



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC No. 06-0309-JP

**PUBLIC ADMONITION
AND
ORDER OF ADDITIONAL EDUCATION**

**HONORABLE JOSIE GOMEZ
JUSTICE OF THE PEACE, PRECINCT 2
CRYSTAL CITY, ZAVALA COUNTY, TEXAS**

During its meeting on June 13-15, 2007, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Josie Gomez, Justice of the Peace for Precinct 2, Crystal City, Zavala County, Texas. Judge Gomez was advised by letter of the Commission's concerns and provided a written response. Judge Gomez appeared with counsel before the Commission on April 18, 2007, 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 Josie Gomez was Justice of the Peace for Precinct 2 in Crystal City, Zavala County, Texas.
2. On or about September 9, 2005, a criminal complaint was filed in Judge Gomez' court against Erasmo Ramon, a local police officer, charging him with assault.
3. Over the course of several weeks, Judge Gomez summoned witnesses, including the complaining witness, to appear in her office, where she met with each

- individual privately in an attempt to “gather information pertaining to the allegations.”
4. Neither a prosecutor nor Officer Ramon was present during these meetings.
 5. On or about September 19, 2005, Judge Gomez issued a summons ordering the defendant, Officer Ramon, to appear in her office at 10:00 a.m. the following day, to answer to the charge of assault.
 6. On or about September 27, 2005, Officer Ramon and his wife appeared before Judge Gomez, at which time he was shown a copy of the complaint made against him.
 7. There is no evidence that a plea was entered by Officer Ramon in the case.
 8. No other witnesses were present at this proceeding.
 9. No prosecutor was present at this proceeding.
 10. During the proceeding, Judge Gomez questioned Officer Ramon about the allegations.
 11. There is no evidence that Officer Ramon was advised of his constitutional rights, or that he knowingly waived any of those rights.
 12. On or about October 4, 2005, Judge Gomez sent a letter to law enforcement officials in which she stated that after reviewing the reports and paperwork filed in her court and interviewing some of the witnesses, she was unable to rule on the case due to lack of evidence. She then requested further investigation by police officers.
 13. In a letter dated October 7, 2005, the Sheriff’s Department responded to the judge by informing her that it had completed its investigation into the charges against the defendant.
 14. On or about October 10, 2005, based upon her review of the complaint, the offense report, and her private discussions with the various witnesses in the case, Judge Gomez found Officer Ramon guilty of assault.
 15. On or about October 12, 2005, Officer Ramon received a certified letter from Judge Gomez containing a copy of the complaint against him. On that complaint the judge had made a hand-written notation indicating that he had been found guilty. The notation also stated that a \$250 fine was to be paid by November 9, 2005.
 16. Through an attorney, the defendant filed an application for a writ of certiorari with the county court, but his attempts to challenge the conviction were unsuccessful because Judge Gomez never entered a final judgment in the case.
 17. The attorney also filed a motion for new trial, which Judge Gomez eventually granted on August 24, 2006. The judge also recused herself from the case at that time.

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].”
3. Canon 6C(2) of the Texas Code of Judicial Conduct states, in pertinent part: “A justice of the peace or municipal court judge, except as authorized by law, shall not directly or indirectly initiate, permit, nor consider *ex parte* or other communications concerning the merits of a pending judicial proceeding.”

CONCLUSION

The Commission concludes based on the facts and evidence before it that Judge Gomez failed to comply with the law and demonstrated a fundamental lack of professional competence in the law by (a) privately meeting with witnesses in a criminal case to discuss the merits of the allegations outside the presence of the defendant and a prosecutor, (b) conducting her own independent investigation of the allegations, (c) failing to take a plea from the defendant, (d) failing to advise the defendant of his basic constitutional rights, (e) proceeding to trial in the absence of a prosecutor, (f) finding the defendant guilty when no *prima facie* proof had been presented by a prosecutor, (g) ignoring the defendant’s right to a jury trial, his right to confront and cross-examine his accuser and witnesses, and his right against self-incrimination, (h) failing to render her judgment in open court, and (i) failing to reduce the judgment of conviction to writing. Judge Gomez’ actions in this matter constituted willful violations of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.

In condemnation of the conduct described above that violated Canons 2A, 3B(2), and 6C(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 Josie Gomez was Justice of the Peace for Precinct 2 in Crystal City, Zavala County, Texas.

Pursuant to the order, Judge Gomez must obtain **eight (8) hours** of instruction with a mentor in addition to her required judicial education. In particular, the Commission desires that Judge Gomez receive additional education in pretrial and trial procedures in criminal matters, with particular attention to the constitutional rights a criminal defendant has both before and during trial, and what options are available to judges when a prosecutor does not appear to prosecute a criminal trial. In addition to this training, Judge Gomez should sit through and observe at least 2 to 3 criminal trials in a Justice of the Peace court with the mentor.

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 to the extent necessary to enable that entity to assign the appropriate mentor for Judge Gomez in this case.

Judge Gomez 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 Gomez' responsibility to contact the assigned mentor and schedule the additional education.

Upon the completion of the **eight (8) hours** of instruction described herein, Judge Gomez 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 Gomez in her 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 15th day of JUNE, 2007.

ORIGINAL SIGNED BY

Honorable Joseph B. Morris, Chair
State Commission on Judicial Conduct