



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC Nos. 08-0908-JP, 09-0306-JP & 09-0731-JP

**PUBLIC ADMONITION
AND
ORDER OF ADDITIONAL EDUCATION**

**HONORABLE CESAR PEREZ
JUSTICE OF THE PEACE, PRECINCT 2
EAGLE PASS, MAVERICK COUNTY, TEXAS**

During its meeting on December 9-11, 2009, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable Cesar Perez, Justice of the Peace, Precinct 2, Eagle Pass, Maverick County, Texas. Judge Perez was advised by letter of the Commission's concerns and provided written responses. Judge Perez appeared with counsel before the Commission on October 14, 2009, and gave testimony. After considering the evidence before it, the Commission entered the following Findings and Conclusions.

FINDINGS OF FACT

1. At all times relevant hereto, the Honorable Cesar Perez was Justice of the Peace for Precinct 2 in Eagle Pass, Maverick County, Texas.

CJC No. 08-0908-JP

2. On March 18, 2008, Patricia Martinez ("Martinez") filed a small claims suit in Judge Perez's court against Gloria Garcia ("Garcia") for damages allegedly caused to her vehicle by Garcia's son.
3. On May 12, 2008, Judge Perez issued a citation commanding Garcia to appear and/or file a written answer in his court by May 21, 2008.

4. On May 19, 2008, a constable returned the citation to Judge Perez's court, noting that he had been unable to personally serve Garcia and had instead posted the citation on Garcia's door that same day.
5. On May 21, 2008, Garcia appeared in court, but Martinez did not.
6. Judge Perez's clerk subsequently telephoned Martinez to find out why she had failed to appear for the hearing. Martinez advised the clerk that she had not received notice of the hearing and asked her to reschedule the trial for the following day.
7. Judge Perez's clerk then advised both parties by telephone that they were to appear for a hearing two days later, on May 23, 2008. However, Garcia advised the clerk that she might not be able to attend the hearing because she had to work that day.
8. The judge thereafter signed an undated trial setting notice, stating that he had set the case for hearing on May 23, 2008, and that he was sending a copy of the notice to both parties.
9. On May 23, 2008, Martinez appeared for the hearing, but Garcia did not.
10. On that date, Judge Perez signed a default judgment in Martinez's favor, awarding damages in the amount of \$404.12.
11. Judge Perez's clerk subsequently telephoned Garcia to find out why she had not appeared for the hearing, and Garcia told her that she had not been able to leave work that day.
12. On June 4, 2008, Judge Perez's clerk called both parties and notified them of yet another hearing scheduled for June 10, 2008 at 1:30 p.m.
13. According to Martinez, when she learned that Judge Perez had set a new trial date in her case, she believed that he had done so as the result of an improper *ex parte* communication with Garcia, and she further believed that Garcia must have been in a special position to influence Judge Perez.
14. Judge Perez testified during his informal appearance that he did not recall vacating the initial default judgment in the case, and he further could not recall why a second hearing was held.
15. He acknowledged, however, that court records revealed that a second trial was held on June 16, 2008, and that he thereafter entered a second judgment in favor of Martinez, again awarding her damages in the amount of \$404.12.

CJC No. 09-0306-JP

16. On December 5, 2007, Judge Perez met in his office with Martha Chacon, the former Maverick County Justice of the Peace for Precinct Two, and her adult son, Adrian Chacon ("Adrian"), to discuss a traffic ticket that Adrian had received, which was pending in the court of Kinney County Justice of the Peace Narce Villarreal.
17. According to Judge Villarreal and her former court clerk, Patricia Hidalgo ("Hidalgo"), Judge Perez telephoned their office and advised Hidalgo that he wished to speak with Judge Villarreal about Adrian's case.
18. After Hidalgo informed Judge Perez that Judge Villarreal was unavailable, Judge Perez began discussing Adrian's case with Hidalgo.
19. According to Hidalgo, Judge Perez advised her that Adrian was trying to enlist with the Border Patrol and "did not need this ticket" on his record. Judge Perez then asked Hidalgo if Judge Villarreal would either grant deferred disposition or dismiss the ticket.

20. According to Judge Villarreal, this was not the first time that Judge Perez had contacted her office attempting to obtain favorable treatment on behalf of a friend or family member.
21. Judge Perez acknowledged that he met with the Chacons in his court office on December 5, 2007 to discuss Adrian's traffic ticket, explaining that the Chacons came to him seeking "guidance" on how to handle the matter. According to Judge Perez, however, the Chacons did not tell him what type of ticket Adrian had received and did not give him any information regarding the procedural posture of the case.
22. According to Judge Perez, the Chacons informed him that they had been unsuccessfully trying to schedule a "meeting" with Judge Villarreal regarding Adrian's ticket, but did not tell him what type of meeting they were attempting to schedule.
23. Judge Perez acknowledged that he contacted Judge Villarreal's office on the Chacons' behalf from his court office, and spoke with a member of Judge Villarreal's court staff in an attempt to schedule a meeting between the Chacons and Judge Villarreal.
24. According to Judge Perez, he did not call Judge Villarreal's office "in [his] capacity as a justice of the peace," and was instead "merely assisting a family that was having difficulty in scheduling a meeting with Judge Villarreal."
25. Judge Perez acknowledged, however, that he did identify himself as a judge when he spoke with Judge Villarreal's court staff.

CJC No. 09-0731-JP

26. On or about November 12, 2008, John Bowles ("Bowles") filed a small claims lawsuit against Hugo Buentello ("Buentello"), seeking \$6,000 in damages in compensation for a trailer that Buentello had allegedly borrowed from him and failed to return.
27. Judge Perez conducted a trial in the matter on February 24, 2009, after which he issued a judgment ordering Buentello to return the trailer to Bowles. The judgment did not provide for any monetary damages, and did not place a monetary value on the trailer.
28. On April 2, 2009, Judge Perez issued a writ of execution, in which he authorized the constable or sheriff to seize the trailer on Bowles' behalf, pursuant to his judgment.
29. The writ of execution also stated that if the trailer could not be found, the constable or sheriff had the authority to seize other personal property equivalent to the value of the trailer from Buentello; the writ, however, failed to specify the value of said trailer.
30. Bowles thereafter appeared on Buentello's property, along with a Maverick County Deputy Sheriff, attempting to execute on the judgment. Bowles' attorney, believing that the judgment was void, contacted the Maverick County Attorney's office, who apparently advised the deputy to refrain from the execution.
31. Although it is not entirely clear how this matter came to Judge Perez's attention, on April 16, 2009, Judge Perez issued an "amended" judgment, in which he again ordered the trailer returned to Bowles, but added an award of monetary damages to Bowles in the amount of \$6,000, together with 10% interest.
32. According to Judge Perez, he amended the judgment in an attempt to render it in compliance with Rule 560 of the Texas Rules of Civil Procedure, which provides that:

"Where the judgment is for the recovery of specific articles, their value must be separately assessed, and the judgment shall be that the plaintiff recover

such specific articles, if they can be found, and if not, then their value as assessed with interest thereon at the rate of six per cent from the date of judgment.”

33. Judge Perez stated that he consulted with the county attorney before doing so, and was advised to amend the judgment in this fashion.
34. Judge Perez acknowledged that he did not notify either of the parties prior to amending the judgment.
35. Judge Perez was unable to cite to any authority that would allow him to *sua sponte* amend his original judgment more than seven (7) weeks after its initial entry.

RELEVANT STANDARDS

1. Canon 2A of the Texas Code of Judicial Conduct states, in pertinent part: “A judge shall comply with the law....”
2. Canon 2B of the Texas Code of Judicial Conduct states, in pertinent part: “A judge shall not use the prestige of judicial office to advance the private interest of the judge or others.”
3. Canon 3B(2) of the Texas Code of Judicial Conduct states, in pertinent part: “A judge . . . shall maintain professional competence in [the law].”

CONCLUSION

The Commission concludes from the facts and evidence presented in CJC No. 08-0908-JP, that Judge Perez failed to follow the law and failed to maintain professional competence in the law, in violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct, by: (a) issuing a citation affording the defendant less than ten (10) days to answer the suit and/or appear for trial; (b) failing to provide adequate notice of any trial settings to either party; and (c) holding a second trial after a default judgment had already been entered based solely on an oral request from the defendant.

The Commission also concludes from the facts and evidence presented in CJC No. 09-0306-JP, that Judge Perez lent the prestige of his judicial office in an attempt to advance the private interests of Adrian Chacon, in violation of Canon 2B of the Texas Code of Judicial Conduct, by contacting Judge Narce Villarreal’s office in an effort to persuade the judge, through her court staff, to provide a favorable resolution to Adrian’s pending traffic citation.

The Commission further concludes from the facts and evidence presented in CJC No. 09-0731-JP, that Judge Perez failed to follow the law and failed to maintain professional competence in the law, in violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct, by: (a) issuing a final judgment and a writ of execution in a small claims proceeding for the return of property, in violation of Chapter 28 of the Texas Government Code; and (b) issuing an amended judgment on his own motion and without notice to the parties, well after his court had lost jurisdiction over the matter.

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 ADMONITION AND ORDER OF ADDITIONAL EDUCATION** to the Honorable Cesar Perez, Justice of the Peace, Precinct 2, Eagle Pass, Maverick County, Texas.

Pursuant to this Order, Judge Perez must obtain **five (5) hours** of instruction with a mentor, in addition to his required judicial education. In particular, the Commission desires that Judge Perez receive this additional education in the area of procedures to be followed in civil cases and in small claims cases in particular.

Judge Perez shall complete the additional **five (5) hours** of instruction recited above within **sixty (60) days** from the date of written notification of the assignment of a mentor. It is Judge Perez's responsibility to contact the assigned mentor and schedule the additional education.

Upon the completion of the **five (5) hours** of instruction described herein, Judge Perez 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 ADMONITION AND ORDER OF ADDITIONAL EDUCATION** by the Commission.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this __17th__ day of December, 2009.

ORIGINAL SIGNED BY

Honorable Jorge C. Rangel, Chair
State Commission on Judicial Conduct