



STATE COMMISSION ON JUDICIAL CONDUCT

PUBLIC STATEMENT No. PS-2008-1

On January 21, 2003, following the filing of formal charges and a public trial against the Honorable Robert Jenevein, former judge of the County Court at Law No. 3, in Dallas, Dallas County, Texas, the State Commission on Judicial Conduct issued an Order of Public Censure against Jenevein. Thereafter, the former judge attempted to appeal the Public Censure by petitioning the Supreme Court of Texas to appoint a Special Court of Review. On June 12, 2003, the Special Court of Review determined that pursuant to the Texas Procedural Rules for the Removal or Retirement of Judges, it had no authority to review an Order of Public Censure issued by the Commission following a formal proceeding and dismissed the appeal. *In re Jenevein*, 158 S.W.3d 116 (Tex.Spec.Ct.Rev. 2003).

After the Special Court of Review dismissed his appeal, Jenevein filed a federal lawsuit against the Commission in the United States District Court for the Western District of Texas, Austin Division. After the United States District Court Judge granted a motion for summary judgment filed by the Office of the Attorney General on behalf of the Commission, Jenevein filed an appeal with the Fifth Circuit Court of Appeals. On July 20, 2007, the Fifth Circuit Court of Appeals issued an opinion in which it upheld the Commission's Order of Public Censure. *Jenevein v. Willing*, 493 F.3d 551 (5th Cir. 2007). However, in light of Judge Jenevein's First Amendment right to free speech, the Fifth Circuit ordered the Commission to expunge references in the Censure relating to the content of Jenevein's speech. On November 5, 2007, on remand, the United States District Court issued a Final Judgment ordering the Commission to expunge the references identified by the Fifth Circuit Court of Appeals relating to the content of Jenevein's speech contained in the Order of Public Censure. A true and correct copy of the Final Judgment is attached hereto as **Exhibit A**.

On December 14, 2007, in compliance with the opinion of the Fifth Circuit Court of Appeals and the final judgment of the United States District Court, the Commission voted to cause to be expunged from the Order of Public Censure issued January 21, 2003, all references to the content of Jenevein's speech as identified by the Courts. A true and correct copy of the expunged Public Censure is attached hereto as **Exhibit B**.

By issuing this Public Statement in conjunction with the expunged Order of Public Censure, the Commission intends to make clear that based on current case law in Texas and the Fifth Circuit, a judge's legitimate free speech activities do not constitute a violation of the Texas Code of Judicial Conduct. However, judges are not permitted to use the trappings and symbols of office, such as robes, official court letterhead or email, and taxpayer-funded time and facilities to collect an audience and amplify their message.

This Public Statement, issued pursuant to the authority granted by Article 5, §1-a(10) of the Texas Constitution, is intended to help preserve the integrity of all judges in the State of Texas, to promote public confidence in the judiciary, and to encourage judges to maintain high standards of professional conduct.

Signed this 17th day of December, 2007.

ORIGINAL SIGNED BY

Honorable Sid Harle, Chair
State Commission on Judicial Conduct