



**BEFORE THE STATE COMMISSION
ON JUDICIAL CONDUCT**

CJC No. 19-0529

PUBLIC WARNING

**HONORABLE NAVARRO CAMPBELL COX, II
145TH JUDICIAL DISTRICT COURT
NACOGDOCHES, NACOGDOCHES COUNTY, TEXAS**

During its meeting on December 4-5, 2019, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable Navarro Campbell Cox, II, 145th Judicial District Court, Nacogdoches, Nacogdoches County, Texas. Judge Cox 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 Conclusion:

FINDINGS OF FACT

1. At all times relevant hereto, the Honorable Navarro Campbell Cox, II, was Judge of the 145th Judicial District Court, Nacogdoches, Nacogdoches County, Texas.
2. Attorney, Clay Thomas ("Thomas"), has been on the Nacogdoches County Appointment List for Criminal Cases and eligible for appointment as defense counsel in Nacogdoches County for; misdemeanor cases, misdemeanor appeals, felony cases, and felony appeals, from at least 2016 through the present.

Case No. F1622560, State of Texas v. John Paul Jones (the "Jones Case")

3. On August 24, 2016, Judge Cox entered an order appointing Thomas as counsel for defendant John Paul Jones.
4. On September 14, 2016, Thomas filed a number of pleadings in the Jones Case, including a motion requesting a psychiatric evaluation of the defendant.
5. On September 23, 2016, Thomas went to Judge Cox's court for the first pre-trial setting in the Jones Case. Judge Cox had a discussion with Thomas in his office regarding the motion

requesting a psychiatric evaluation and concerns that Judge Cox had. Thomas explained that he had spent approximately 10 hours on the case to that point, including the work that led to his drafting and filing of the subject motion.

6. In his responses to the Commission's inquiry, Judge Cox explained that he was concerned with the substance of Thomas's motion for psychiatric examination, and his perception of a "nonchalant" reaction from Thomas regarding his concerns.
7. Judge Cox acknowledged that when Thomas told him how much time he had spent on the Jones Case, he told Thomas that in 30 years of practicing law he had never had an attorney "[s]pend 10 hours on a case prior to the first setting." Judge Cox also stated that he told Thomas at that time that he was "off the case."
8. That same day, Judge Cox entered a *sua sponte* Order appointing a different attorney as defense counsel in the Jones Case. However, Judge Cox did not enter a written order removing Thomas or allowing him to withdraw as defense counsel.

Subsequent cases before Judge Cox

9. From 2017 through 2019, in (at least) the following 13 additional cases, Thomas was appointed as defense counsel by the Honorable Edwin Klein (Presiding Judge of the 420th Judicial District Court, Nacogdoches County), and subsequently removed from those cases by Judge Cox:
 - a. Case No. F1823656, *State of Texas v. Steven Lucas Stewart* (the "Stewart Case");
 - b. Case No. F1821677, *State of Texas v. Deanna Renae Shoemaker* (the "Shoemaker Case");
 - c. Case No. F1823548, *State of Texas v. Angelique Williams Brown*;
 - d. Case No. F1823521, *State of Texas v. Jawonn Castleberry*;
 - e. Case No. F1923988, *State of Texas v. Bruce Douglas McMiller*;
 - f. Case No. F1823359, *State of Texas v. Roy Lee Williams, Jr.*;
 - g. Case No. F1723114, *State of Texas v. Robert Kolten Rhoudes*;
 - h. Case No. F1924032, *State of Texas v. Michael Wayne Kressin*;
 - i. Case No. F1924129, *State of Texas v. Amos Edward Simmons*;
 - j. Case No. F1924232, *State of Texas v. David Saldano*;
 - k. Case No. F1924278, *State of Texas v. Dennis Charles Thomas*;
 - l. Case No. F1924245, *State of Texas v. Amanda Thigpen*; and,
 - m. Case No. F1935099, *State of Texas v. Melodie Pilot*.
10. In each of the above-referenced cases, Judge Cox removed Thomas as defense counsel *sua sponte*, and Thomas was notified of such removal either verbally or through e-mail, by Judge Cox or his staff.
11. In each of the above-referenced cases, Judge Cox entered a *sua sponte* Order appointing a different attorney as defense counsel, but did not enter a written order removing Thomas or allowing him to withdraw as defense counsel.

The Stewart Case

12. Regarding the Stewart Case, Judge Cox acknowledged that he was aware on November 16, 2018, when he entered an order appointing a different attorney as defense counsel, that Judge Klein had previously appointed Thomas as defense counsel. Judge Cox stated, “I told [Thomas] that day that I was replacing him. I didn’t have to tell him, but I did so as a courtesy to him so that he wouldn’t do any work on the case.”

The Shoemaker Case

13. On January 11, 2019, at the defendant’s first court appearance, Judge Cox informed defendant Shoemaker that he had removed Thomas as her counsel, that she needed to “shop around” to see if she could get a lawyer, and he had his staff give her a list of attorneys who handled criminal cases in the area.
14. Judge Cox’s policy is that he, “[r]equire[s] all defendants on bond to see if they can afford an attorney by shopping around...[U]nless they are on [social security] I still require them to shop around. The reason I do this is because they often find money from family or friends who give/loan them the money for an attorney by the next court setting.”
15. Judge Cox failed to hold a hearing or make findings regarding Shoemaker’s indigency status on January 11, 2019, though Shoemaker told him that she could not afford a lawyer at that time.
16. On April 12, 2019, when Shoemaker made her next appearance, Judge Cox entered an order appointing her new defense counsel because, “[s]he indicated that she still needed a court appointed attorney...”

List of Attorneys

17. Prior to the Commission’s inquiry, Judge Cox’s court maintained a list of attorneys on its website who practice law in Nacogdoches and Lufkin. The list did not constitute all of the attorneys in Nacogdoches and Lufkin who practice criminal law, and did not include Thomas.
18. In his written responses, Judge Cox stated that he also gave out a similar list in court that did include Thomas. Subsequent to the Commission’s inquiry, Judge Cox instructed his staff to update the list on the court’s website to include Thomas.

RELEVANT STANDARDS AND AUTHORITIES

1. Canon 2A of the Texas Code of Judicial Conduct provides in relevant part that a judge shall comply with the law.
2. Canon 2B of the Texas Code of Judicial Conduct provides in relevant part: “A judge shall not allow any relationship to influence judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others.”
3. Canon 3B(2) of the Texas Code of Judicial Conduct states in relevant part: “A judge should be faithful to the law and shall maintain professional competence in it.”

4. Canon 3B(4) of the Texas Code of Judicial Conduct states in relevant 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...”
5. Canon 3B(5) of the Texas Code of Judicial Conduct provides that a judge shall perform judicial duties without bias or prejudice.
6. Canon 3B(8) of the Texas Code of Judicial Conduct states 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.”
7. Canon 3C(4) of the Texas Code of Judicial Conduct states in relevant part: “A judge shall exercise the power of appointment impartially and on the basis of merit.”
8. Article V, §1-a(6)(A) of the Texas Constitution provides in relevant part that a judge shall not engage in willful violation of the Code of Judicial Conduct, or willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice.
9. Texas Code of Criminal Procedure Art. 1.051(k) states: “A court or the courts’ designee may without unnecessary delay appoint new counsel to represent an indigent defendant for whom counsel is appointed under Subsection (c), (c-1), or (i) if: (1) the defendant is subsequently charged in the case with an offense different from the offense with which the defendant was initially charged; and, (2) good cause to appoint new counsel is stated on the record as required by Article 26.04(j)(2).”
10. Texas Code of Criminal Procedure Art. 26.04(j)(2) states in relevant part: “An attorney appointed under this article shall;...(2) represent the defendant until charges are dismissed, the defendant is acquitted, appeals are exhausted, or the attorney is permitted or ordered by the court to withdraw as counsel for the defendant after a finding of good cause is entered on the record.”
11. Texas Code of Criminal Procedure Art. 26.04(m) states in relevant part: “In determining whether a defendant is indigent...The court or the courts’ designee may not consider whether the defendant has posted or is capable of posting bail, except to the extent that it reflects the defendant’s financial circumstances as measured by the considerations listed in this subsection.” Moreover, while there are no exact standards for determining indigency, “[t]he court is to consider only the appellant’s personal financial condition, not that of his parents, other relatives, friends or employers.” *Rosales v. State*, 748 S.W.2d 451, 455 (Tex. Crim. App. 1987); *Ex parte King*, 550 S.W.2d 691, 694 (Tex. Crim. App. 1977).
12. Texas Code of Criminal Procedure Art. 26.04(p) states in relevant part: “A defendant who is determined by the court to be indigent is presumed to remain indigent for the remainder of the proceedings in the case unless a material change in the defendant’s financial circumstances occurs.”

CONCLUSION

Based upon the record before it and the factual findings recited above, the State Commission on Judicial Conduct has determined that the Honorable Navarro Campbell Cox, II, Judge of the 145th Judicial District Court in Nacogdoches, Nacogdoches County, Texas, should be publicly warned for; (i) removing attorney, Clay Thomas, as appointed defense counsel in each of

the above-described cases, in violation of Canons 2A, 2B, 3B(2), 3B(4), 3B(5), 3B(8) and 3C(4) of the Texas Code of Judicial Conduct, as well as Tex. Const. Art. V, Sec. 1-a(6)(A); (ii) instructing defendant, Deanna Shoemaker, to “shop around” for another attorney after his removal of Thomas, and failing to appoint her new defense counsel for three months, in violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct; and, (iii) posting of a list of attorneys that practice criminal law in Nacogdoches and Lufkin Counties on the court’s website, and disseminating a similar list to criminal defendants in his court, in violation of Canon 2B of the Texas Code of Judicial Conduct.

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

Issued this the 7th day of February, 2020.



David Hall
Chairman, State Commission on Judicial Conduct