



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC No. 06-0707-JP

**PUBLIC ADMONITION
AND
ORDER OF ADDITIONAL EDUCATION**

**HONORABLE GREGORY MIDDENTS
JUSTICE OF THE PEACE, PRECINCT 1
SHERMAN, GRAYSON COUNTY, TEXAS**

During its meeting on February 13-15, 2008, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Gregory Middents, Justice of the Peace for Precinct 1, Sherman, Grayson County, Texas. Judge Middents was advised by letter of the Commission's concerns and provided a written response. Judge Middents appeared before the Commission on February 14, 2008, 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 Gregory Middents was Justice of the Peace for Precinct 1 in Sherman, Grayson County, Texas.
2. In May of 2005, Judge Middents signed an order holding a 17-year-old student in constructive contempt of court. He sent her to jail and fined her \$100.
3. In his constructive contempt order, Judge Middents stated that the student had violated "Orders of this Court" without identifying the specific order violated, nor did he state how long she was to be incarcerated or when her fine was due.
4. Although asked to do so, Judge Middents was unable to provide the Commission with any court documents showing that the student had been personally served with notice of a contempt hearing or that a summons, subpoena, or warrant had been issued to secure her appearance in court.

5. Although asked to do so, Judge Middents was unable to provide the Commission with any court documents reflecting that he issued show cause orders or equivalent legal process informing the student of when, how and by what means she was guilty of contempt.
6. Although asked to do so, Judge Middents was unable to provide the Commission with any court documents substantiating his testimony that he had advised the student of her right to be represented by counsel and that the student had waived her rights before he conducted the contempt hearing.
7. Although asked to do so, Judge Middents was unable to provide the Commission with any documentation or notation that a prosecutor was present at any of these proceedings, nor did he identify any testifying witnesses.
8. Judge Middents told the Commission that the student had appeared before him previously for failing to attend school.
9. Although asked to do so, Judge Middents was unable to provide the Commission with all of the court records relating to the student's case.
10. When asked if the student had been under the age of 17 at the time of her alleged offense, Judge Middents was unable to recall or provide court records supporting this fact.
11. According to the few court records that Judge Middents did provide to the Commission in response to this inquiry, several personal criticisms about the student had been noted by the judge on the court file.
12. In addition to the student's case, between 2003 and 2005, Judge Middents held several parents in constructive contempt of court, sending them to jail and fining them \$100 as well.
13. As was true in the student's case, Judge Middents' constructive contempt orders in the parents' cases did not identify specific court orders that they had violated, nor did the judge indicate how long the parents were to be incarcerated or when their fines were due.
14. As was true in the student's case, Judge Middents was asked to provide the Commission with court records relating to the parents' cases.
15. Judge Middents was unable to provide the Commission with court records showing that: the parents had been personally served with notice of their contempt hearings or that a summons, subpoena, or warrant was issued to secure their appearances in court; he issued show cause orders or equivalent legal process informing the parents of when, how and by what means they were guilty of contempt; he had advised the parents of their right to be represented by counsel and that they had waived their rights, before he conducted their contempt hearings; a prosecutor was present at any of these proceedings.
16. In his testimony before the Commission, Judge Middents was unable to provide the names of the children of the parents who had been held in contempt, nor was he able to recall whether the parents had been charged with thwarting their children's school attendance.

17. According to the few court records that Judge Middents did provide to the Commission in response to this inquiry, several personal criticisms about the parents had been noted by the judge on the court files.

RELEVANT STANDARDS

1. Canon 2A of the Texas Code of Judicial Conduct states: “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.”
2. 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 finds from the facts and evidence presented that Judge Middents improperly exercised his contempt authority by failing to provide the alleged contemnors with full and unambiguous notification of when, how and by what means they had been guilty of contempt. Judge Middents also failed to advise the alleged contemnors at the contempt hearing of their right to counsel, failed to admonish them about proceeding without counsel, and failed to obtain the defendants’ knowing and voluntary waiver of counsel before finding them in contempt and ordering their confinement in jail. Further, the judge failed to document court proceedings properly and wrote improper personal notes about the defendants in their public records. Finally, the judge did not determine if he had the legal authority to incarcerate a 17-year-old student for constructive contempt. The judge’s actions in failing to properly exercise his contempt authority constituted a serious and persistent failure to comply with the law, in violation of Canon 2A of the Texas Code of Judicial Conduct, and a fundamental lack of professional competence in the law, in violation of Canon 3B(2) of the Texas Code of Judicial Conduct.

In condemnation of the conduct described above that violated Canons 2A 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 Gregory Middents, Justice of the Peace for Precinct 1 in Sherman, Grayson County, Texas.

Pursuant to the order, Judge Middents must obtain **eight (8) hours** of instruction with a mentor in addition to his required judicial education. In particular, the Commission directs that Judge Middents receive instruction as follows:

- Two (2) hours of additional training concerning the court’s contempt authority and proper procedures to be followed before finding a person in constructive contempt of court;
- Two (2) hours of additional training concerning a criminal defendant’s right to due process under the United States and Texas constitutions.

- Two (2) hours of additional training concerning §25.093 of the TEXAS EDUCATION CODE, “Parent Contributing to Nonattendance” (formerly titled “Thwarting Compulsory Attendance Law”); and
- Two (2) hours of additional training concerning both §25.094 of the TEXAS EDUCATION CODE , “Failure to Attend School,” and Art. 45.050 of the TEXAS CODE OF CRIMINAL PROCEDURE, “Failure to Pay Fine; Contempt: Juveniles.”

Judge Middents shall complete the additional **eight (8) hours** of instruction recited above within **ninety (90) days** from the date of written notification of the assignment of a mentor. It is Judge Middents’s responsibility to contact the assigned mentor and schedule the additional education.

Upon the completion of the **eight (8) hours** of instruction described herein, Judge Middents 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 with the intent of assisting Judge Middents in his continued judicial service, as well as in a continuing effort to protect public confidence in the judicial system and to assist the state’s judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this __28th__ day of __February____, 2008.

ORIGINAL SIGNED BY

Honorable Sid Harle, Chair
State Commission on Judicial Conduct

