



**BEFORE THE STATE COMMISSION
ON JUDICIAL CONDUCT**

**CJC Nos. 15-0984-DI, 16-0378-DI, 16-0542-DI, 16-0698-DI, 16-0746-DI, 16-0796-DI,
16-1079-DI, 17-0009-DI, 17-0157-DI AND 17-0488-DI**

**PUBLIC REPRIMAND
AND
ORDER OF ADDITIONAL EDUCATION**

**HONORABLE LUIS AGUILAR
243RD JUDICIAL DISTRICT COURT
EL PASO, EL PASO COUNTY, TEXAS**

During its meeting on October 2-4, 2017, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Luis Aguilar, 243rd District Court Judge, El Paso, El Paso County, Texas. Judge Aguilar was advised by letter of the Commission's concerns, provided a written response to same, and appeared before the Commission to give sworn testimony on the matters raised. 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 Luis Aguilar was the Judge for the 243rd District Court of Texas, El Paso, El Paso County, Texas.
2. Between July 29, 2015 and December 12, 2016, the Commission received nine complaints against Judge Aguilar. In addition, the Commission initiated its own complaint against the Judge on August 10, 2016, based on media articles about his conduct. During its investigation, the Commission uncovered a number of other complaints against Judge Aguilar, which were incorporated into the overall investigation and considered by the Commission when making its decision. Judge Aguilar was notified of all complaints opened by the Commission before May 1, 2017.

- Judge Aguilar was given the opportunity to provide written responses to all complaints and allegations received by the Commission between July 29, 2015, and May 1, 2017, and appeared before the Commission to give sworn testimony regarding each complaint.

COMPETENCE (Canons 2B and 3B(2))

Alma Frayre v. Hannah S. Lee (Cause No. 2015DCV0337)

- Attorney Mario Cisneros of Brownsville, Texas failed to appear for a scheduled status hearing in Judge Aguilar's court on June 25, 2015, in *Alma Frayre v. Hannah S. Lee* (Cause No. 2015DCV0337). On that date, Judge Aguilar issued an order directing Mr. Cisneros to appear on June 29, 2015 to show cause why he should not be held in contempt of court for failing to appear. By its terms, the order allowed for local counsel to appear in Mr. Cisneros' stead.
- Mr. Cisneros arranged for El Paso attorney Eduardo Cadena to appear on his behalf at the show cause hearing on June 29, 2015. At the hearing, Judge Aguilar refused to allow Mr. Cadena to represent Mr. Cisneros and, after holding Mr. Cisneros in contempt of court for his failure to appear, issued a bench warrant for his arrest.
- On November 6, 2015, the Court of Appeals granted Mr. Cisneros' petition for a writ of mandamus and issued a written opinion. *In re: Cisneros*, 487 S.W.3d 237 (Tex.App.—El Paso, 2015, no writ).
- With respect to Judge Aguilar's handling of the contempt proceedings, the *Cisneros* court noted:

The court entered an order setting the case for a show cause hearing on June 29, 2015, but the order does not provide [Cisneros] with any notice that he was accused of contempt or subject to being punished for any act or omission. In fact, the order does not even include the word "contempt" and it does not allege in what manner [Cisneros] has committed contempt of court. Significantly, the order does not make [Cisneros'] attendance at the hearing mandatory. The order states on its face that [Cisneros] was required to appear in person *unless arrangements were made for local counsel to attend the hearing*. That is exactly what [Cisneros] did -- [Cisneros'] legal assistant made arrangements for local counsel to attend the June 29 hearing and Cadena appeared at the hearing only to be summarily excused by the trial court.

Id., at 243 (emphasis in orig.).

- The *Cisneros* court rendered void the bench warrant Judge Aguilar issued for Cisneros' arrest based on Judge Aguilar's failure to provide Cisneros "constitutionally sufficient notice of the June 29 hearing or the contempt allegations." *Id.*

Midland Funding LLC v. Maria Romero (Case No. 2015DCV1187)

- Houston attorney Kristy Gabrielova retained El Paso attorney A. Marcelo Rivera to serve as local counsel for the plaintiff at a hearing in Judge Aguilar's court on February 4, 2016, in *Midland Funding LLC v. Maria Romero* (Case No. 2015DCV1187).
- Rivera mistakenly went to the wrong courtroom and failed to appear in Judge Aguilar's court at the scheduled time. Judge Aguilar immediately issued an order directing Ms. Gabrielova to appear before him on February 9, 2016 to show cause why she should not be held in contempt of court for failing to appear at the February 4 hearing.

11. The next day, February 5, 2016, Ms. Gabrielova sent Judge Aguilar a letter explaining that Mr. Rivera had been retained to attend the hearing, but had gone to the wrong courtroom. She included an affidavit from Mr. Rivera affirming these facts.
12. In addition, Ms. Gabrielova, who was approximately eight months pregnant at the time, provided Judge Aguilar a letter from her physician stating that she could not travel due to her pregnancy, and that she was scheduled for a caesarian section delivery on April 18, 2016.
13. On February 5, 2016, Ms. Gabrielova's client, Midland Funding LLC, moved to dismiss its claims and filed a notice of nonsuit with the court.
14. Although Midland Funding filed a notice of nonsuit on February 5, 2016, Judge Aguilar issued another show cause order on April 7, 2016, directing Ms. Gabrielova to appear in his courtroom on April 21, 2016, three days after her scheduled surgery. Because Ms. Gabrielova was already on maternity leave and the order was sent to her office, she never received notice of the show cause hearing. However, her co-worker, Brian Staley, sent Judge Aguilar a letter notifying him that Ms. Gabrielova was on leave under the Family Medical Leave Act, and would not be able to appear for the show cause hearing.
15. Although Midland Funding filed a notice of nonsuit on February 5, 2016, Judge Aguilar sent a letter to Ms. Gabrielova's office on April 27, 2016 advising her that a show cause hearing would proceed on May 26, 2016 with or without her presence, and that "the full range of punishment" would be considered at that time. Mr. Staley responded to the Judge's letter the same day, and again explained that Ms. Gabrielova was on maternity leave and would not be able to attend the hearing.
16. Ms. Gabrielova did not appear on May 26, 2016, and on June 1, 2016, Judge Aguilar held her in contempt of court and issued a bench warrant for her arrest with a \$2,500 bond.
17. Although Midland Funding filed a notice of nonsuit on February 5, 2016, Judge Aguilar set the case for a status hearing on September 22, 2016. When no one appeared, Judge Aguilar issued another show cause order to Ms. Gabrielova requiring her to appear on October 13, 2016.
18. On October 7, 2016, Ms. Gabrielova petitioned the El Paso Court of Appeals for a writ of mandamus compelling Judge Aguilar to dismiss the underlying case.¹ The petition for a writ of mandamus included a Motion for Emergency Stay.
19. The Court of Appeals granted Ms. Gabrielova's Motion for Emergency Stay the day it was filed, which stayed "the bench warrant issued for...Kristy Gabrielova...and the show cause hearing set for October 13, 2016..." The order also stated that "[Judge Aguilar] is directed to stay all proceedings, including contempt proceedings against Kristy Gabrielova..."
20. On December 20, 2016, the Court of Appeals granted Ms. Gabrielova's petition for a writ of mandamus. *In re Gabrielova*, 2016 Tex.App. Lexis 13485 (El Paso, no writ).
21. The *Gabrielova* court noted that its prior opinion in *Cisneros* "set forth the due process requirements in detail," but Judge Aguilar's "failure to afford another attorney practicing in his court with due process before issuing a bench warrant for counsel leads us to conclude that these requirements must be reiterated." *Id.*, at *8.

¹ Ms. Gabrielova first learned of the outstanding bench warrant for her arrest while preparing the mandamus petition.

22. After restating the principles and concepts originally explained in the *Cisneros* matter, the *Gabrielova* court again described the measures Judge Aguilar was required to take before compelling Ms. Gabrielova to attend a show cause hearing:

[Judge Aguilar] was required to take steps to cause a true copy of the show cause order to be delivered to [Ms. Gabrielova] *in person*. In the absence of personal service of the show cause order, [Ms. Gabrielova] was not required to attend the show cause hearing nor can she be held in contempt for failure to do so.

Id., at *9 (emphasis in orig.).

23. Consistent with the holding in *Cisneros*, the *Gabrielova* court held that Judge Aguilar's failure to provide Ms. Gabrielova with constitutionally sufficient notice of the May 26 hearing rendered the June bench warrant void. *Id.*, at *9-10.
24. With respect to Judge Aguilar's order requiring Ms. Gabrielova to appear on September 22, "even though Midland Funding had non-suited the underlying cause more than six months earlier," the *Gabrielova* court held that Judge Aguilar could not proceed with the contempt proceedings because he failed to provide Ms. Gabrielova with constitutionally required notice of the hearing. *Id.*, at *10.

State of Texas v. Cesar Chacon (20160D00419)

25. El Paso Attorney Daniel Anchondo failed to appear at a hearing on February 23, 2016, for his client's arraignment in *State of Texas v. Cesar Chacon* (20160D00419). That day, Judge Aguilar issued an order directing him to appear on February 29, 2016 to show cause why he should not be held in contempt of court. At the show cause hearing, noting Mr. Anchondo's repeated tardiness, Judge Aguilar held Mr. Anchondo in contempt and fined him \$200 from the bench, but did not specify a date certain for payment of the fine, nor did he issue a written order reflecting his ruling.
26. Mr. Anchondo attempted to pay the fine with the El Paso District Clerk's office, but because Judge Aguilar never issued a written order of contempt against him, the clerk would not accept payment.
27. On March 3, 2016, Judge Aguilar ordered Mr. Anchondo to appear on March 9, 2016 to show cause why he should not be held in contempt for failure to pay the fine. Mr. Anchondo retained counsel, El Paso Attorney Frank Guzman, who filed a motion to recuse Judge Aguilar from the proceedings and a motion for a *de novo* hearing in the matter on March 7, 2016.
28. At the hearing on March 9, 2016, Judge Aguilar refused to consider the recusal motion as "untimely" and proceeded with the show cause hearing. He held Mr. Anchondo in contempt of court for failure to pay his fine, and deferred imposition of his sentence for a future time.
29. On March 10, 2016, Judge Aguilar referred the recusal motion and the motion for a *de novo* hearing to Judge Ables, the Presiding Judge for the Sixth Administrative Judicial Region. Judge Ables assigned Senior Judge Manuel Bañales to hold a *de novo* proceeding in the matter.
30. Following a *de novo* hearing on the contempt issues, Judge Bañales issued an opinion concluding that Judge Aguilar committed numerous legal errors in his handling of Mr. Anchondo's contempt proceedings and recusal motion. His order set aside as void Judge Aguilar's findings and orders of contempt after February 29, 2016, and discharged Mr. Anchondo with respect to the allegedly contemptuous conduct.

31. With respect to his handling and retention of the contempt proceedings, Judge Bañales' opinion noted first that Texas Government Code Section 21.002(d) provides that a judge is automatically recused under its "plain language and meaning." Judge Bañales noted:

Had Judge Aguilar reviewed §21.002(d)...prior to and during these contempt proceedings, he would have known and realized that, as soon as he held [Anchondo] in contempt, he was required to notify [the] Presiding Judge...and to remove himself from presiding in the subsequent contempt proceedings...I find and conclude that all findings and Orders of contempt by Judge Aguilar...are void as a matter of law and must be set aside.

32. Judge Bañales also described Judge Aguilar's finding that Anchando's recusal motion was untimely as "plainly wrong."
33. Judge Bañales also addressed the "importance of a written Order of Contempt," illustrated by the variations in Judge Aguilar's successive orders of February 29 (oral pronouncement), March 3, (show cause), and March 16 (contempt order):

In his oral pronouncement on February 29, 2016, Judge Aguilar did not set a date or time to pay the fine. In his Show Cause Order of March 3, 2016, the Order says that Respondent was ordered to pay the fine within 24 hours. This is not true; his oral pronouncement did not order when payment should be made, yet the Show Cause Order states that Respondent was ordered to make payment within 24 hours. Then the Order of Contempt signed on March 16, 2016 says that the fine was to be paid by 8:00 a.m. on March 1, 2016. This contravenes his oral pronouncement and his Show Cause Order. Judge Aguilar's rulings and Orders are inconsistent and are contradictory with each other.

34. Judge Bañales also noted:

There is another and greater concern with the March 16, 2016 Order: it requires payment on a date 15 days before the Order was signed. This created an impossibility for compliance. Under this last Order, March 1, 2016 had come and gone when the Order was signed on March 16, 2016, and, thus, the fine could *never* be timely paid.²

35. Judge Bañales' opinion closed with the following:

The power of contempt is both awesome and awful. Used properly, it can be applied to ensure that proceedings are conducted with dignity and in an orderly manner so that justice may be done. Used improperly, it abuses the authority of the court in a way that casts a negative light upon a judicial system that we revere. Regrettably, Judge Aguilar's use of contempt in this proceeding was ill used.

Blanca Calderon v. Wal-Mart Stores, Inc., et al. (Case No. 2014DCV3774)

36. A discovery dispute arose in *Blanca Calderon v. Wal-Mart Stores, Inc., et al.* (Case No. 2014DCV3774), an age discrimination and retaliatory discharge lawsuit brought by a former employee. Calderon's counsel sought and obtained from Judge Aguilar an order compelling the Wal-Mart entities ("Wal-Mart") to comply with her discovery request, and denied Wal-Mart's motion for a protective order.

² Emphasis in original.

37. Rather than immediately complying with the order, Wal-Mart moved for an extension of time, and Judge Aguilar issued an order to Wal-Mart's counsel, Houston attorneys Melissa Judd and Payal Garehgrat, to appear on March 25, 2015 to show cause why they should not be held in contempt of court for failing to comply with his order.
38. Following the show cause hearing on March 25, 2015, Judge Aguilar held the Wal-Mart entities themselves in contempt of court, and assessed the companies over \$20,000 in total fines and attorney's fees.
39. The Court of Appeals granted Wal-Mart's petition for a writ of mandamus on the grounds that Judge Aguilar failed to comply with applicable law in his handling of the contempt proceedings, and ordered the Judge to vacate the contempt orders and return to Wal-Mart any fines already paid. *See, In re Wal-Mart Stores, Inc., Wal-Mart Stores Texas, L.P., Wal-Mart Associates, Inc., and Wal-Mart Stores Texas, LLC*, 2016 Tex.App.Lexis 13235 (El Paso, no writ).

State v. Tovar (Case No. 207-40D03871)

40. On December 1, 2015, Judge Aguilar held a status hearing in *State v. Tovar* (Case No. 207-40D03871). During the hearing, Judge Aguilar became displeased when he learned the probationer's car keys had been confiscated by his probation officer because the terms and conditions in his copy of the court's order did not include a prohibition against driving. In response, the Judge summoned the probation officer, David Abogado, to his courtroom to explain his actions.
41. Mr. Abogado arrived in Judge Aguilar's court as directed, accompanied by his supervisor at the El Paso County Probation Department, Bill LeVey. Mr. Abogado explained that his copy of the terms and conditions of probation included a restriction on the probationer's driving, and that he could not explain the difference between the documents.
42. Judge Aguilar accused Mr. Abogado of changing the terms and conditions of his order and of stealing the probationer's property, and threatened to throw both Mr. Abogado and Mr. LeVey in jail. He then ordered the two men to remain confined in the jury box until further notice and, according to several witnesses, ordered his bailiff to confiscate their personal belongings.
43. According to witness accounts, the men remained in the jury box for one to two hours before being excused, at which time the Judge ordered them to appear for a show cause hearing the following day.³
44. At the hearing on December 2, 2015, Judge Aguilar did not hold Mr. Abogado or Mr. LeVey in contempt of court. However, he did order Mr. Abogado to file monthly reports on all of his probationers in Judge Aguilar's court for approximately seven months.

Jiayang v. Discover Bank (Case No. 2015DCV1657)

45. Judge Aguilar scheduled a status hearing in *Jiayang v. Discover Bank* (Case No. 2015DCV1657) for September 24, 2015. The attorneys on the case, Dorothy Kathleen Lawrence and Troy Bolen,⁴ notified the court that the parties were close to reaching a settlement and had agreed to continue the hearing.

³ For his part, Judge Aguilar estimated that these individuals spent approximately thirty minutes in the jury box.

⁴ Lawrence is from Hays County and Bolen is from Travis County.

46. Ms. Lawrence received an order from Judge Aguilar on September 25, 2015, directing her to appear for a status hearing on September 21, 2015 (four days earlier). She then received an amended order on September 26, 2015, requiring her to appear in court on September 28. The order stated that her presence was mandatory, and that local counsel would not be able to appear in her stead.
47. Because of a previously scheduled obligation, Ms. Lawrence was not able to be in El Paso on September 28, 2015. In addition to providing the court with copies of the contract evincing her existing obligation as well as her flight schedules, Ms. Lawrence arranged for Mr. Bolen to appear before Judge Aguilar to explain the situation, and to notify the court that the parties had reached an agreement and would file a Rule 11 Agreement that afternoon.
48. At the hearing, Judge Aguilar expressed his extreme displeasure with Ms. Lawrence's failure to appear, and announced he was issuing a bench warrant for her arrest. Apprised of this fact by Mr. Bolen, Ms. Lawrence immediately contacted Judge Aguilar's office and confirmed that the judge intended to issue a warrant for her arrest. Ms. Lawrence monitored the situation and called the judge's office repeatedly over the next week, and was informed that the issuance of a warrant was imminent. Ultimately, Judge Aguilar did not issue an arrest warrant.

State of Texas v. John Paul Perry (Case No. 20160D02576)

49. The El Paso County Public Defender was appointed to represent the defendant in *State of Texas v. John Paul Perry* (Case No. 20160D02576) at his magistration. At his arraignment, Judge Aguilar appointed other attorneys to serve as first and second chairs in the case, relegating the Public Defender to third chair. Judge Aguilar also issued an order that only the first chair attorney could file motions in the case.
50. Chief Public Defender Jaime Gandara filed a motion to withdraw from the case. Judge Aguilar issued a show cause order directing Mr. Gandara to appear and explain why he should not be held in contempt of court for filing the motion when the court's order prohibited anyone but the first chair attorney from submitting filings in the case.
51. On June 11, 2016, in lieu of a formal show cause hearing, Judge Aguilar met in his chambers with Mr. Gandara and El Paso attorney Enrique Moreno. It was agreed that Judge Aguilar would not pursue contempt proceedings if Mr. Gandara would write a letter to the employees of the Public Defender's office acknowledging his mistake and making a statement of apology to the Judge.
52. Mr. Gandara distributed a letter to his employees in which he apologized to the judge, and the matter was resolved.

State of Texas v. Kenneth Don Medley (Case No. 20160D04164)

53. After experiencing what he believed to be prejudicial and inappropriate treatment from Judge Aguilar in previous cases, El Paso attorney John Needham filed a motion to recuse Judge Aguilar in *State of Texas v. Kenneth Don Medley* (Case No. 20160D04164) on September 26, 2016. Judge Aguilar failed to grant the motion or refer the matter to the presiding judge of the administrative judicial region within three days, as required by Texas Rule of Civil Procedure ("TRCP") 18a(f). Moreover, he proceeded with the defendant's arraignment on September 26,

2016, and held status hearings in the case on October 11, 2016 and October 19, 2016, despite the pending recusal motion, in violation of TRCP 18a(f)(2)(A).⁵

54. Judge Aguilar assured the Commission that he is well aware of the legal requirements under TRCP 18a for handling recusal motions. He stated that any delay on his part in referring a recusal motion to the presiding judge, or continuing with proceedings despite the existence of a pending recusal motion, was because he was unaware that the motion had been filed, as the filing party did not provide him with a courtesy copy.
55. In his written responses, Judge Aguilar stated he has taken remedial actions to ensure that the notices he now issues for show cause hearings meet the applicable procedural requirements. During his appearance before the Commission, however, Judge Aguilar represented that he has made the decision to no longer initiate contempt proceedings against attorneys who fail to appear for or are late to proceedings in his court, or issue arrest warrants for attorneys who fail to appear for show cause hearings.

DEMEANOR (Canon 3B(4))

56. During its investigation, Commission Staff spoke to or received written complaints from multiple individuals who complained about Judge Aguilar's judicial demeanor. They allege that Judge Aguilar subjected them or others to extremely impolite and disrespectful treatment.
57. The above-described interactions between Judge Aguilar and Mr. Cisneros, Ms. Gabrielova, Mr. Anchondo, Mr. Abogado, Mr. LeVey, Ms. Lawrence, and Mr. Gandara were also considered by the Commission in regards to Canon 3B(4).
58. Many of the complaints regarding Judge Aguilar's demeanor relate to his treatment of prospective jurors. Several reference a lecture delivered by the Judge on the importance of jury duty that left complainants feeling disrespected and attacked for their supposed efforts to get out of jury service.
59. The Commission received a sworn statement from a sexual assault survivor who, after identifying herself as a survivor in response to voir dire questioning, felt shamed by Judge Aguilar for trying to get out of jury duty.
60. An attorney submitted a complaint to the Commission stating that he witnessed Judge Aguilar make a prospective juror cry because he did not believe the woman's assertion she had a limited understanding of English, and questioned her about the disability benefits received by her family. Judge Aguilar told the woman:

What I am telling you is that in this great country of America, we take care of the disabled. This – freedom is not free. This is one of the few things this country asks our citizens to do, come up here and pass judgment. And in return, we send you disability checks. And you turn around and come up to me and tell me, I don't want to serve because I do not understand. You understand perfectly. Your English is no problem. Outside in the hallway, ma'am. Now. Now.
61. In another complaint, a prospective juror who stated he witnessed the Judge treat a woman in the jury pool with disrespect, claimed that when he told the Judge to be nice, Judge Aguilar informed

⁵ The Motion to Recuse was denied by Judge Ables on November 18, 2016.

the woman she could file a complaint with the Commission, but such grievances did not concern him because he knew how to handle them.

62. During the voir dire proceedings in *State of Texas v. Montelongo* (Case No. 20150D02224), several prospective jurors indicated that they could not sit in judgment of a defendant in a capital murder case on religious grounds. Judge Aguilar responded as follows:

Let me—did you people understand that question? Because it seems to me you pass judgment on people every single day. Single ladies, let me see your hands. Ever been asked out before in your life? Did you pass judgment? ‘He’s kind of ugly.’ ‘Not my type.’ ‘Doesn’t have a car.’ Did you not pass judgment on another human being? Now, look, ladies, I’m not saying it’s going to be – you know, have Smiling Jack pick you up and take you to the bus stop, have a nice dinner, McDonald’s, come back home. Did you or did you not pass judgment on him? Did you understand the question? Can you judge another person? Stranger walks up to you. ‘I don’t want to talk to you. I don’t want to talk to you.’ Did you not pass judgment?

Judge Aguilar then questioned one of the prospective jurors directly as follows:

Judge Aguilar: On your feet.

Venireperson: Yes, sir.

Judge Aguilar: Did you understand that? You’ve never passed judgment on another human being?

Venireperson: I honestly try not to.

Judge Aguilar: What?

Venireperson: I said I honestly try not to.

Judge Aguilar: Did you ever apply for a job?

Venireperson: Yes, sir.

Judge Aguilar: Did you pass judgment on the person interviewing you?

Venireperson: Try not to.

Judge Aguilar: I didn’t ask if you try. I try to do a lot of things I don’t know. Try not to. You’re telling me you can’t pass judgment on a human being?

Venireperson: I shouldn’t.

Judge Aguilar: Ma’am, one of these days you’re going to have children and you’re going to pass judgment two, three times an hour. Mothers, turn around, let her know it’s coming. It’s coming. I don’t – did you understand the question?

Venireperson: Yes, sir.

Judge Aguilar: How about your sister? You like the way she dresses?

Venireperson: Yes, sir.

Judge Aguilar: How about the other women at the mall? You see the way they dress?

Venireperson: Yes, sir.

Judge Aguilar: Pass judgment on them?

Venireperson: Not my place.

Judge Aguilar: I didn’t ask if it’s your place. I know it’s not your place.

63. Judge Aguilar contends that the complaints about his demeanor are politically motivated or brought by people who simply do not like him.

64. Judge Aguilar denies that he ever treated a juror or prospective juror with a lack of patience, dignity, or courtesy. He expressed his serious concerns regarding the efforts of El Paso residents to shirk their civic duty with respect to jury service, and his determination not to allow that to occur in his court.
65. Judge Aguilar explained that it has been his practice, after the jury has been selected and removed from the courtroom, to give a speech to the remaining individuals regarding the importance of jury duty. During his appearance before the Commission, the Judge represented that, in light of the numerous complaints received, he has ceased the practice and will no longer give this lecture.

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 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.
4. Article V, §1-a(6)A of the Texas Constitution provides, in relevant part, that a judge shall not engage in “willful or persistent conduct” that “casts public discredit upon the judiciary or administration of justice.”

CONCLUSION

The Commission concludes from the totality of the facts and evidence presented that Judge Aguilar willfully and persistently failed to comply with applicable law in his handling of contempt proceedings against lawyers appearing in his court and recusal motions filed against him, in violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct. The Commission further concludes that Judge Aguilar engaged in a persistent pattern of treating those with which he deals in an official capacity with a lack of patience, dignity, and courtesy, in violation of Canon 3B(4) of the Texas Code of Judicial Conduct. Finally, the Commission concludes Judge Aguilar’s willful and persistent conduct cast public discredit on the judiciary and the administration of justice, in violation of Article V, §1-a(6)A of the Texas Constitution.

In view of the conduct described above that violated Canons 2A, 3B(2), and 3B(4) of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution, it is the Commission’s decision to issue a **PUBLIC REPRIMAND AND ORDER OF ADDITIONAL EDUCATION** to the Honorable Luis Aguilar, 243rd District Court Judge, El Paso, El Paso County, Texas.

Pursuant to this Order, Judge Aguilar must obtain, at his own expense and in addition to his required judicial education for the Fiscal Year 2018, **eight hours** of the College for New Judges presented by the Texas Center for the Judiciary from December 10-13, 2017 in Austin, Texas, which hours shall include those portions of the program entitled “Orientation,” “Role of a Judge,” “Who’s in Charge of the Courtroom,” “Recusal and Disqualification,” “Listening,” “Ethics In and Out of the

Courtroom,” and “Case Management: Tips & Tools.” It is Judge Aguilar’s responsibility to contact the Texas Center for the Judiciary to register and pay for this additional education.

In addition, Judge Aguilar must participate in **two hours** of instruction in the area of contempt of court with a mentor to be chosen by the Commission.

Upon completion of the eight hours of the College of New Judges and the two hours of mentoring described above, Judge Aguilar 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 6th day of November, 2017.



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