) of the Texas Constitution as set forth in Charges II, V, VII, XI, XII, and XIII. We therefore issue the following sanctions against Judge Williams for those violations: One Public Reprimand in the family law case (CJC No. 17-1239-DI) and One Public Reprimand in the combined offensive touching and biased comments cases (CJC Nos. 17-1488, 17-1489, 17-1490, and 17-1523).

SPECIAL COURT OF REVIEW⁸

PUBLISH — TEX. RULES REM'L /RET. JUDG. R. 9(e)

⁸ The Special Court of Review consists of The Honorable Liza A. Rodriguez, Justice of the Fourth Court of Appeals, presiding by appointment; The Honorable Beth Watkins, Justice of the Fourth Court of Appeals, participating by appointment; and The Honorable Meagan Hassan, Justice of the Fourteenth Court of Appeals, participating by appointment (concurring and dissenting).



DOCKET NO. SCR 19-0001

SPECIAL COURT OF REVIEW

**IN RE INQUIRY CONCERNING HONORABLE GUY WILLIAMS
CJC NOS. 17-1239-DI, 17-1488, 17-1489, 17-1490, and 17-1523**

JUDGMENT

The Special Court of Review has considered the pleadings, all of the evidence, the arguments of counsel, and the parties' pre-trial and post-trial briefing and finds that the Honorable Guy Williams willfully violated Canons 2A, 3B(2), and 3B(5) of the Code of Judicial Conduct and article V, section 1-a(6)A of the Texas Constitution. Accordingly, the Special Court of Review issues two Public Reprimands of the Honorable Guy Williams for said violations: One Public Reprimand in the family law case (CJC No. 17-1239-DI) and One Public Reprimand in the combined offensive touching and biased comments cases (CJC Nos. 17-1488, 17-1489, 17-1490, and 17-1523).

SPECIAL COURT OF REVIEW⁹

⁹ The Special Court of Review consists of The Honorable Liza A. Rodriguez, Justice of the Fourth Court of Appeals, presiding by appointment; The Honorable Beth Watkins, Justice of the Fourth Court of Appeals, participating by appointment; and The Honorable Meagan Hassan, Justice of the Fourteenth Court of Appeals, participating by appointment (concurring and dissenting).



DOCKET NO. SCR 19-0001

SPECIAL COURT OF REVIEW

**IN RE INQUIRY CONCERNING HONORABLE GUY WILLIAMS
CJC NOS. 17-1239-DI, 17-1488, 17-1489, 17-1490, and 17-1523**

CONCURRING AND DISSENTING OPINION

I concur with the majority’s Opinion with respect to Charge VII (Canon 2A) and Charge XII (Texas Constitution) and respectfully dissent with respect to Charges II (Canon 3B(2)), XI (Canon 3B(5)), V (Texas Constitution), and XII (Texas Constitution).

I. Canon 3B(2) – Charge II

“[T]he [State Commission on Judicial Conduct] alleges that Judge Williams violated [Texas Code of Judicial Conduct] Canon 3B(2) when he issued orders affecting the custodial rights of [two women] in the absence of a verified pleading or affidavit as required by the Texas Rules of Civil Procedure, thereby failing to maintain competence in the law.” Maj. Op. at p. 9. I agree with the majority that, “[T]he Commission had the burden to prove the charges against Judge Williams by a preponderance of the evidence.” *Id.*; see also *In re Lowery*, 999 S.W.2d 639, 648 (Tex. Rev. Trib. 1998, appeal denied) (citing *In re Brown*, 512 S.W.2d 317, 319-20 (Tex. 1974);

In re King, 568 N.E.2d 588, 600 (Mass. 1991); *In re Littleton*, 719 S.W.2d 772, 775 (Mo. 1986); *In re Lowther*, 611 S.W.2d 1, 2 (Mo. 1981); and *Geiler v. Comm'n on Judicial Qualifications*, 515 P.2d 1, 4 (Cal. 1973), *cert. denied*, 417 U.S. 932 (1974)). *Cf. Schroeder v. Brandon*, 172 S.W.2d 488, (Tex. 1943) (“[T]he law imputes good faith to judicial action and the burden is on the one attacking it both to allege and prove the want of it.” (quoting 30 Am. Jur. Judges, Par. 50)). However, I conclude the Commission failed to meet said burden and therefore cannot conclude Judge Williams violated Canon 3B(2) or article V, section 1-a(6)(A) of the Texas Constitution.

“The Commission allege[d] that Judge Williams . . . issued orders . . . in the absence of a verified pleading or affidavit[.]” The majority correctly acknowledges that, “At the de novo trial, no copy of a verified motion or other sworn pleading was presented to this Court”; however, the Commission failed to present any evidence tending to prove the absence of a verified motion or other sworn pleading. In my opinion, the absence of such evidence is dispositive, particularly in light of (1) the Commission’s clearly established burden and (2) Judge Williams’ uncontroverted assertion that the “motion to modify visitation . . . was verified.” Maj. Op. at p. 10.

Although I agree with the majority’s conclusion regarding Charges VII and XII, there is simply no evidence which tends to establish Judge Williams’ testimony constituted perjury (at least in this specific respect). Given the Commission’s election to pursue Judge Williams for alleged incompetence based upon the purported absence of a verified pleading, the relative ease through which said absence could have been proven, and the Commission’s undisputed burden to prove its case via a preponderance of the evidence, I cannot conclude the evidence presented is sufficient to show Judge Williams failed to maintain competence in the law via a decision to affect “custodial rights . . . in the absence of a verified pleading or affidavit.”

The majority cites Judge Williams' acknowledgement of his ignorance concerning the need for verified pleadings in this specific context as evidence of his incompetence. Maj. Op. at p. 11. While ignorance of the law can unquestionably constitute (*inter alia*) justifiable grounds for a public reprimand, I do not believe it does so here. Specifically, I believe the Commission specifically sought to prove incompetence and that it needed to do so via something more than Judge Williams' admitted ignorance (particularly in light of the Commission's failure to prove said ignorance actually caused the issuance of orders "in the absence of a verified pleading or affidavit"). By way of example, the Commission could have introduced evidence tending to show that every reasonable Texas judge who adjudicates family law cases would have known about this specific law in this specific context. Given the nature of our esteemed judiciary and the necessary existence of appellate courts therein, I cannot condone a holding which effectively characterizes judges as incompetent when they truthfully admit they do not possess a perfect knowledge of all relevant law, particularly when said ignorance causes no verifiable prejudice. *Cf. Schroeder*, 172 S.W.2d at 491 ("As a general rule, 'an appellate court will not review the trial court's action . . . with reference to matters resting in the latter's judicial discretion, *unless such discretion has been clearly and prejudicially abused.*") (emphasis added) (citing 5 C.J.S., Appeal and Error, § 1583)).

Given the Commission's burden to prove its allegations and its failure to do so, I dissent from the majority's issuance of a public reprimand for alleged violations of Canon 3B(2) (Charge II) and the Texas Constitution based thereon (Charge V).

II. Canon 3B(5) – Charge XI

The Commission also alleged Judge Williams violated Canon 3B(5) via comments from the bench in two separate cases; specifically, Judge Williams told witnesses in his courtroom that the Nueces County District Attorney's Office specifically, Judge Williams told witnesses in his

courtroom that the Nueces County District Attorney's Office did not care about the victim's wishes in the prosecution of criminal cases (full statements at Maj. Op. at p. 6). Canon 3B(5) requires judges to "perform judicial duties without bias or prejudice." Notwithstanding its burden, the Commission presented zero evidence Judge Williams performed his duties in a biased or prejudiced manner; instead, it simply presented evidence that Judge Williams maintained and expressed personal misgivings about perceived injustices in his courtroom on two separate occasions.

The Texas Court of Criminal Appeals has expressly expanded controlling jurisprudence from the United States Supreme Court and held that "judicial rulings, remarks, or actions . . . 'almost never constitute a valid basis for a bias or partiality motion. . . . Almost invariably, they are proper grounds for appeal, not for recusal.'" *Gaal v. State*, 332 S.W.3d 448, 454 (Tex. Crim. App. 2011) (quoting *Liteky v. United States*, 510 U.S. 540, 555 (1994)). Standing alone, this holding reveals the significant burden prosecutors would have faced had they simply alleged Judge Williams' statements warranted recusal. I cannot conclude the burden to prove impermissible bias or prejudice in the context of sanctions against judges is less onerous than a movant's burden to prove entitlement to recusal based on bias or prejudice.

Furthermore, we have been presented with no evidence tending to show Judge Williams' statements evidenced an inability to exercise fair judgment. *See Liteky*, 510 U.S. at 550. Instead, Judge Williams' statements appear to constitute an "expression[] of impatience, dissatisfaction, annoyance, and even anger"; these expressions are "within the bounds of what imperfect men and women, even after having been confirmed as federal judges, sometimes display" (*id.* at 555-56) and "*do not establish bias or partiality*" as a matter of controlling law. *Gaal*, 332 S.W.3d, at 454 (emphasis added); *see also id.* ("Thus, a judge's remarks during trial that are critical, disapproving,

or hostile to counsel, the parties, or their cases, usually will not support a bias or partiality challenge[.]”). Based upon these controlling authorities, I cannot conclude the Commission met its burden to prove Judge Williams’ statements from the bench violated Canon 3B(5).

Admittedly, the Texas Court of Criminal Appeals has held that a judge’s “intemperate remarks” may violate Texas Code of Judicial Conduct Canon 3B(4) (“A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, and should require similar conduct of lawyers, and of staff, court officials and others subject to the judge’s direction and control.”). *Gaal*, 332 S.W.3d at 455 & n.25 (citing *Wesbrook v. State*, 29 S.W.3d 103, 121 (Tex. Crim. App. 2000)). The Commission expressly alleged Judge Williams’ statements violated said Canon. The majority, however, does not address this allegation and instead bases its conclusion on Judge Williams’ alleged violation of Canon 3B(5). I therefore similarly express no opinion thereon.

The majority cites Judge Williams’ acknowledgement that his statements might have indicated bias as evidence of his admitted bias. Maj. Op. at p. 20. I do not interpret Judge Williams’ statement to be an admission of wrongdoing. Instead, I interpret it as a rational acknowledgement that people could have (indeed, have) perceived his statement to constitute bias. Refusing to acknowledge that (presumably rational) people could have perceived his statement a certain way after they have already done so would have been unreasonably obstructionist; under these circumstances, I cannot construe Judge Williams’ effective acknowledgment of the Commission’s ruling to constitute an admission that he violated the Canons. Similarly, I disagree with the majority’s implicit reliance upon Judge Williams’ ultimate concession that his conduct “was probably inappropriate for [his] position” (Maj. Op. at p. 11) as evidence of his alleged

incompetence; while Judge Williams' repeated assaults were also inappropriate for his position, they do not constitute reliable evidence of his alleged *incompetence as a judge*.

In my opinion, it is neither our place nor in the People's interests to chill the speech of Texas judges who perceive injustices in their courtrooms and make their perspectives known to all relevant parties therein. I cannot conclude the Commission met its burden to introduce evidence sufficient to prove Judge Williams performed his judicial duties in a manner that was biased or prejudiced via a preponderance of the evidence, particularly given the ease with which such evidence could have been presented had it existed (*e.g.*, unreasonably erroneous adverse rulings). Therefore, I respectfully dissent from the majority's holding that Judge Williams violated Texas Code of Judicial Conduct Canon 3B(5) (Charge XI) and the Texas Constitution (Charge XIII).

III. Conclusion

In summary, I (1) conclude Judge Williams violated Canon 2A of the Texas Code of Judicial Conduct and article V, section 1-a(6)(A) of the Texas Constitution as set forth in Charges VII and XII, (2) concur in the majority's conclusion that a public reprimand should issue therefor, and (3) dissent with respect to Charges II (Canon 3B(2)), XI (Canon 3B(5)), V (Texas Constitution), and XII (Texas Constitution).

/S/

Meagan Hassan, Justice

Before Justices Rodriguez, Watkins, and Hassan

ISSUED: May 17, 2019