



SCR 20-0004
SPECIAL COURT OF REVIEW
IN RE INQUIRY CONCERNING THE HONORABLE LEE HARPER WILSON
CJC Nos. 19-0755 & 19-0759

On January 29, 2019, the Honorable Lee Harper Wilson, a newly elected county criminal court at law judge in Harris County, determined that a female legal assistant in his courtroom was sitting in an area that he had designated only for attorneys. As a result, Judge Wilson stepped down from the bench of a crowded courtroom and, while robed, touched or grabbed the legal assistant on her arm or shoulder and admonished her. The incident resulted in the issuance of a Public Admonition and Order of Additional Education against Judge Wilson¹ by the Commission on Judicial Conduct (CJC). Following a trial de novo, we modify the Order of Additional Education but otherwise affirm the CJC’s sanctions.

I. Factual and Procedural Background

A. The Formal Complaint Against Judge Wilson

The Honorable Darrell Jordan, presiding judge of the county criminal courts at law of Harris County, filed a formal complaint with the CJC against Judge Wilson on January 30, 2019. On January 29, 2019, Sarai Aranda Garza, then employed as a legal assistant for attorney Joseph Gagliardi, was seated on the first bench in Judge Wilson’s courtroom. Judge Jordan’s complaint alleged that Garza did not respond when she heard the judge call for the interpreter because she

¹The Honorable Lee Harper Wilson presides over the Harris County Criminal Court at Law No. 10.

was not the interpreter. After Judge Wilson asked if Garza had heard him call her, Garza replied that he must have confused her with the interpreter and identified herself as a legal assistant.

According to the formal complaint, when the interpreter, Blasa Lopez, entered the courtroom, Judge Wilson grabbed her by the arm and asked her if she was an attorney. Lopez replied that she was the interpreter. The complaint alleged that, when Garza approached, Judge Wilson, who Garza described as “very angry,” grabbed her “hard” by the arm and told her that he did not want her to sit on the attorneys’ bench. The formal complaint further stated that witnesses to the incident and its aftermath described Garza as visibly frightened, crying, and shaking, that Garza felt humiliated and traumatized by the incident, and that the incident left bruising and an indentation on her arm.

The CJC, whose function is “not to punish,” but instead to “maintain the honor and dignity of the judiciary and to uphold the administration of justice for the benefit of the citizens of Texas,”² investigated the formal complaint against Judge Wilson, resulting in an informal hearing.

B. The CJC’s Conclusions

At the conclusion of its investigation and informal hearing, the CJC issued a Public Admonition and Order of Additional Education against Judge Wilson. In its order, the CJC issued the following findings:

1. At all times relevant hereto, the Honorable Lee Harper Wilson was the judge for Harris County Criminal Court at Law No. 10, Houston, Harris County, Texas.
2. On January 29, 2019, Judge Wilson stepped off the bench, approached Sarai Garza, touched or grabbed Garza on her arm or elbow, and admonished her for sitting in a section of the courtroom reserved for attorneys.
3. Judge Wilson intended to engage in the above-reverenced conduct, and the conduct was unwelcomed by Garza.
4. The incident took place in Judge Wilson’s open courtroom, and was witnessed by those involved, court staff, and other members of the public.

²*In re Slaughter*, 480 S.W.3d 842, 844–45 (Tex. Spec. Ct. Rev. 2015) (per curiam) (quoting *In re Lowery*, 999 S.W.2d 639, 648 (Tex. Rev. Trib. 1998, pet. denied)).

The CJC defined the relevant standards under Canon 3B(4) of the Texas Code of Judicial Conduct³ and Article V, Section 1-a(6)A, of the Texas Constitution⁴ and issued two charges against Judge Wilson. Charge I determined that Judge Wilson violated Canon 3B(4) of the Code of Judicial Conduct and specifically concluded that Judge Wilson’s behavior “represent[ed] willful conduct which violated Canon 3B(4) of the Texas Code of Judicial Conduct by failing to treat Garza with patience, dignity, and courtesy required of a judge regarding others with who he deals in an official capacity.” Charge II determined that, with the same behavior, Judge Wilson violated Article V, Section 1-a(6)(A), of the Texas Constitution, as such behavior “cast public discredit upon the judiciary.” The CJC concluded that, based on the record and the factual findings, and in accordance with the authority conferred it in Article V, § 1-a(8), of the Texas Constitution,⁵ Judge Wilson

should be publicly admonished and ordered to obtain additional education for failing to treat Sarai Garza with patience, dignity, and courtesy by engaging in the unwarranted and unwelcome touching of Garza’s person, willful conduct that cast public discredit upon the judiciary, in violation of Canon 3B(4) of the Texas Code of Judicial Conduct and Article V, Section 1-a(6)A of the Texas Constitution.^[6]

C. Judge Wilson’s Request for a Special Court of Review

On receiving notification of these sanctions, Judge Wilson requested that a special court of review be appointed by the Chief Justice of the Supreme Court of Texas to review the action of

³This Canon states, in relevant part, that “a judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity” TEX. CODE JUD. CONDUCT, Canon 3B(4), *reprinted in* TEX. GOV’T CODE ANN., tit. 2, subtit. G, app. B.

⁴This Article prohibits “willful . . . conduct that . . . casts public discredit upon the judiciary” TEX. CONST. art V, § 1-a(6)A.

⁵This Article provides, in relevant part, that following an investigation, the CJC “may in its discretion issue a private or public admonition, warning, reprimand, or requirement that the person obtain additional training or education” TEX. CONST. art V, § 1-a(8).

⁶The CJC’s order specifically directed Judge Wilson to obtain “2 hours of instruction with a mentor, in addition to his required judicial education for Fiscal Year 2020,” and that “[in] particular, the Commission desires that Judge Wilson receive this additional education in the area of sexual harassment training.”

the CJC. *See* TEX. GOV'T CODE ANN. § 33.034(b); TEX. RULES REM'L/RET. JUDG. R. 9(a). This special court review was convened for that purpose.⁷ *See* TEX. GOV'T CODE ANN. § 33.034(c).

D. Trial De Novo Before the Special Court of Review

On April 1, 2021, this special court of review convened for a trial de novo. *See* TEX. GOV'T CODE ANN. § 33.034(e)(2).

At the trial, Garza testified that she had been a legal assistant for eleven years and that, before Judge Wilson was elected, she had always sat in the well of the courtroom of the County Criminal Court at Law of Harris County, along with other attorneys, interpreters, and legal assistants. On the day of the incident, Garza was sitting in the well as Judge Wilson called the docket and said, "Lady interpreter, are you ready?" Because she was not the interpreter, Garza did not know that Judge Wilson was speaking to her until she noticed that he was looking at her. At that point, Garza introduced herself as Gagliardi's legal assistant and said she was not the interpreter but that she would be "more than glad to help." Garza said that "everyone in the courtroom started laughing," but Judge Wilson continued to call the docket.

According to Garza, while Judge Wilson was robed and in open court, Judge Wilson stood up, left the bench, walked toward Lopez, who had just entered the courtroom, and grabbed Lopez's arm. Garza testified that she walked to Judge Wilson and Lopez to settle the confusion as to who was the interpreter and that Judge Wilson grabbed and "jiggled" her right arm and told her in an "angry" and "very upset" voice that she could not sit in the well. Garza said that the touching was painful, that she never expected the judge to grab her arm in such a manner, and that she was speechless. Garza left the courtroom crying.

⁷This special court of review consists of the Honorable Josh R. Morriss, III, Chief Justice of the Court of Appeals for the Sixth Appellate District of Texas, presiding by appointment, the Honorable Gina M. Benavides, Justice of the Court of Appeals for the Thirteenth Appellate District of Texas, and the Honorable Chari L. Kelly, Justice of the Court of Appeals for the Third Appellate District of Texas.

Garza testified that she told a fellow interpreter named Luis Londonio⁸ about the incident after he asked her if she was okay and that court deputies, who also asked if she was okay, told her to calm down because she was crying. According to Garza, Wilson grabbed her arm so hard that it was bruised. Approximately two days later, Garza sought a medical examination at a local clinic, the medical records from which stated that she presented with “[r]ight biceps and triceps, mild swelling with tenderness.” Garza added that, in the aftermath of the incident, she feared Judge Wilson, had never received an apology from him, and had nothing to gain by testifying in this matter.

Lopez, a contract interpreter for Harris County, testified that Judge Wilson grabbed her arm also as she stepped into the courtroom and he asked if she was an attorney. Lopez responded that she was the interpreter, just as Garza walked up to them and said, “Lopez, you know the judge thought I was you.” Lopez testified that she saw Judge Wilson “grab” and “yank” on Garza’s arm while saying, “Didn’t I tell you that’s for attorneys only?” According to Lopez, Judge Wilson’s tone of voice and the way he grabbed Garza’s arm demonstrated that he was upset and angry. Lopez said that she was shocked “at the tone of voice” used by Judge Wilson and that Garza was also surprised and shocked by the incident.

Lopez said that Garza left the courtroom and that she later saw Garza and Londonio speaking to each other outside of the courtroom. Lopez joined them and witnessed that Garza was crying and upset. Lopez, who testified that Garza’s arm was red, texted her supervisor to report the incident and was later called into Judge Jordan’s office to discuss it.

Lopez testified that, during an unrelated incident, Judge Wilson had reprimanded her for a mistake made during her translation “in a very upsetting tone” that reminded Lopez of “when [she] used to get abused and yelled at” and made her cry. She reported the incident to her supervisor and did not want to return to Judge Wilson’s courtroom because he “was very rude.” The next

⁸The transcript of the trial de novo refers to this person as both Ladonio and Londonio.

day, in private, Judge Wilson apologized to Lopez with her supervisor present, and Lopez accepted the apology. Even so, Judge Wilson later got everyone's attention in open court and again apologized to Lopez, who did not appreciate the attention because it embarrassed her and "opened a Pandora's box for people to ask [her] . . . what happened."

Attorney Alan Perez testified that he was speaking to his client in Judge Wilson's courtroom on the day of the incident and found it odd when Judge Wilson walked off the bench. Perez witnessed Judge Wilson grabbing Garza by the shoulder or arm. Perez did not see Garza's reaction but noticed that she and Judge Wilson exchanged words that he did not hear. Perez testified that he saw Garza outside of the courtroom and asked her what happened because "[s]he was very upset." According to Perez, Garza said that Judge Wilson "had come down and grabbed her."

Judge Wilson called several witnesses, including attorney Sam Cammack, who said that Judge Wilson "came off the bench" in a packed courtroom of "probably 300 people," "touched [Garza] on the elbow like [he was] trying to get somebody's attention," and told her that she could not be on that side of the courtroom. After the incident, Cammack testified that he walked with his client, Garza, and Lopez to the elevator and that they all engaged in small talk and laughter, but Garza said that she was with Gagliardi's client and denied laughing and joking with Cammack. Cammack said that Judge Wilson was never angry or upset but also said he "left the court with a . . . you know, not a good feeling about the judge."

Judge Wilson also called several witnesses who testified that they were not in the courtroom to witness the incident and admitted that they had no personal knowledge of the allegations. These witnesses included: Jacqueline Hurgoiu, an intern for the Harris County District Attorney's Office who was assigned to Judge Wilson's court; Kirk Jerome Fretty, a Harris County Sheriff's Office Deputy who worked in Wilson's courtroom; Laurie Buchannan, a Harris County court reporter and coordinator; Lillia Acosta, the lead clerk for the Harris County District

Clerk's Office; and Shannon Joy Simmons, Judge Wilson's official court reporter. Those witnesses all described Judge Wilson as patient, dignified, and courteous.

Judge Wilson, the last witness at trial, denied the allegations by Garza and Lopez under oath. According to Judge Wilson, "[t]he story really beg[an]" when Garza visited him in chambers seven to ten days before the incident to introduce herself to Judge Wilson, who was newly elected. At that meeting, Judge Wilson learned that Garza was a legal assistant for an attorney that did not speak Spanish. Judge Wilson said he and Garza had a "very pleasant exchange" and became connected when Garza and Judge Wilson each shared personal information about family members. Judge Wilson claimed that, after the visit, he "considered [Garza] a friend."

Judge Wilson, who ran a "tight ship" in his courtroom, saw Garza sitting five feet from the court coordinator on the day of the incident. Judge Wilson said that he "naturally" stepped off the bench, either because it was time to do so or because he needed a restroom break, but when asked why he had stepped off the bench in open court to address Garza, Judge Wilson testified it was "[b]ecause [he] thought she was [his] friend" after her prior visit to his chambers. Even so, Judge Wilson said he wanted to address Garza because he "suspected she was a runner for her employer" and her proximity to the coordinator could lead her to obtain names of Spanish speaking defendants that did not have an attorney. Judge Wilson testified that he did not remember Cammack being present in the courtroom after he stepped off the bench and that, while he saw Lopez, she was not close to him or Garza when he was speaking to Garza.

At first, Judge Wilson testified that he did not remember touching Garza, but only asked her to move out of the well of the courtroom. Judge Wilson said that he did not notice a negative reaction from Garza and "probably went to chambers to do something" after the incident.⁹ Judge Wilson's testimony that he did not remember touching Garza was consistent with his statements

⁹Approximately, half an hour after the incident, he was visited by Veronica Nelson, a staff attorney for the criminal courts. In response to her questioning, Judge Wilson "told her nothing unusual happened."

during the CJC’s hearing and the Houston Police Department’s investigation. Yet, Judge Wilson later admitted that, one hour after the incident, he told Judge Jordan and Ed Wells, the administrative manager, that he had “lightly tapped” Garza “on the shoulder” because he believed she was a “runner . . . sitting in the front row inside well.” When asked if he now remembered touching Garza, Judge Wilson said, “Cammack says that I touched her elbow, so I’ll—I will rely on what Mr. Cammack saw.” In any case, Judge Wilson said he “absolutely, positively did not grab Ms. Garza or Ms. Lopez” or hurt them but had only “gently touched” Lopez.

Judge Wilson testified that he “was really shocked at the lies” printed in the media about the incident and the CJC’s decision. When asked if it was ever appropriate for a judge to touch a person in open court without their consent, Judge Wilson replied, “When a judge gently touches someone . . . it is not sexual harassment, it is not objectionable.”

II. Analysis

A. Applicable Law

The Texas Constitution provides that a judge may be disciplined for a willful violation of the Code of Judicial Conduct or for willful or persistent conduct that is clearly inconsistent with the proper performance of his or her duties or that casts public discredit upon the judiciary or administration of justice. TEX. CONST. art. V, § 1-a(6)A. For purposes of Article V, Section 1-a, “wilful [sic] or persistent conduct that is clearly inconsistent with the proper performance of a judge’s duties” includes willful violation of a provision of the Code of Judicial Conduct. TEX. GOV’T CODE ANN. § 33.001(b)(2).

“Willful conduct requires a showing of intentional or grossly indifferent misuse of judicial office, involving more than an error of judgment or lack of diligence.” *In re Sharp*, 480 S.W.3d 829, 833 (Tex. Spec. Ct. Rev. 2013) (citing *In re Davis*, 82 S.W.3d 140, 148 (Tex. Spec. Ct. Rev. 2002); *In re Bell*, 894 S.W.2d 119, 126 (Tex. Spec. Ct. Rev. 1995)). “A judge need not have specifically intended to violate the Code of Judicial Conduct; a willful violation occurs if the judge

intended to engage in the conduct for which he or she is disciplined.” *Id.* (citing *Davis*, 82 S.W.3d at 148; *In re Barr*, 13 S.W.3d 525, 539 (Tex. Rev. Trib. 1998)).

Because our “review is governed to the extent practicable by the rules of law, evidence, and procedure that apply to the trial of a civil action, the [CJC] had the burden to prove the charges against [Judge Wilson] by a preponderance of the evidence.” *Id.* (citing TEX. GOV’T CODE ANN. § 33.034(f); *In re Hecht*, 213 S.W.3d 547, 560 (Tex. Spec. Ct. Rev. 2006); *Davis*, 82 S.W.3d at 142)). Our decision, which is not appealable, “may include dismissal, affirmation of the Commission’s decision, imposition of a lesser or greater sanction, or order to the Commission to file formal proceedings.” TEX. RULES REM’L/RET. JUDG. R. 9(c)–(d).

B. Charge I—Canon 3B(4)

The CJC, which alleged that Judge Wilson touched or grabbed Garza and admonished her, charged Judge Wilson with violating the following part of Canon 3B(4): “A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity.” TEX. CODE JUD. CONDUCT, Canon 3B(4). This charge alleged that Judge Wilson’s conduct, as described above, was willful.

The uncontested evidence at trial showed that Judge Wilson, while robed in an open and crowded court, walked off the bench and approached Garza to admonish her. Although Judge Wilson claims to not remember touching Garza, every other witness who was present on the day of the incident testified that Judge Wilson touched Garza in some way. We also find that we need not resolve the issue of whether Judge Wilson forcefully touched or grabbed Garza because it is uncontested that the touching was without Garza’s permission.

The evidence further showed that Judge Wilson intended to engage in the conduct—touching Garza without consent and admonishing her as a robed judge in his crowded, public courtroom—for which he was disciplined by the CJC. *See Sharp*, 480 S.W.3d at 833. As a result, his conduct was willful. *See id.* We find that Judge Wilson’s public admonition of Garza together

with the unwelcome and unwarranted touching of her person does not fall within the ambit of patient, dignified, and courteous behavior.¹⁰ As a result, we conclude that the CJC established by a preponderance of the evidence that Judge Wilson willfully violated Canon 3B(4) by touching Garza on the arm and admonishing her while acting in an official capacity in his public courtroom. *See* TEX. CODE JUD. CONDUCT, Canon 3B(4).

C. Charge II—Article V, Section 1-a(6)A

The CJC charged that the same behavior on the part of Judge Wilson “cast public discredit upon the judiciary or administration of justice, in violation of” Article V, Section 1-a(6)A, of the Texas constitution. *See* TEX. CONST. art. V, § 1–a(6)A.

Judge Wilson contends that he did not violate the Texas Constitution because he did not engage in the conduct that the CJC alleged violated Canon 3B(4) of the Texas Code of Judicial Conduct. Yet, we have concluded that the CJC has shown, by a preponderance of the evidence, that Judge Wilson did indeed engage in the charged conduct, which was publicized. *See Sharp*, 480 S.W.3d at 837. As a result, we further conclude that such conduct “cast[] public discredit upon the judiciary or the administration of justice” in violation of Article V, Section 1-a(6)A, of the Texas Constitution. TEX. CONST. art. V, § 1–a(6)A.¹¹

III. Sanctions

Having found that Judge Wilson violated Canon 3B(4) and Article V, Section 1-a(6)A, of the Texas Constitution, we must now determine the appropriate sanctions for these violations. TEX. RULES REM’L/RET. JUDG. R. 9(d). The CJC contends that we should issue a public admonition to Judge Wilson and order additional education.

At its core, “the purpose of sanctions in cases of judicial discipline is to preserve the integrity and independence of the judiciary and to restore and reaffirm public confidence in the

¹⁰Without leaving the bench, Judge Wilson could have employed the bailiff to ask Garza to move from the courtroom.

¹¹This incident generated a great deal of media attention.

administration of justice.” *Sharp*, 480 S.W.3d at 838 (quoting *Barr*, 13 S.W.3d at 560). As a result,

[t]he discipline we impose must be designed to announce publicly our recognition that there has been misconduct; it must be sufficient to deter [Judge Wilson] from again engaging in such conduct; and it must discourage others from engaging in similar conduct in the future. Thus, we discipline a judge not for purposes of vengeance or retribution, but to instruct the public and all judges, ourselves included, of the importance of the function performed by judges in a free society. We discipline a judge to reassure the public that judicial misconduct is neither permitted nor condoned.

In re Barr, 13 S.W.3d 525, 560 (Tex. Rev. Trib. 1998) (quoting *In re Kneifl*, 217 Neb. 472, 351 N.W.2d 693, 700 (1984)).

Canon 8A of the Texas Code of Judicial Conduct states that “the degree of discipline to be imposed . . . should depend on such factors as the seriousness of the transgression, whether there is a pattern of improper activity and the effect of the improper activity on others or on the judicial system.” TEX. CODE JUD. CONDUCT, Canon 8A, *reprinted in* TEX. GOV’T CODE ANN., tit. 2, subtit.

G, app. B. Other factors courts have considered in determining an appropriate sanction include:

- (a) whether the misconduct is an isolated instance or evidenced a pattern of conduct;
- (b) the nature, extent and frequency of occurrence of the acts of misconduct;
- (c) whether the misconduct occurred in or out of the courtroom; (d) whether the misconduct occurred in the judge’s official capacity or in his private life;
- (e) whether the judge has acknowledged or recognized that the acts occurred;
- (f) whether the judge has evidenced an effort to change or modify his conduct;
- (g) the length of service on the bench; (h) whether there have been prior complaints about this judge; (i) the effect the misconduct has upon the integrity of and respect for the judiciary; and (j) the extent to which the judge exploited his position to satisfy his personal desires.

Sharp, 480 S.W.3d at 839 (quoting *In re Deming*, 736 P.2d 639, 659 (Wash. 1987) (en banc)).

Some of the *Deming* factors favor Judge Wilson. The evidence shows that Judge Wilson had been in office for less than thirty days at the time of the misconduct, and the record reveals no previous or subsequent complaints against him.

However, others of these factors reflect unfavorably on Judge Wilson. The misconduct took place in a public courtroom setting while Judge Wilson was robed and acting in his official

capacity as a sitting judge. The preponderance of the evidence shows that Judge Wilson’s behavior showed no regard or respect for Garza and caused her to be publicly embarrassed. Lopez testified that Judge Wilson also grabbed her arm before touching Lopez and that he had, on another occasion, apologized to her for admonishing her in a “very upsetting tone,” both in private and in open court. Judge Wilson has largely failed to acknowledge that the charged misconduct against Garza occurred and has thus failed to take responsibility for his actions. Instead, he testified at trial that it was “not objectionable” “[w]hen a judge gently touches someone.” Finally, we further consider the fact that Judge Wilson’s lack of proper courtroom decorum and self-control reflected negatively on the integrity of and the respect for the judiciary.

Our evaluation of all relevant factors leads us to conclude that the sanction of a public admonition against Judge Wilson and an order of additional education is appropriate. Even so, we do not believe that Judge Wilson need undergo sexual harassment training. Rather, we find that judicial decorum training is more appropriate.

IV. Conclusion

We find that Judge Wilson willfully violated Canon 3B(4) of the Texas Code of Judicial Conduct and Article V, Section 1-a(6)A, of the Texas Constitution. Accordingly, we affirm the Commission’s **Public Admonition** for these violations, modify the Commission’s **Order for Additional Education** to require Judge Wilson to complete the ordered two hours of education in the area of judicial decorum training in the current year, and otherwise affirm the Commission’s order.¹²

PER CURIAM

¹²We refer Judge Wilson to the Texas Center for the Judiciary to obtain a mentor for the judicial decorum training.