



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC Nos. 07-0327-MU & 07-0359-MU

PUBLIC ADMONITION

**HONORABLE ALLEN GILBERT
MUNICIPAL COURT JUDGE
SAN ANGELO, TOM GREEN COUNTY, TEXAS**

During its meeting on February 13-15, 2008, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Allen Gilbert, Municipal Court Judge, San Angelo, Tom Green County, Texas. Judge Gilbert was advised by letter of the Commission's concerns and provided a written response. Judge Gilbert appeared with counsel before the Commission on February 15, 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 Allen Gilbert was the Municipal Court Judge for the City of San Angelo, Tom Green County, Texas.
2. On the morning of November 8, 2006, Judge Gilbert, while reading the local newspaper, noted an advertisement for a local "gentleman's club" announcing the upcoming performance of an exotic dancer with a name very similar to that of the assistant city prosecutor assigned to his court.
3. Judge Gilbert shared the advertisement with several people employed by the city and over whom he had supervisory authority. Together, the judge and several city employees created their own flyer out of the advertisement in an effort to make a joke at the city prosecutor's expense.
4. The flyer consisted of a letter-sized copy of the original advertisement promoting the exotic dancer, along with the following captions added to the bottom of the

- page by Judge Gilbert's court staff involved in the prank: (1) "Let her take your law into her hands!" (2) "Let her handle your case!" and (3) "[She] wants to prosecute you!"
5. With Judge Gilbert's tacit approval, several of these flyers were placed in public areas around the courthouse.
 6. That same morning, the city prosecutor saw the flyers as she arrived at the courthouse and began removing them from where they had been posted.
 7. According to the city prosecutor, when she inquired as to who was responsible for posting the flyers, Judge Gilbert told her that he had found the advertisement in the paper that morning and stated he "could not resist."
 8. Following the meeting with the city prosecutor, Judge Gilbert carried an unknown number of the flyers to the headquarters of the San Angelo Police Department, where he posted at least one of the flyers on a door, and left a second one with a senior officer.
 9. The city prosecutor, having been told that the flyers had been posted at the police department, proceeded to that building where she observed Judge Gilbert as he was leaving.
 10. When the city prosecutor arrived at the police department, she found a dollar bill attached to one of the flyers, placed there by someone at the department, not Judge Gilbert. She removed the offending flyer.
 11. That afternoon, the city prosecutor accompanied Judge Gilbert and another court employee to Mertzon, Texas, where Judge Gilbert was to preside over the court docket for that city.
 12. Upon arriving in Mertzon, Judge Gilbert shared the story of the flyers with court personnel. Additionally, Judge Gilbert's employee informed those present that an additional comment had been considered for the poster, to wit: "She wants to beat your case," or words to that effect.
 13. On November 11, 2006, Judge Gilbert was placed on paid leave by the San Angelo City Council, pending an investigation into the incident.
 14. On December 5, 2006, the city council voted to suspend Judge Gilbert without pay for two weeks, finding that he had violated the city's policy against sexual harassment and citing his "bad judgment" and "irresponsible behavior" in the matter.
 15. The incident described above received local media attention.

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(4) of the Texas Code of Judicial Conduct states, in pertinent part, “A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity . . .”

CONCLUSION

The Commission concludes based on the facts and evidence before it that Judge Gilbert failed to comply with the law when he violated the city’s policy against sexual harassment by either creating or allowing his court staff to create and post the offending flyers in public areas in and around the courthouse, where he knew the city prosecutor and her colleagues would observe them. The Commission further finds that Judge Gilbert’s treatment of the city prosecutor, an attorney who regularly appeared in his courtroom, demonstrated more than a mere lapse of judgment. As a public official charged with upholding the honor and integrity of the judiciary, Judge Gilbert knew or should have known that his behavior was irresponsible, lacked dignity, and would be perceived as offensive, disrespectful, and discourteous to the attorney and others. In light of this, the Commission finds that Judge Gilbert’s conduct in this matter constituted a willful violation of Canons 2A and 3B(4) of the Texas Code of Judicial Conduct.

In condemnation of the conduct described above that violated Canons 2A and 3B(4) of the Texas Code of Judicial Conduct, it is the Commission’s decision to issue a **PUBLIC ADMONITION** to the Honorable Allen Gilbert, Municipal Court Judge, San Angelo, Tom Green County, Texas.

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** 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 ____ day of _____, 2008.

Honorable Sid Harle, Chair
State Commission on Judicial Conduct