



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

**CJC Nos. 14-0102-DI, 14-0165-DI, 14-0224-DI, 14-0403-DI,
14-0435-DI, 14-0468-DI, 14-0472-DI, 14-0473-DI, 14-0484-DI,
14-0508-DI, 14-0529-DI, 14-0654-DI & 14-0655-DI**

PUBLIC REPRIMAND

**HONORABLE DENISE V. PRATT
FORMER JUDGE, 311TH JUDICIAL DISTRICT COURT
HOUSTON, HARRIS COUNTY, TEXAS**

During its meeting on August 13-15, 2014, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable Denise V. Pratt, Former Judge of the 311th Judicial District Court, Houston, and Harris County, Texas. Judge Pratt appeared before the Commission on August 14, 2014, and gave testimony.

BACKGROUND INFORMATION

Judge Pratt was elected to the 311th Judicial District Court bench¹ in November 2010, and assumed the bench on January 1, 2011. Starting in October 2013, the Commission began receiving complaints filed by attorneys, litigants, and confidential sources alleging numerous incidents of misconduct against Judge Pratt, including malfeasance by backdating court orders and judgments, excessive and unreasonable delays in issuing decisions, a lack of diligence in attending to the business of the court, and incompetence in performing the duties of office. Many of the matters raised in the complaints became the subject of extensive local media attention in the Houston area. In particular, it was disclosed in the press that allegations contained in the complaint of attorney Greg Enos had become the subject of a criminal investigation by the Harris County District Attorney's Office into the conduct of Judge Pratt.

In Enos' criminal complaint, Judge Pratt was accused of backdating court orders and renditions in order to cover up for the lengthy delays in her rulings in contested family law cases. It was alleged that Judge Pratt backdated the orders to make it appear that she had issued rulings

¹ The 311th District Court is one of ten family law courts in Harris County that hears divorce and child related matters.

sooner than she actually did and that the judge was assisted by court staff, who rolled back the clerk's date stamp, then initialed and filed backdated orders knowing that Judge Pratt had not signed the documents on the dates she claimed. Enos provided examples in six cases of orders or renditions that appeared to have been signed by Judge Pratt months earlier but that were not filed or provided to the parties or their attorneys until much later and well after the time to appeal had expired. According to media reports, Judge Pratt's lead clerk, Marilyn Epps, who had twenty-five years of experience as a Harris County court clerk, resigned following an investigation by the Harris County District Clerk's office into the backdating allegations after admitting to one instance of rolling back her date stamp to match what Judge Pratt had written as the date she purportedly signed the rendition. However, there appeared to be no evidence to support a finding that Epps engaged in this conduct at Judge Pratt's request, direction, or instruction. In December 2013, a grand jury investigating Enos' complaint against Judge Pratt declined to indict the judge. During this time, Judge Pratt filed to run for re-election and became one of four candidates vying for election to the 311th District Court in the March 2014 Republican Primary.

In January 2014, additional complaints were filed with the Commission after Judge Pratt issued dismissal orders disposing of more than approximately 600 pending cases on December 30-31, 2013. According to the complaints, without notice to the parties or their attorneys or an opportunity to be heard, cases were dismissed for want of prosecution even though a substantial number of the cases had recent activity; were awaiting the judge's signature on orders following trial, mediation, or arbitration; were set for trial in 2014; or had already been transferred to other courts following Judge Pratt's recusal. Enos filed a second criminal complaint with the Harris County District Attorney's office concerning the *en mass* dismissals alleging that Judge Pratt illegally purged her docket on the last two days of 2013 to cover up the growing backlog caused by her failure or inability to timely handle the business of the court.

Although Judge Pratt received the most votes in the March 2014 Republican Primary, she did not receive at least 50% of the votes and her name was placed on the ballot for the May 2014 Republican Primary Run-off election. However, on March 28, 2014, after Enos filed a third criminal complaint against her with the Harris County District Attorney's Office, Judge Pratt sent a letter to the Governor of Texas announcing that she was immediately resigning from office. Despite her resignation, Judge Pratt's name remained on the ballot for the May 2014 run-off election, which she lost.

In August 2014, the Commission concluded its investigation into the allegations filed against Judge Pratt. 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 Denise V. Pratt was Judge of the 311th Judicial District Court in Houston, Harris County, Texas.

DELAYS IN RULING

The Bates Case

2. Kevin Bates and Melissa Bates were divorced in July 2010.

3. In the Agreed Final Decree of Divorce, Kevin was awarded a modified possession order regarding the couple's three children.
4. On March 2, 2012, Kevin filed a Motion for Enforcement of Possession or Access, alleging that Melissa interfered with his right to access and visitation regarding his 17 year-old daughter.
5. Melissa had also filed motions for enforcement against Kevin. Both Kevin's and Melissa's enforcement motions were scheduled to be heard on June 28, 2012.
6. On June 28, 2012, Judge Pratt presided over a hearing concerning Kevin's enforcement motion, but did not conduct a hearing on Melissa's pending motions.
7. At the conclusion of the hearing on Kevin's motion, Judge Pratt stated that she would reserve her ruling until Melissa's motions for enforcement were heard at a later date; however, no hearings were ever held on Melissa's motions for enforcement.
8. On January 15, 2013, Kevin filed a Motion for Ruling and/or Judgment on his motion for enforcement.
9. On February 6, 2013, the amicus attorney appointed to the *Bates* Case filed a response to Kevin's motion.
10. Kevin's motion was set for a hearing on February 12, 2013 and again on February 28, 2013, but no hearings were conducted because Judge Pratt failed to appear on either of those dates.
11. In April 2013, Kevin filed a Petition for Writ of Mandamus to the 14th Court of Appeals seeking to have that Court compel Judge Pratt to issue a ruling on his still pending motion for enforcement.
12. On May 14, 2013, the 14th Court of Appeals issued an opinion conditionally granting the writ of mandamus and directing Judge Pratt to rule on Kevin's motion for enforcement within fifteen days.
13. In its opinion, the 14th Court of Appeals noted the importance of prompt rulings in cases concerning parental rights and the best interests of children and concluded that the delay in the *Bates* Case was unreasonable. The Court went on to state:

In suits involving the parent-child relationship, "[j]ustice demands a speedy resolution," and mandamus may issue "to protect the rights of parents and children." We hold that respondent has abused her discretion in failing to timely render a decision on relator's pending motion for enforcement of his right to possession and access to his child.
14. On May 15, 2013, a document entitled, "Judge's Rendition" was faxed to the attorneys in the *Bates* Case from Judge Pratt's court. The document was not date stamped by a clerk, nor was it imaged or entered in the court's computer docket.
15. The document, dated August 1, 2012, was written entirely in Judge Pratt's handwriting and contained Judge Pratt's handwritten ruling granting Kevin's motion for enforcement.
16. According to the rendition, Melissa had been found in contempt of court following the June 28, 2012 enforcement hearing for denying visitation to Kevin and was ordered to

spend 180 days in jail unless she paid Kevin's attorney's fees and no longer interfered with his right to access and visitation.

17. There was no mention in the rendition that Melissa's motions for enforcement had been considered or resolved by Judge Pratt prior to issuing her decision.
18. Although none of the attorneys or litigants received a copy of the August 1, 2012 rendition prior to May 15, 2013, Judge Pratt testified before the Commission that she issued her ruling and prepared the rendition or about August 1, 2012.
19. Judge Pratt also testified that in response to the 14th Court of Appeal's ruling, Deborah Selden, the senior staff attorney for the Administrative Office of the Harris County District Courts, sent a letter to the Court on behalf of Judge Pratt representing that Judge Pratt had issued the court's rendition in the *Bates* Case on August 1, 2012, and had signed an Order of Enforcement on May 21, 2013.
20. However, Judge Pratt provided no explanation as to why Selden's letter came after the Court's ruling and why it had not been sent in the weeks following the April 2013 filing of the Petition for Writ of Mandamus.
21. Additionally, Selden's letter to the Court contained no explanation as to why the August 1, 2012 rendition had not been filed or served on the parties or their attorneys until May 15, 2013.
22. In her testimony before the Commission, however, Judge Pratt stated that on or about August 1, 2012, she gave the signed rendition to a court clerk, who was supposed to file it and forward a copy to the attorneys; however, according to Judge Pratt, the clerk failed to file the rendition or provide a copy to the attorneys. Additionally, the judge contended that court staff failed to notify her of Kevin's subsequent efforts to obtain a ruling in the matter.

The *DuPont* Case

23. Judge Pratt presided over a divorce trial in the *DuPont* Case on February 4, 6, and 7, 2013. Judge Pratt did not immediately issue a ruling, announcing that she was taking the matter under advisement.
24. Throughout March 2013 and April 2013, the attorney representing Sandra DuPont began regularly communicating with Judge Pratt's court coordinator in an attempt to learn when Judge Pratt would be making her ruling in the case.
25. On May 15, 2013, Judge Pratt faxed a copy of a handwritten rendition, dated February 15, 2013, to Sandra's attorney.
26. The copy received by Sandra's attorney was not a file-stamped copy; however, the rendition that was imaged by the district clerk's office on or after May 15, 2013, showed a clerk's date stamp of February 15, 2013.
27. The February 15, 2013 date stamp included the initials "ME," indicating that it had been stamped by Marilyn Epps; however, according to Judge Pratt's testimony, Epps did not start working in her court until April 24, 2013.

28. Therefore, Epps could not have stamped the document on February 15th as indicated by the initials beside the date stamp.
29. In her testimony before the Commission, Judge Pratt denied that she instructed Epps to roll back the clerk's date stamp on the rendition in the *DuPont* Case to match the date of the judge's signature.
30. Judge Pratt testified that she signed the rendition on February 15th, and instructed court staff to file it and forward a copy to the attorneys of record; however, according to the judge's testimony, court staff failed to do so and failed to advise her of the parties' subsequent efforts to obtain a ruling.

The *Hernandez-Rivera* Case

31. On January 30 – 31, 2013, Judge Pratt presided over a hearing in the *Hernandez-Rivera* Case, which was pending in the 310th District Court; however, Judge Lisa Millard, the judge of the 310th District Court, was unavailable to hear the matter at that time.
32. At the conclusion of the hearing on January 31, 2013, Judge Pratt announced that she was taking the matter under advisement.
33. Thereafter, on an almost weekly basis, the attorney for Aaron Hernandez contacted Judge Pratt's court staff to find out if a ruling had been made. Each time he spoke to court staff, the attorney was told that Judge Pratt had not yet ruled.
34. On April 9, 2013, Aaron's attorney filed a Motion for Status Conference, which was set to be heard on April 18, 2013; however, Judge Pratt failed to appear for the hearing.
35. On May 24, 2013, the attorneys in the *Hernandez-Rivera* Case received a handwritten rendition from Judge Pratt dated January 30, 2013.
36. Although the rendition was not provided to the parties or entered into the computer docket until May 24, 2013, the document that was imaged by the District Clerk's office was date-stamped January 30th; however, there were no initials placed beside the date stamp indicating the identity of the clerk who processed the document.²
37. In July 2013, as a result of the nearly four month delay in receiving notice of Judge Pratt's ruling, and other substantive conflicts within the order itself, Judge Millard granted a new trial in the case.
38. In her testimony before the Commission, Judge Pratt stated that she signed the rendition in the *Hernandez-Rivera* Case after the hearing concluded on January 31, 2013; however, because she had not changed the date on her calendar from the previous day, she mistakenly stamped January 30th instead of January 31st as the date of entry.
39. No explanation was provided as to why the clerk's stamp also erroneously reflected January 30, 2013, or why the parties did not receive a copy of the rendition until May 24, 2013; however, Judge Pratt testified before the Commission that any delays in filing her rendition or providing a copy to the parties would have been the result of court clerk errors and incompetence.

² Marilyn Epps, who was Judge Pratt's lead clerk starting on April 24, 2013, would have been the person responsible for processing the judge's signed orders and renditions from that point forward.

The *Messier* Case

40. Luc and Katy Messier were granted a divorce in February 2011, which was appealed by Katy.
41. While the *Messier* Case was on appeal, Judge Pratt presided over several hearings involving various post-trial motions.
42. On June 26, 2012, Judge Pratt held a hearing on Katy's motion for judgment *nunc pro tunc*, but did not issue a ruling.
43. On December 19, 2012, Judge Pratt presided over an enforcement motion hearing after which she did issue an oral ruling from the bench, but did not reduce that ruling to writing indicating that the attorneys were to prepare proposed orders for her signature.
44. On March 25, 2013, the attorneys appeared in court for a hearing to enter orders regarding the enforcement motion; however, after waiting for more than an hour, the attorneys were advised by the court coordinator that Judge Pratt wanted the attorneys to leave the courtroom and that she would consider the matter on submission. The attorneys then left their proposed orders with the court coordinator for Judge Pratt to review.
45. Throughout March 2013 and April 2013, the attorneys for the Messiers continued to contact Judge Pratt's court coordinator asking if the judge had ruled.
46. During this time, the attorneys and the court coordinator inspected the court file, but only found the unsigned proposed orders.
47. The court coordinator advised the attorneys that there was no ruling and they would be notified as soon as one was issued.
48. In late May 2013, the attorneys received a handwritten rendition from Judge Pratt, dated March 25, 2013, with the judge's decision regarding the motion heard on June 26, 2012; however, the rendition had been date-stamped by Epps on May 25, 2013.
49. On June 5, 2013, the attorneys learned for the first time that Judge Pratt had signed the proposed order submitted by Katy's attorney, which was dated March 25, 2013.
50. The enforcement order purportedly was date-stamped and initialed by Epps on March 25, 2013, even though Epps did not start working in Judge Pratt's court until April 24, 2013.
51. The enforcement order was not entered into the computer docket by the District Clerk's office until June 4, 2013.
52. Because the attorneys did not receive notice of the March 25, 2013 judgment until June 5, 2013, Judge Pratt granted Luc Messier's motion to extend the post-judgment deadlines so that an appeal could be perfected.
53. On June 24, 2013, and again on July 18, 2013, Luc's appellate attorney requested that Judge Pratt issue findings of fact and conclusions of law in connection with the appeal.
54. On August 1, 2013, Katy's attorney filed proposed Findings of Fact and Conclusions of Law in the *Messier* Case.³

³ According to District Clerk's date stamp, this document was filed on August 13, 2013.

55. On August 29, 2013, Luc's appellate attorney filed a motion to abate the appeal due to the failure of Judge Pratt to issue the requested findings of fact and conclusions of law.
56. On September 12, 2013, the 14th Court of Appeals abated the appeal and ordered Judge Pratt to issue the requested findings of fact and conclusions of law.
57. The following day, Judge Pratt filed findings of fact and conclusions of law that were dated August 18, 2013; however, according to the District Clerk's computer docket entry, the document, which was not date stamped by a clerk, was signed on September 13, 2013.⁴
58. In a letter dated September 19, 2013, sent directly to the 14th Court of Appeals, Judge Pratt provided a chronology of events and confirmed that she signed the findings of fact and conclusions of law on August 18, 2013, which the judge pointed out was before the motion to abate was filed with the Court; however, no explanation was provided as to why Judge Pratt waited to provide this information until after the Court ordered her to issue the findings of fact.
59. On October 25, 2013, Luc's trial counsel filed a motion to recuse Judge Pratt from presiding over any other pending matters.
60. On February 27, 2014, a nine hour recusal hearing took place before a visiting judge. Judge Pratt was ordered removed from the *Messier* Case a few weeks later.
61. In her testimony before the Commission, Judge Pratt attributed any delays in filing her judgments, renditions, and findings of fact in the *Messier* Case to clerk errors and incompetence.
62. In support of her testimony regarding the alleged incompetence of the various court clerks assigned to her court, Judge Pratt provided the Commission with numerous emails dated from late September 2013 through January 2014, in which she complained to supervisors in the Harris County District Clerk's Office about the unusually high turnover rate of clerks assigned to her court, and that the clerks were not properly trained, could not locate court files and court records, and were generally negligent and derelict in their duties.
63. Judge Pratt provided no emails or records of other communications covering the period from May 2013 through September 2013 expressing concerns about the delays in filing orders, renditions, and findings of fact in the *Bates*, *DuPont*, *Hernandez-Rivera*, and *Messier* Cases, which were all handled by her lead clerk, Epps.
64. In one email, however, Judge Pratt acknowledged that she was ultimately responsible for the management and operations of the 311th District Court.
65. Witnesses who worked in the 311th District Court also confirmed that Judge Pratt was often late to court or did not show up at all, frequently cancelled or failed to appear at

⁴ The District Clerk's office later changed the computer docket entry to reflect that the document had been signed on August 18, 2013. The delayed disclosure of the Findings of Fact negatively impacted Luc Messier's rights to object to the Findings or ask for supplemental or additional findings. It also potentially harmed his position in the appeal; however, the 14th Court of Appeals granted his request to extend the deadlines due to the discrepancy between the date of the Findings of Fact and the date of its receipt by the parties and their attorneys.

preferential settings and scheduled hearings, and delayed signing orders in cases for months at a time. As a result, Judge Pratt had the highest backlog of pending cases than any other Harris County Family District Court.

66. According to witnesses in the Harris County District Clerk's Office, only experienced employees were assigned to serve as lead clerks in Judge Pratt's court and any delays in processing Judge Pratt's signed orders, renditions, and findings of fact were due to Judge Pratt's chronic failure to provide the documents to the clerks for processing.

DISMISSALS FOR WANT OF PROSECUTION

The *Montgomery* Case

67. On December 18, 2013, attorney Matthew Waldrop obtained an Order of Recusal removing Judge Pratt from eight cases, including the *Montgomery* Case, in which he was lead counsel.
68. On December 30, 2013, the *Montgomery* Case was assigned to Judge Sheri Dean in the 309th District Court.
69. Also on December 30, 2013, without notice or an opportunity to be heard, Judge Pratt signed an order dismissing the *Montgomery* Case for want of prosecution.
70. On January 3, 2014, Judge Dean signed an order vacating and setting aside the dismissal order as void, and the case was reinstated on the 309th District Court docket.
71. In her testimony before the Commission, Judge Pratt acknowledged signing the order of dismissal in the *Montgomery* Case after she had been recused from the matter, but claimed that she did so because she had been advised that this was the mechanism for removing the case from the 311th District Court's docket. Judge Pratt indicated that she was not aware that her order actually dismissed the entire *Montgomery* Case.

The *Canepa* Case

72. On May 18, 2012, Tanya Sampson Canepa filed for divorce from her husband, Francisco Javier Canepa.
73. After numerous delays, Judge Pratt conducted a trial on October 25, 2013.
74. After several hours of testimony, Judge Pratt recessed for the day and ordered the parties to return to resume testimony on October 29, 2013.
75. On October 29, 2013, all parties, attorneys and witnesses appeared as ordered to resume the trial only to learn that Judge Pratt had recused herself from the case.
76. Thereafter, the *Canepa* Case was assigned to the 257th District Court and a new trial date was set for May 21, 2014.
77. On December 30, 2013, without notice or an opportunity to be heard, Judge Pratt signed an order dismissing the *Canepa* Case for want of prosecution.
78. In her testimony before the Commission, Judge Pratt acknowledged signing the order of dismissal in the *Canepa* Case after she had been recused from the matter, but claimed that she did so because she had been advised that this was the mechanism for removing a

case from the 311th District Court's docket. Judge Pratt indicated that she was not aware that her order actually dismissed the entire *Canepa* Case.

79. The *Canepa* Case was reinstated on April 1, 2014.
80. On December 30-31, 2013, without notice or an opportunity to be heard, Judge Pratt signed orders dismissing approximately 600 cases for want of prosecution.
81. Many of the cases had remained active on the court's docket right up to the date of dismissal.⁵ Some had already been tried or mediated and were simply awaiting Judge Pratt's signature on the final orders; others were set for trial in 2014; and some had already been transferred to other courts following Judge Pratt's recusal as described above.
82. In addition to the cases described above, one of the active cases dismissed by Judge Pratt for want of prosecution was the *Corvera* Case, which had been tried in Associate Judge Robert Newey's court on December 18, 2013.
83. During the trial, Judge Newey determined that an amicus attorney needed to be appointed per court policy because issues of child custody had been raised.
84. Judge Newey recessed the trial and ordered the attorneys to prepare an order for the appointment of an amicus attorney and obtain a new trial date from the court coordinator.
85. That same day, the attorneys prepared an order for the amicus attorney appointment, which required Judge Pratt's signature, and secured a new trial date from the court coordinator.
86. The attorneys then left the proposed order with the court clerk to be presented to Judge Pratt for her signature and the selection of the amicus attorney.
87. Approximately one hour after leaving the courthouse on December 18, 2013, the attorneys were notified by Judge Newey that Judge Pratt had dismissed the *Corvera* Case for want of prosecution.
88. According to the attorneys in the *Corvera* Case, they received no notice and were afforded no opportunity to be heard before Judge Pratt dismissed the case.
89. A motion to reinstate the *Corvera* Case was granted on January 14, 2014. Thereafter, in March 2014, a motion to recuse was granted removing Judge Pratt from the case.
90. In the *Heck* Case, the parties reached an agreement through mediation in August 2013 and filed their agreed judgment with the 311th District Court on December 6, 2013.
91. On January 13, 2014, the parties filed a motion for hearing on the final orders.
92. A few weeks later, the parties were notified that Judge Pratt had signed an order dismissing the *Heck* Case for want of prosecution on December 31, 2013.
93. On March 12, 2014, the *Heck* Case was reinstated following a motion by the parties.

⁵ According to media reports, Judge David Farr, the local presiding judge for the Harris County Family Law Courts, told reporters that there were at least 260 active cases dismissed for want of prosecution by Judge Pratt in the last days of 2013. Approximately 230 of these cases were reinstated before Judge Pratt resigned on March 28, 2014.

94. Shortly thereafter, another judge signed the agreed order that had been submitted to Judge Pratt on December 6, 2013.
95. The parties in the *Copeland* Case began arbitration on October 29, 2013. The arbitration concluded on December 10, 2013, and the arbitrator issued the Arbitration Decision and Award on December 20, 2013.
96. On December 23, 2013, one of the attorneys in the *Copeland* Case filed an Application to Confirm Arbitration and Award in the 311th District Court.
97. On December 30, 2013, while the Application was pending with the court, Judge Pratt signed an order dismissing the *Copeland* case for want of prosecution.
98. On January 14, 2014, the *Copeland* Case was reinstated upon motion by the parties.
99. According to an attorney with the Texas Department of Family and Protective Services (“CPS”), who prosecuted CPS cases assigned to the 311th District Court, Judge Pratt dismissed approximately thirty (30) CPS cases for want of prosecution on December 30-31, 2013. CPS attorneys received no notice and no opportunity to be heard regarding the dismissal of any of these cases.
100. According to witnesses, Judge Pratt’s dismissal of hundreds of active cases on December 30-31, 2013, required other judges and their staff to expend considerable time and resources, at taxpayers’ expense, to locate signed orders that had not been provided to clerks for processing and motions to reinstate that had been filed electronically but not handled by Judge Pratt before she left office. They also tried to notify affected parties who may not have received notice that their cases had been dismissed and attempted to reinstate cases before the courts lost jurisdiction.
101. Witnesses also stated that Judge Pratt’s dismissal of active cases created emotional and financial hardships for many parties. In numerous cases, parties incurred the additional expense of having their attorneys prepare motions to reinstate and appear in court to have their motions heard. In some cases, parties took advantage of the dismissals by depleting community assets and forcing themselves back into the marital home.
102. Witnesses raised concerns that parties who were not represented by attorneys would be particularly disadvantaged if they did not receive notice of the dismissal of their cases, did not know how to have their cases reinstated, or missed the deadline for requesting reinstatement.
103. Witnesses also reported that in at least one case, Judge Pratt signed an order dismissing the case and signed a final judgment in the case on the same date, forcing the parties to resolve the conflict in court at their own expense.
104. When asked to describe the process used to determine which cases to dismiss for want of prosecution, Judge Pratt testified that she had instructed court staff to provide her with a list of cases that were a year old or older.
105. Judge Pratt testified that she checked the status of some, but not all, of the cases, and relied on her memory in eliminating some active cases from the list.
106. Ultimately, Judge Pratt signed orders of dismissal in approximately 600 cases based on the list provided to her by court staff.

107. Judge Pratt acknowledged that parties and/or their attorneys were not provided with a separate notice of the court's intent to dismiss; however, she maintained that, in the months leading up to the signing of the dismissal orders, a notice of trial setting had been sent out to the parties or their attorneys in every case.
108. Judge Pratt went on to explain that the front and back of the notice of trial setting contained a warning that the case was subject to dismissal if certain conditions were not met. The notices also stated that cases pending more than 5 months without a trial setting would be set for a dismissal for want of prosecution ("DWOP") hearing.
109. Judge Pratt also represented that she held numerous DWOP hearings throughout the last five months of 2013, and that she simply waited until December 30-31, 2013 to sign the stack of dismissal orders provided to her by court staff, who assured her that DWOP notices had gone out as required.
110. A review of several dismissal orders provided to the Commission indicated that none of the orders included the date of the DWOP hearing, which was left blank.

RELEVANT STANDARDS

1. Article V, §1-a(6)A of the Texas Constitution provides that any judge may be disciplined for willful or persistent violation of the rules promulgated by the Supreme Court of Texas, willful violation of the Code of Judicial Conduct, incompetence in performing the duties of office, 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. Section 33.001(b) of the Texas Government Code, provides that a willful, persistent, and unjustifiable failure to timely execute the business of the court constitutes "willful or persistent conduct that is clearly inconsistent with the proper performance of the judge's duties."
3. Canon 2A of the Texas Code of Judicial Conduct provides that, "A judge shall comply with the law..."
4. Canon 3B(2) of the Texas Code of Judicial Conduct provides that, "A judge shall maintain professional competence in [the law]."
5. Canon 3B(8) of the Texas Code of Judicial Conduct provides that, "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."
7. Rule 165a of the Texas Code of Civil Procedure provides that before a case can be dismissed for want of prosecution, "notice of the court's intention to dismiss and the date and place of the dismissal hearing shall be sent by the clerk to each attorney of record, and to each party not represented by an attorney..."

CONCLUSIONS

The Commission concludes from the evidence presented that Judge Pratt failed to be diligent and failed to timely execute the business of the court in violation of Article V, section 1-a(6)A of the Texas Constitution. Specifically, with regard to the delays in the *Bates, DuPont*,

Hernandez-Rivera, and *Messier* Cases, although it is possible that Judge Pratt signed the various renditions, orders, and findings of fact on the dates noted beside her signature, the probability that this occurred appears remote given the totality of the circumstances. Judge Pratt's reputation for not showing up for court, not signing orders for months at a time, not disposing of cases in a timely manner, and having the largest backlog of pending cases of all the Harris County Family District Courts was supported by witnesses who appeared in the 311th District Court or worked with the judge on a regular basis and supports the conclusion that Judge Pratt simply failed to sign orders, renditions, and findings of fact in a timely manner. Compounding the problem was the fact that when the delays were initially brought to her attention, Judge Pratt took no action; however, when the 14th Court of Appeals became involved, Judge Pratt was suddenly able to produce the missing documents which she claimed to have signed months earlier.

The Commission does not accept Judge Pratt's contention that incompetent and untrained clerks were responsible for the delays in processing her orders and providing them to the parties, especially given the fact that Marilyn Epps, the clerk responsible for handling the orders, renditions, and findings of fact in the *Bates*, *DuPont*, *Hernandez-Rivera*, and *Messier* Cases, was a well-trained clerk with twenty-five years of experience. The evidence provided to the Commission demonstrated that Epps could not have received orders dated January 30, 2013, February 15, 2013, or March 25, 2013, until after she started working in Judge Pratt's court on April 24, 2013. As lead clerk, Epps would have processed the orders when she received them from Judge Pratt, which means that the judge was responsible for the delays. This conclusion is reinforced by the fact that following the May 15, 2013 order from the 14th Court of Appeals, Judge Pratt took no steps to ensure that her decisions were timely processed and provided to the parties, and continued to delay the signing of orders.

Based on the evidence before it, the Commission concludes that Judge Pratt did not issue the orders, renditions, and findings of fact in the *Bates*, *DuPont*, *Hernandez-Rivera*, and *Messier* Cases until the documents were finally provided to the parties. In light of this, the decisional delays in those cases were unreasonable and unjustified. The Commission notes that Judge Pratt provided no evidence that these cases involved particularly complex legal issues; however, it was evident that Judge Pratt was carrying a particularly heavy caseload, and a very large backlog, due to her own lack of diligence and neglect of her duties. Excluding the fact that Judge Pratt was frequently late to court and often missed or canceled court hearings and trials, there does not appear to be a legitimate justification for the pattern of delayed decision-making that occurred during the last years of Judge Pratt's tenure on the bench.

The Commission notes that the failure of a judge to promptly dispose of the business of the court in the absence of a justifiable reason for the delay reflects adversely on the entire judicial system. Prompt disposition of cases is critical to the parties appearing in court, especially when vulnerable children are involved, and necessary to prevent backlogs that interfere with the administration of justice. A judge who fails to show up for court hearings, appears late to court, or delays making decisions and signing orders in cases involving the rights of parents and the best interests of children, causes harm and a great disservice to parties, lawyers, witnesses, jurors, and other judges. A judge's unjustified decisional delays, tardiness, and absenteeism are harmful to the parties, damage the public's respect for and trust in the judiciary, and cannot be condoned.

With regard to the dismissal of more than 600 cases on December 30-31, 2013, the evidence shows that in most if not all instances, DWOP notices had not been sent to the parties or their attorneys and that DWOP hearings had not been held in violation of Rule 165a of the Texas Code of Civil Procedure. It was also clear to the Commission that Judge Pratt failed to take appropriate measures to ensure that active cases awaiting trial or the judge's signature on final orders were not included in the list of cases to be dismissed and that cases from which she had already been recused were not included on the list. Finally, if Judge Pratt's explanation is credible for why she signed DWOP orders in the cases from which she had been recused, and that she did so only to close the cases out of her court's docket and not with the intent to dismiss the entire case, then Judge Pratt demonstrated great incompetence in the performance of her duties. The Commission concludes that Judge Pratt's conduct in dismissing active cases for want of prosecution, including cases from which she was recused, violated Canons 2A, 3B(2), and 3B(8) of the Texas Code of Judicial Conduct and Article V, section 1-a(6)A of the Texas Constitution.

In condemnation of the above-recited conduct that violated Article V, §1-a (6) A of the Texas Constitution, and Canons 2A, 3B (2), and 3B (8) of the Texas Code of Judicial Conduct, it is the Commission's decision to issue a **PUBLIC REPRIMAND** to the Honorable Denise V. Pratt, Former Judge of the 311th Judicial District Court, Houston, Harris 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 the 4th day of September 2014.

ORIGINAL SIGNED BY

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