



**BEFORE THE STATE COMMISSION
ON JUDICIAL CONDUCT**

CJC Nos. 14-0106-JP & 14-0264-JP

**PUBLIC REPRIMAND
AND
ORDER OF ADDITIONAL EDUCATION**

**HONORABLE BOBBY R. NICHOLDS
JUSTICE OF THE PEACE, PRECINCT 3
TRINITY, TRINITY COUNTY, TEXAS**

During its meeting on October 15-16, 2014, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Bobby R. Nicholds, Justice of the Peace, Precinct 3, Trinity, Trinity County, Texas. Judge Nicholds was advised by letter of the Commission's concerns and provided written responses. After considering the evidence before it, the Commission entered the following Findings and Conclusion:

FINDINGS OF FACT

1. At all times relevant hereto, the Honorable Bobby R. Nicholds was Justice of the Peace, Precinct 3, Trinity, Trinity County, Texas.¹

The Toy Drive

2. Prior to the Christmas holidays in 2013, Judge Nicholds prepared the following flyer:

“Help me help little ones have a good Christmas. We will be having a toy drive at Judge Nicholds Office. Anything would be greatly appreciated. Thank you for the help. Judge Nicholds.”

¹ Judge Nicholds' current term as justice of the peace ends on December 31, 2014. Although Judge Nicholds did not seek reelection to that bench, he is currently serving as the municipal court judge for the City of Trinity, Texas.

3. The flyer contained the phone number for the court, as well as Judge Nicholds' personal phone number.
4. Although witnesses claimed that the flyer was posted at the courthouse and other county buildings, Judge Nicholds averred that the flyer was only posted at private businesses in the City of Trinity.
5. The toy drive referred to in the flyer was affiliated with Judge Nicholds' church, and was part of the church's "Toy Program," for which Judge Nicholds had served as the administrator for the past ten years.
6. Judge Nicholds estimated that approximately 100 toys were collected during the 2013 toy drive, which were brought to the courthouse, the church, and his home. The toys were then distributed to underprivileged children in the community at another location.
7. In his written response to the Commission's inquiry, Judge Nicholds stated that he participated in the toy drive for the sole purpose of assisting underprivileged children in the community.
8. According to Judge Nicholds, he did not use the toy drive as a means to obtain "political gain" and/or to further any of his own private interests.

Dismissing Cases without a Motion from the State

9. On or about October 10, 2011, a defendant appeared in Judge Nicholds' court to enter a plea to a speeding citation.
10. During the appearance, the defendant provided Judge Nicholds with "paperwork" indicating that his car had "tire damage," which the defendant alleged affected his car's speedometer and therefore caused him to be unaware of his actual speed.
11. After reviewing the paperwork and listening to the defendant's claims, Judge Nicholds concluded that it was not the defendant's "fault" that he had been speeding, and thereafter dismissed the citation, in exchange for a \$20.00 "dismissal fee."
12. The State did not request and/or file a motion to dismiss the citation; was not present at the defendant's court appearance; and was never involved in any of the proceedings.
13. When asked to describe the typical procedures that he follows when dismissing criminal cases, Judge Nicholds indicated that he typically "weigh[s] the evidence" presented to him and considers the circumstances involved in each case to determine if a dismissal is appropriate.
14. Judge Nicholds acknowledged that he makes the determination without any involvement or input from the State, and instead dismisses criminal cases based solely on his own independent review of the evidence submitted to him by the defendant.
15. Judge Nicholds denied that he dismissed a case as a favor to a friend, and stated that in every instance in which he dismissed a case he did so after making a finding that there was "good cause" for the dismissal.

16. The records provided by the court indicate that Judge Nicholds routinely charges defendants a \$20.00 dismissal fee in virtually every case in which he issues a dismissal.

RELEVANT STANDARDS

1. Canon 2A of the Texas Code of Judicial Conduct provides, in relevant part, that, “A judge shall comply with the law...”
2. Canon 2B of the Texas Code of Judicial Conduct provides, in relevant part, that, “A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge.”
3. Canon 3B(2) of the Texas Code of Judicial Conduct provides, in relevant part, that, “A judge shall maintain professional competence in [the law].”

CONCLUSION

The Commission concludes, based on the facts and evidence before it, that Judge Nicholds allowed his name, judicial title, and court facilities to be used to promote the private interests of his local church. Although the Texas Code of Judicial Conduct generally permits, and even encourages, judges to be involved in charitable and other community-based activities that do not reflect adversely on the judges’ impartiality or interfere in the performance of judicial duties, Canon 2B prohibits a judge from lending the prestige of judicial office to advance the private interests of the judge or others while engaging in such extrajudicial conduct. Because Judge Nicholds used his name and judicial title in the flyers promoting the church’s toy drive; utilized the courthouse to collect toys on behalf of the church; and allowed the court’s phone number to be used as a point of contact for the church’s toy drive, Judge Nicholds advanced the private interests of the church in a manner that was incompatible with the Texas Code of Judicial Conduct.

The Commission further concludes, based on the facts and evidence before it, that Judge Nicholds routinely and persistently failed to comply with the law and displayed a lack of professional competence in the law when he dismissed traffic citations without a motion from the State, in exchange for a \$20.00 dismissal fee. A judge does not have the authority to dismiss traffic citations without a motion from the State except in certain specified cases, as delineated by the Texas Transportation Code. Citations issued for speeding or other “non-compliance” violations are not among the types of cases that the Transportation Code authorizes a judge to dismiss.²

The Commission concludes that Judge Nicholds’ conduct in the above-described matters constituted willful and/or persistent violations of Canons 2A, 2B, and 3B(2) of the Texas Code of Judicial Conduct. In reaching this decision, the Commission took into account a prior public sanction issued to Judge Nicholds as an aggravating factor.

² The Texas Transportation Code allows a judge to dismiss certain citations, commonly referred to as “compliances cases,” upon receipt of proof that the defendant has corrected or remedied a defect, including citations issued for an expired inspection sticker or a failure to properly display a license plate. In such cases, the maximum fee that can be assessed when dismissing a compliance case ranges from \$10.00 to \$20.00 depending on the nature of the citation.

In condemnation of the conduct described above that violated Canons 2A, 2B and 3B(2) of the Texas Code of Judicial Conduct, it is the Commission's decision to issue a **PUBLIC REPRIMAND AND ORDER OF ADDITIONAL EDUCATION** to the Honorable Bobby R. Nicholds, Justice of the Peace, Precinct 3, Trinity, Trinity County, Texas.

Pursuant to this Order, Judge Nicholds must obtain **two (2) hours** of instruction with a mentor, in addition to his required judicial education for Fiscal Year 2015. In particular, the Commission desires that Judge Nicholds receive this additional education in the following areas: 1) avoiding lending the prestige of judicial office to advance the private interests of the judge or others; 2) the permitted circumstances in which a judge may dismiss a criminal case; and 3) the proper assessment of dismissal fees when dismissing compliance cases in accordance with the Texas Transportation Code.

Pursuant to the authority contained in §33.036 of the Texas Government Code, the Commission authorizes the disclosure of certain information relating to this matter to the Texas Justice Court Training Center or the Texas Municipal Courts Education Center to the extent necessary to enable those entities to assign the appropriate mentor for Judge Nicholds in this case.

Judge Nicholds shall complete the additional **two (2) hours** of instruction recited above within **sixty (60) days** from the date of written notification of the assignment of a mentor. It is Judge Nicholds' responsibility to contact the assigned mentor and schedule the additional education.

Upon the completion of the **two (2) hours** of instruction described herein, Judge Nicholds shall sign and return the Respondent Judge Survey indicating compliance with this Order. Failure to complete, or report the completion of, the required additional education in a timely manner may result in further Commission action.

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

The Commission has taken this action in a continuing effort to protect the 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 18th day of November, 2014.

ORIGINAL SIGNED BY

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