



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC No. 01-0879-CC

PUBLIC ADMONITION

**HONORABLE DELWIN MCGEE
COUNTY COURT AT LAW
DUMAS, MOORE COUNTY, TEXAS**

During its meeting on May 9-10, 2002 in Austin, Texas, the State Commission on Judicial Conduct (the Commission) concluded a review of allegations against the Honorable Delwin McGee, County Court at Law Judge, Dumas, Moore County, Texas. Judge McGee was advised by letter of the Commission's concerns and provided a written response. Judge McGee appeared before the Commission on May 10, 2002 and gave testimony. 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 Delwin McGee was County Court at Law Judge, Dumas, Moore County, Texas.
2. On June 6, 2001, the local "Dogie Days" parade took place in Dumas. Traditionally, the parade is celebrated with water gun fights. Among the participants in the parade were several little league baseball teams and their coaches.
3. At the end of the parade, Judge McGee, one of the little league coaches, was approached by an 11-year-old player from another team. The young boy proceeded to squirt the judge on the back with a large, pump-action water pistol.

4. According to several witnesses, in response to being squirted with a water pistol, Judge McGee chased after the child, grabbed him, took his water pistol, placed him in a headlock, pulled his head back by the hair, and squirted the child in the face with the water gun.
5. After witnessing this encounter, another baseball coach, Hector Calderon, flagged down a police officer and reported the incident.
6. A short time later, the child was taken to a local hospital, where medical personnel treated him for a slight abrasion on his neck, a small laceration on his tongue, and a small bruise on his thumb.
7. The matter was investigated by the Dumas Police Department and, subsequently, by the Texas Rangers.
8. The case was referred to the district attorney, who declined to prosecute the case after the child's parents signed affidavits that their son did not suffer any significant injuries from the confrontation. The parents' affidavits also memorialized their belief that any further criminal investigation would have been inappropriate.
9. In his testimony before the Commission, Judge McGee, who demonstrated no remorse, admitted that he had been "irritated" by the child and that he had grabbed the child "to teach him a lesson." Although Judge McGee acknowledged that he had squirted the child on the head with the water pistol and that the child had been slightly "hurt" because of the incident, the judge denied placing the child in a headlock, pulling his hair, or squirting him in the face.
10. There were no witnesses identified by the judge who could support his version of events.
11. The incident described above received local media attention.

RELEVANT STANDARD

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.

CONCLUSION

The Commission concludes from the evidence presented that Judge McGee's physical confrontation with an 11-year-old child in retaliation for a water gun attack, an incident that generated local media attention and resulted in a criminal investigation into the judge's conduct, cast public discredit on the judiciary in violation of Article 5, §1-a(6)A of the Texas Constitution.

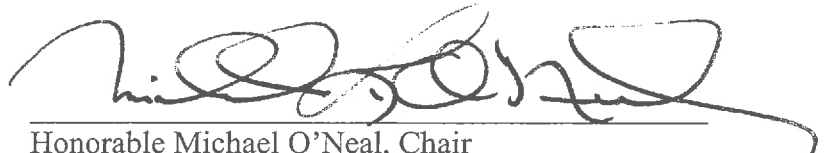
In reaching its decision in this case, the Commission does not wish to discourage judges from taking part in community events and volunteering their time to local organizations, especially those involving children. The Commission encourages judges to be active participants in their local communities to the extent that such participation comports with the Texas Code of Judicial Conduct and Article 5, Section 1-a(6)A of the Texas Constitution.

In condemnation of the above-recited conduct that violated Article 5, §1-a(6) of the Texas Constitution, it is the Commission's decision to issue a **PUBLIC ADMONITION** to the Honorable Delwin McGee, County Court at Law Judge, Dumas, Moore 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 ADMONITION** by the Commission.

The Commission has issued this sanction against Judge McGee 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.

Signed this the 5 day of June, 2002.



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