



**BEFORE THE STATE COMMISSION
ON JUDICIAL CONDUCT**

CJC No. 15-0900-JP

**PUBLIC WARNING
AND
ORDER OF ADDITIONAL EDUCATION**

**HONORABLE BEN E. BRADY
JUSTICE OF THE PEACE, PRECINCT 3, PLACE 1
MAXWELL, CALDWELL COUNTY, TEXAS**

During its meeting on February 10-12, 2016, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Ben E. Brady, Justice of the Peace, Precinct 3, Place 1, Maxwell, Caldwell County, Texas. Judge Brady was advised by letter of the Commission's concerns and provided written responses. 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 Ben E. Brady was Justice of the Peace for Precinct 3, Place 1 in Maxwell, Caldwell County, Texas.
2. On or about June 7, 2015, Vicki Cook was driving on a Texas highway when she passed a vehicle shortly before turning onto an interstate highway.
3. Shortly thereafter, Cook noticed that the male driver of the vehicle behind her was rapidly flashing his headlights and "vehemently" motioning for Cook to pull over.
4. Concerned for her safety because the male driver was not wearing a uniform and was not driving a marked police vehicle, Cook refused to pull her car over to the side of the road.
5. The man continued to follow her for approximately seven-and-a-half miles.
6. At some point, a marked police vehicle pulled behind Cook and indicated that she needed to pull over.

7. Cook pulled into a parking lot, where she spoke with City of San Marcos Police Officer Joyce Bender.
8. The man who had been following Cook also pulled into the parking lot.
9. Officer Bender informed Cook that Judge Brady had requested that the police pull over Cook for reckless driving. Officer Bender then told Cook that Judge Brady wished to speak with her.
10. Cook agreed to speak with Judge Brady, who she now realized was the man who had been following her.
11. During their conversation, Judge Brady threatened Cook repeatedly with incarceration and contempt of court.
12. According to the dash-cam video from Officer Bender's patrol vehicle, Judge Brady threatened to "throw [Cook] in jail for 72 hours," and said "If I see you again, I'm going to make sure that the county sheriff takes you to jail."
13. In his written responses to the Commission's inquiry, Judge Brady conceded that he tried to pull over Cook before Officer Bender arrived.
14. Judge Brady acknowledged that he was without authority to effect a traffic stop, but defended his actions based on language in the constitution that describes judges as "conservators of the peace."
15. Judge Brady admitted to making the statements recorded on the officer's dash-cam video, but defended his threat to hold Cook in contempt of court for interrupting him. According to Judge Brady, his "sole purpose . . . was simply to get her to keep quiet until I could finish my statements."
16. Judge Brady stated that at the time of these events, he believed he had the authority to hold Cook in contempt of court for interrupting him while he was trying to speak with her in the parking lot. However, in later conversations with the district attorney, the judge learned that he did not have the authority under these circumstances.
17. There were at least two media reports published about this incident; however, Judge Brady denied that his actions cast public discredit on the judiciary.
18. According to Judge Brady, he received many calls of support and only "2 calls to my office, that I am aware of, from people who 'complained' about the story and thought I had overstepped my authority."

RELEVANT STANDARDS

1. Canon 2A of the Texas Code of Judicial Conduct states, in pertinent part: "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(2) of the Texas Code of Judicial Conduct states: "A judge should be faithful to the law and shall maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor, or fear of criticism."

3. Article V, section 1-a(6)A of the Texas Constitution provides that a judge may be disciplined for willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit on the judiciary or on the administration of justice.

CONCLUSION

The Commission concludes based on the facts and evidence before it that Judge Brady's attempt to pull over Cook for reckless driving and his threats to have Cook incarcerated without legal justification demonstrated a failure to comply with the law and to maintain professional competence in the law, and cast public discredit upon the judiciary and the administration of justice. Judge Brady's conduct was also inconsistent with the proper performance of his duties in that a judge may not hold a person in contempt of court for conduct that occurs outside of the courtroom (or in this case a different county) when no judicial proceedings are taking place. In this instance, it appears that Judge Brady became personally affronted by Cook's conduct toward him and confused an offense to his sensibilities with obstruction to the administration of justice. This is something that courts have routinely warned against when addressing a judge's exercise of contempt powers. *In re Bell*, 894 S.W.2d 119, 127 (Tex.Spec.Ct.Rev. 1995)(citing *Brown v. United States*, 356 U.S. 148 (1958); *In re Reece*, 341 S.W. 3d 360, 367 (Tex. 2011)). The Commission concludes that Judge Brady's conduct, as described above, constituted a willful violation of Canons 2A, 3B(2), and Article V, section 1-a(6)A of the Texas Constitution.

In condemnation of the conduct described above that violated Canons 2A and 3B(2) of the Texas Code of Judicial Conduct, and Article V, section 1-a(6)A of the Texas Constitution, it is the Commission's decision to issue a **PUBLIC WARNING AND ORDER OF ADDITIONAL EDUCATION** to the Honorable Ben E. Brady, Justice of the Peace, Precinct 3, Place 1, Maxwell, Caldwell County, Texas.

Pursuant to this Order, Judge Brady must obtain **two (2) hours** of instruction with a mentor, in addition to his required judicial education for Fiscal Year 2016. In particular, the Commission desires that Judge Brady receive this additional education in the following areas: (1) maintaining appropriate separation between roles of judge and law enforcement; (2) the limits of judicial authority when exercising contempt powers; and (3) the proper procedures to follow in contempt situations.

Pursuant to the authority contained in §33.036 of the Texas Government Code, the Commission authorizes the disclosure of certain information relating to this matter to the Texas Justice Court Training Center to the extent necessary to enable that entity to assign the appropriate mentor for Judge Brady in this case.

Judge Brady shall complete the additional **two (2) hours** of instruction recited within **sixty (60) days** from the date of written notification of the assignment of a mentor. It is Judge Brady's responsibility to contact the assigned mentor and schedule the additional education.

Upon the completion of the **two (2) hours** of education described herein, Judge Brady 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 WARNING 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 3rd day of March, 2016.

ORIGINAL SIGNED BY

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