



**BEFORE THE STATE COMMISSION
ON JUDICIAL CONDUCT**

CJC No. 25-0078

**PUBLIC REPRIMAND
AND
ORDER OF ADDITIONAL EDUCATION**

**HONORABLE FRANCISCO “FRANK” GUTIERREZ
JUSTICE OF THE PEACE, PCT 3, PL. 1
LUBBOCK, LUBBOCK COUNTY, TEXAS**

During its meeting on June 3, 2026, the State Commission on Judicial Conduct concluded a review of the allegations in this matter against the Honorable Francisco “Frank” Gutierrez, the Justice of the Peace, Precinct 3, Place 1 in Lubbock, Lubbock County, Texas. Judge Gutierrez was advised by letter of the Commission’s concerns but failed to provide a written response.

After considering the evidence before it, the Commission enters the following Findings and Conclusion:

FINDINGS OF FACT

1. At all relevant times, the Honorable Francisco “Frank” Gutierrez served as Justice of the Peace, Precinct 3, Place 1 in Lubbock, Lubbock County, Texas.
2. Judge Gutierrez presided over *LVNV Funding LLC v. Shelby Ishmael*, Cause No. J3-2023-CV-1705 (the “Ishmael Case”), a debt claim case.
3. On December 14, 2023, LVNV Funding LLC (“LVNV”) filed *Plaintiff’s Request for Final Trial Setting*, but Judge Gutierrez failed to schedule or set a trial date for the Ishmael Case.
4. On April 29, 2024, Kyle Deese (“Deese”), attorney for the Respondent, Shelby Ishmael, (“Ishmael”) filed *Defendant’s Motion to Compel Arbitration and Dismiss Suit*.
5. On April 30, 2024, Judge Gutierrez set *Defendant’s Motion to Compel Arbitration and Dismiss Suit* for a hearing by submission on May 29, 2024.

6. On May 29, 2024, instead of holding the submission hearing as planned, Judge Gutierrez converted the submission hearing to a final trial but failed to provide notice to either party.
7. On the same day, Judge Gutierrez signed a *Judgment* in favor of LVNV. On the *Judgment*, it stated it was “Approved and Entry Requested by Victoria Barboza, Attorney for Plaintiff.”
8. On May 30, 2024, Judge Gutierrez signed and filed an *Order Denying the Defendant’s Motion to Compel Arbitration and Dismiss Suit*.
9. On July 8, 2024, LVNV, through its attorney, Matthew Clark, and Deese filed an *Agreed Motion to Set Aside Judgment*. In the motion, both LVNV and Deese allege Judge Gutierrez signed the *Judgment* on May 29, 2024, but failed to provide notice of the trial since a trial had never been scheduled, it was a contested matter, and neither party announced ready for trial.
10. On July 19, 2024, Judge Gutierrez signed an *Order on Motion to Reinstate*, denying the reinstatement due to untimely filing pursuant to Tex. R. Civ. P. 505.3(b).
11. On August 19, 2024, Deese filed an *Application for Writ of Certiorari* in County Court at Law No. 3 in Lubbock County.
12. On August 21, 2024, Lubbock County Court at Law Judge Benjamin Webb signed the *Order of Issuance of Writ of Certiorari*, granting Deese’s *Application for Writ of Certiorari*.
13. On September 11, 2024, Judge Gutierrez signed a *Transcript of Judgment* regarding the Ishmael Case in which he notes on May 29, 2024, “Judgment for plaintiff (presented and requested by local counsel representing counsel at hearing on 5/29/24).”
14. On October 15, 2024, Judge Gutierrez signed an *Order to Vacate Judgment* due to a written *Order for Issuance of Writ of Certiorari* issued and signed by Judge Webb.
15. On March 6, 2026, the State Commission on Judicial Conduct emailed and mailed a Letter of Inquiry to Judge Gutierrez to his court address and email address. He was given until April 6, 2026 to respond. Judge Gutierrez did not respond.
16. On April 16, 2026, the Commission contacted Judge Gutierrez at his court office regarding the Letter of Inquiry. Judge Gutierrez confirmed both the email address and the mailing address were correct on the Letter of Inquiry. Judge Gutierrez stated he did not recall receiving the letter and would need to do some searching. Further, he added that he was not “mindful” of the letter, but would get the Commission a response as soon as possible.
17. After the conversation with Judge Gutierrez, the Letter of Inquiry was emailed to the confirmed email address on April 16, 2026. He was given until April 23, 2026 to respond. Judge Gutierrez did not respond.
18. On June 10, 2026, the State Commission on Judicial Conduct emailed and certified mailed a Tentative Public Reprimand and Order of Additional Education (the “Tentative Sanction”) to Judge Gutierrez to his court address and email address. The United States Postal Service (“USPS”) tracking number confirmed the Tentative Sanction was picked up on June 15, 2026. Judge Gutierrez was given until June 26, 2026 to respond. He did not respond.

19. On July 6, 2026, the Commission contacted Judge Gutierrez at his court office regarding the Tentative Sanction. Judge Gutierrez stated he had not seen the Tentative Sanction, but he would look for it. That same day, the Commission, via email, resent the Tentative Sanction and provided the USPS tracking number regarding the certified mail of the Tentative Sanction sent on June 10th. Judge Gutierrez did not respond.

RELEVANT STANDARDS AND AUTHORITIES

1. Canon 2A of the Texas Code of Judicial Conduct provides, in relevant part, “A judge shall comply with the law...”
2. Canon 3B(2) of the Texas Code of Judicial Conduct provides, in relevant part, “A judge...shall maintain professional competence in [the law].”
3. Canon 3B(8) of the Texas Code of Judicial Conduct provides, in relevant part, “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.”
4. Canon 6C(2) of the Texas Code of Judicial Conduct provides, in relevant part, “A justice of the peace or a 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.”
5. Article V, Section 1-a(6)A of the Texas Constitution provides, in relevant part, “a judge shall not engage in “willful or persistent conduct that is clearly inconsistent with the proper performance of person’s duties or casts public discredit upon the judiciary or administration of justice.”
6. Section 33.001(b)(5) of Texas Government Code provides that a judge’s failure to cooperate with the Commission constitutes “willful or persistent conduct that is clearly inconsistent with the proper performance of a judge’s duties,” and therefore constitutes a violation of Article V, Section 1-a(6)(A) of the Texas Constitution.
7. Texas Rule of Civil Procedure 503.3(a) provides, in relevant part, “After the defendant answers, the case will be set on a trial docket at the discretion of the judge. The court must send a notice of the date, time, and place of this setting to all parties at their address of record no less than 45 days before the setting date, unless the judge determines that an earlier setting is required in the interest of justice. Reasonable notice of all subsequent settings must be sent to all parties at their addresses of record.”
8. Texas Rule of Civil Procedure 503.6 provides, “(a) *Docket Called*. On the day of the trial setting, the judge must call all of the cases set for trial that day. (b) *If Plaintiff Fails to Appear*. If the plaintiff fails to appear when the case is called for trial, the judge may postpone or dismiss the suit. (c) *If Defendant Fails to Appear*. If the defendant fails to appear when the case is called for trial, the judge may postpone the case, or may proceed to take evidence. If the plaintiff proves its case, judgment must be awarded for the relief proven. If the plaintiff fails to prove its case, judgment must be rendered against the plaintiff.”

9. Texas Rule of Civil Procedure 504.1(a) provides, “Any party is entitled to a trial by jury. A written demand for a jury must be filed no later than 14 days before the date a case is set for trial. If the demand is not timely, the right to a jury is waived unless the late filing is excused by the judge for good cause.”
10. Texas Rule of Civil Procedure 505.3(b) provides, “A defendant against whom a default judgment is granted may file a motion to set aside the judgment no later than 14 days after the judgment is signed. The defendant must serve the plaintiff with a copy of the motion no later than the next business day using a method approved under Rule 501.4. The court may set aside the judgment and set the case for trial for good cause shown.”
11. Texas Rule of Civil Procedure 508.3(d) provides, “If the defendant files an answer or otherwise appears in a case before a default judgment is signed by the judge, the judge must not render a default judgment and must set the case for trial.”

CONCLUSION

Based upon the record before it and the factual findings recited above, the Texas State Commission on Judicial Conduct has determined that the Honorable Francisco “Frank” Gutierrez, Justice of the Peace, Precinct 3, Place 1 in Lubbock, Lubbock County, Texas, should be publicly reprimanded and ordered to take additional education for: (1) failing to comply with the law and maintain professional competence in the law when he: (a) failed to set the Ishamel Case on the trial docket after Deese filed an answer on behalf of the defendant; (b) failed to provide notice of the date, time, and place of the trial setting for the Ishamel Case; and (c) failed to give Deese notice of the trial, therefore depriving him of his opportunity to file a written jury demand 14 days before the date of the Ishmael Case; (2) failing to 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 when he failed to have a hearing, receive evidence, or provide notice of a trial setting to either LVNV or Deese before signing the *Judgement* in the Ishmeal Case; (3) engaging in improper *ex parte* communications when he signed a *Judgment* in which Deese was not notified of the trial setting and confirmed in the *Transcript of Judgment*; and (4) failing to cooperate with Commission regarding the investigation of this complaint. Judge Gutierrez’s failures in these respects constituted willful and persistent conduct that is clearly inconsistent with the proper performance of his duties and cast public discredit upon the judiciary or the administration of justice, in violation of Canons 2A, 3B(2), 3B(8) and 6C(2) of the Texas Code of Judicial Conduct and Article V, Section 1-a(6)A of the Texas Constitution.

Pursuant to this Order, Judge Gutierrez must obtain **four (4) hours** of instruction with a mentor, in addition to his required annual judicial education for Fiscal Year 2026. In particular, the Commission desires that Judge Gutierrez receive three (3) hours of this additional education in the areas of court procedures as they relate to providing proper notice, meeting deadlines, and improper *ex parte* communications, and one (1) hour of additional education in the area of cooperating with the State Commission on Judicial Conduct. Pursuant to the authority contained in Section 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 Gutierrez.

Judge Gutierrez shall complete the additional **four (4) hours** of instruction recited above within **60 days** from the date of written notification of the assignment of a mentor. Upon receiving

such notice, it is Judge Gutierrez's responsibility to contact the assigned mentor and schedule the additional education.

The Commission has taken this action pursuant to the authority conferred it in Article V, Section 1-a(8) of the Texas Constitution in a continuing effort to promote confidence in and high standards for the judiciary.

Issued this the _25th_ day of ____August____, 2026.

Ken Wise

Ken Wise
Interim Chair, State Commission on Judicial Conduct