



**BEFORE THE STATE COMMISSION
ON JUDICIAL CONDUCT**

CJC No. 16-0196-JP

**PUBLIC REPRIMAND
AND
ORDER OF ADDITIONAL EDUCATION**

**HONORABLE ESEQUIEL (“CHEQUE”) DE LA PAZ
JUSTICE OF THE PEACE, PRECINCT 4, PLACE 1
KINGSVILLE, KLEBERG COUNTY, TEXAS**

During its meeting on February 8-9, 2017, the State Commission on Judicial Conduct concluded a review of the current allegations against the Honorable Esequiel (“Cheque”) De La Paz, Justice of the Peace for Precinct 4, Place 1, Kingsville, Kleberg County, Texas. Judge De La Paz was advised by letter of the Commission’s concerns and provided a written response. 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 Esequiel (“Cheque”) De La Paz was the Justice of the Peace for Precinct 4, Place 1, Kingsville, Kleberg County, Texas.
2. On October 14, 2015, Ronald McGaughey of Bishop, Texas filed an *Original Petition for Small Claims Case* in Judge De La Paz’s court seeking damages from Joel Lopez in the amount of \$2,500.00 for injuries allegedly sustained while eating at his restaurant.
3. Mr. McGaughey never received written notice of a trial setting in his case.
4. On October 27, 2015, Mr. McGaughey received a telephone call from Judge De La Paz’s clerk, Lalo Cavazos, directing Mr. McGaughey to appear at the courthouse for his trial setting approximately 45 minutes before he was scheduled to appear.
5. Mr. McGaughey alleges that when he arrived at the courthouse, Judge De La Paz offered him, on behalf of Mr. Lopez, a cash settlement to dismiss the case, but Mr. McGaughey declined.

6. Judge De La Paz held a trial in the matter and rendered a judgment in favor of Mr. Lopez.
7. Mr. McGhaughey alleges that, during the trial, the judge told him to “shut up” and called him a racial epithet (“Mayate”) in Spanish.
8. According to Mr. Cavazos, the judge’s clerk, it is the regular practice of the court to provide civil litigants between ten and fourteen days written notice of their trial settings.
9. There was no evidence, either in the court’s file or computer system, that Mr. McGhaughey was ever issued written notice of his trial setting.
10. According to Mr. Cavazos, the judge and his family are friendly with Joel Lopez and his family, but the two men are not related.
11. Mr. Cavazos testified that on the morning of October 27, 2015, he answered a telephone call from Mr. Lopez, who was calling to determine whether he needed to appear in court that afternoon for the trial setting. Mr. Cavazos transferred the call to Judge De La Paz.
12. It was the testimony of Mr. Cavazos that Judge De La Paz, from the bench and with both parties present, offered Mr. McGhaughey, on behalf of Mr. Lopez, \$100.00 to dismiss the case .
13. Regarding the judge’s use of racially insensitive language, Mr. Cavazos testified that Judge De La Paz does use language most people would consider racially insensitive while he is in the courthouse, but never from the bench or to a litigant’s face. Mr. Cavazos further testified that he never heard the judge call Mr. McGhaughey a racial epithet, but acknowledged the judge’s use of the epithet in question, and that Mr. McGhaughey may have overheard the judge use the term with respect to him.
14. In his written responses to the Commission, Judge De La Paz asserts that Mr. McGhaughey agreed to telephonic notification of his trial setting, but does did not indicate when or how Mr. McGhaughey consented to such substitute notification. There is no evidence in the court’s case file to indicate Mr. McGhaughey gave such consent.
15. In his responses to the Commission, Judge De La Paz states, “When Mr, Lopez came in and told us he was not going to pay what Mr. McGhaughey was requesting, we went on to set the case.”
16. As a factual matter, the Judge’s conversation with Mr. Lopez leads to two conclusions. First, the Judge spoke to Mr. Lopez about the case outside the presence of Mr. McGhaughey, and second, that the Judge accepted this verbal communication as a substitute for Mr. Lopez’s written answer to the lawsuit, as the court file does not include a written answer by Mr. Lopez.
17. With respect to his telephone conversation with Mr. Lopez the morning of October 27, 2015, Judge De La Paz asserted that Mr. Cavazos was unaware the caller was Mr. Lopez when he forwarded the call to him, and that he ended the conversation as soon as he understood it was about a pending case.
18. In his response to the Commission, however, Judge De La Paz admitted that Mr. Lopez conveyed to the judge before the call was terminated his desire to pay Mr. McGhaughey a settlement to dismiss the case.
19. Judge De La Paz contends that Mr. Lopez made the settlement offer to Complainant in open court, and that the judge simply repeated it.

20. Judge De La Paz admits to using the racially insensitive term “colored” when referring to Black people, but “never in the courtroom or directed at one particular individual.” The judge denies being racist or making judicial determinations based on race. He also denies using derogatory terms while acting as a judge in his courtroom, or using any derogatory terms toward Complainant.

RELEVANT STANDARDS

1. Canon 2A of the Texas Code of Judicial Conduct provides in relevant part that a judge shall comply with the law.
2. Canon 3B(2) of the Texas Code of Judicial Conduct provides in relevant part that a judge shall maintain professional competence in the law.
3. Canon 6C(2) of the Texas Code of Judicial Conduct provides that a Justice of the Peace “shall not directly or indirectly initiate, permit nor consider *ex parte* or other communications concerning the merits of a pending judicial proceeding.”
4. Canon 2B of the Texas Code of Judicial Conduct provides in relevant part, “A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge.”
5. Canon 3B(4) of the Texas Code of Judicial Conduct provides that a judge “shall be patient dignified and courteous” to litigants and others with whom the judge deals in an official capacity.
6. Canon 3B(6) of the Texas Code of Judicial Conduct provides in relevant part, “A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race.”

CONCLUSION

The Commission concludes from the facts and evidence presented that Judge De La Paz failed to comply with Texas Rules of Civil Procedure 503.3(a) and 502.5(a) when he failed to provide Complainant with adequate written notice of his trial setting, and proceeded to trial without requiring the defendant to file a written answer to the lawsuit, violating the mandate in Canons 2A and 3B(2) that a judge comply with and maintain competence in the law. Further, it is the Commission’s conclusion that on at least two occasions, Judge De La Paz communicated with the defendant, Joel Lopez, regarding the merits of the case while it was pending, first when Mr. Lopez told the judge he would not pay the requested damages, in response to which the judge set a trial, and when Lopez told Judge De La Paz over the telephone on the day of the trial that he would give Complainant a certain sum of money to dismiss the case, which Judge De La Paz subsequently conveyed to Complainant. In so doing, the judge violated Canon 6C(2)’s prohibition against permitting or considering *ex parte* or other communications concerning the merits of a pending judicial proceeding. The Commission further concludes that Judge De La Paz failed to treat Complainant with patience, dignity and courtesy, as required by Canon 3B(4). Further, it is the Commission’s conclusion that Judge De La Paz presented the settlement offer to Complainant in such a way as to give Complainant the impression Joel Lopez was in a position to influence the judge, and in so doing, used the prestige of his office to advance Mr. Lopez’s interest, in violation of Canon 2B. Finally, the Commission concludes, based in part on the judge’s own

admissions, that Judge De La Paz used racially insensitive language while in the courthouse, a violation of Canon 3B(6).

In view of the conduct described above that violated Canons 2A, 2B, 3B(2), 3B(4), 3B(6) and 6C(2) of the Texas Code of Judicial Conduct, it is the Commission’s decision to issue a **PUBLIC REPRIMAND AND ORDER OF ADDITIONAL EDUCATION** to the Honorable Esequiel (“Cheque”) De La Paz, Justice of the Peace, Precinct 4, Place 1, Kingsville, Kleberg County, Texas.

Pursuant to this Order, Judge De La Paz must, at his own expense and in addition to the judge’s required judicial education in Fiscal Year 2017, complete Stage I of the Texas Justice Court Training Center’s training for New Judges instruction (approximately twenty-seven hours) at the next available opportunity. It is Judge De La Paz’s responsibility to contact the TCJTC to register and pay for this additional education.

In addition, Judge De La Paz must participate in **one (1) hour** of instruction in the area of racial sensitivity with a mentor to be chosen by the Commission.

Upon completion of Stage I of the TJCTC’s training for new judges and the one hour of mentoring, described above, Judge De La Paz 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 REPRIMAND AND ORDER OF ADDITIONAL EDUCATION** by the Commission.

The Commission has taken this action in a continuing effort to protect the 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 the 17th day of March, 2017.

ORIGINAL SIGNED BY

Honorable Valerie E. Ertz, Chair
State Commission on Judicial Conduct