



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC No. 01-0732-JP

PUBLIC REPRIMAND

**HONORABLE JOHN ROBERT KLEIMANN
JUSTICE OF THE PEACE, PRECINCT 1
WILLIS, MONTGOMERY COUNTY, TEXAS**

During its meeting in Austin, Texas, on February 7-8, 2002, the State Commission on Judicial Conduct (the Commission) concluded a review of allegations against the Honorable John Robert Kleimann, Justice of the Peace, Precinct 1, Willis, Montgomery County, Texas. Judge Kleimann was advised by letter of the Commission's concerns and provided a written response. Judge Kleimann was given the opportunity to appear before the Commission and give testimony but declined to appear. 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 John Robert Kleimann was Justice of the Peace for Precinct 1, Willis, Montgomery County, Texas.
2. On May 7, 2001, Mike Rooney appeared before Judge Kleimann with his 11-year-old foster son, who had been cited to appear in the judge's court for using profanity at school.
3. After hearing Rooney describe the boy's unruly conduct at home and at school, and the fact that alternative forms of discipline had been unsuccessful, the judge remarked, "[w]hat he needs is a good butt-dusting."

4. When Rooney explained that he was not allowed to spank any of the foster children in his care, Judge Kleimann indicated that Rooney could spank the boy with the court's permission. The judge then directed a deputy constable to provide Rooney with a paddle so that Rooney could paddle his foster son.
5. Witnesses reported that the paddle, which was retrieved from the judge's chambers, was approximately 18 to 24 inches long, contained holes bored into the flatter end, and had a special grip on the handle.
6. After being presented with the paddle, Rooney swatted the boy's buttocks three (3) times in the presence of the judge and court personnel.
7. Rooney stated that he paddled the boy because he feared the judge would jail him for three days if he refused the order.
8. While acknowledging that Judge Kleimann never threatened him with jail on May 7th, Rooney related that on a previous occasion, after the judge had sentenced two of Rooney's foster children to probation, the judge had warned Rooney of the penalties for not complying with a court order to paddle the children if they violated the terms of their probation.
9. A witness to the May 7th hearing also reported that this instance was not the first time that a child had been paddled in Judge Kleimann's courtroom.
10. A May 2001 *Houston Chronicle* article reported that Judge Kleimann defended his actions by saying, "[The foster son] doesn't understand any other punishment but corporal punishment. That was the way I was raised and you were raised, and we were much better kids than the current generation." The article also reported that a Child Protective Services supervisor said agency regulations prohibit foster parents from spanking children.

RELEVANT STANDARDS

1. Article 5, Section 1-a(6)A of the Texas Constitution provides that any Texas justice or judge may be disciplined for 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.
2. Canon 2A of the Texas Code of Judicial Conduct states that "[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."
3. Canon 3B(3) of the Texas Code of Judicial Conduct states that "[a] judge shall require order and decorum in proceedings before the judge."

CONCLUSIONS


The Commission finds from the evidence presented that Judge Kleimann acted outside the law when he ordered Mike Rooney to paddle his foster child. While judges have some discretion to order various methods of appropriate discipline for children who misbehave at school, including ordering community service, they have no authority to order a foster parent to paddle his or her foster child. Because Judge Kleimann had no legal authority to order such punishment, he failed to comply with the law in violation of Canon 2A of the Texas Code of Judicial Conduct. The Commission also concluded that by allowing Rooney to paddle his foster son before court personnel, Judge Kleimann failed to maintain proper order and decorum in the courtroom in violation of Canon 3B(3) of the Texas Code of Judicial Conduct. Finally, based on witness accounts of other children who had been paddled in the judge's court in the past, and the media attention generated by the May 7th hearing, the Commission concluded that Judge Kleimann's actions in this case were willful and persistent, clearly inconsistent with the proper performance of his duties, and cast public discredit upon the judiciary in violation of Article 5, §1-a(6)A of the Texas Constitution.

In condemnation of the above-recited conduct that violated Article 5, §1-a(6)A of the Texas Constitution and Canons 2A and 3B(3) of the Texas Code of Judicial Conduct, it is the Commission's decision to issue a **PUBLIC REPRIMAND** to the Honorable John Robert Kleimann, Justice of the Peace, Precinct 1, Willis, Montgomery County, Texas.

Pursuant to the authority contained in Article 5, §1-a(8) of the Texas Constitution, it is ordered that the conduct described above is made the subject of a **PUBLIC REPRIMAND** by the Commission.

The Commission takes this action in a continuing effort to protect public confidence in the judicial system, and to assist the state 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 1st day of March 2002.



Honorable Michael O'Neal, Chair
State Commission on Judicial Conduct