



FILED
Clerk of the Commission.

Date 12-07-01 In Re Judge No. 82
Christal Velasco
Clerk

**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

**IN RE: JUDGE DAVID A. CHRISTIAN
JUSTICE OF THE PEACE, PRECINCT 2, PLACE 1,
MANVEL, BRAZORIA COUNTY, TEXAS
(CJC Nos. 00-0452-JP AND 00-0567-JP)**

**VOLUNTARY AGREEMENT TO RESIGN FROM
JUDICIAL OFFICE IN LIEU OF DISCIPLINARY ACTION**

This Agreement is entered into by the undersigned parties pursuant to sections 33.001(b) and 33.032(h) of the Texas Government Code.

WHEREAS on February 1, 2000, a complaint (CJC No. 00-0452-JP) was filed with the State Commission on Judicial Conduct (the "Commission") against Judge David Christian, and

WHEREAS on March 3, 2000, a complaint (CJC No. 00-0567-JP) was filed with the Commission against Judge Christian, and

WHEREAS on February 8, 2001, the Commission instituted formal proceedings against Judge Christian pursuant to its authority under Article 5, Section 1-a(8) of the Texas Constitution, and

WHEREAS on or about May 23, 2001, Examiner's Notice of Formal Proceedings was served on Judge Christian (a true and correct copy of the Notice is attached hereto as **Exhibit A** and incorporated herein for all relevant purposes), and

WHEREAS Judge Christian has not filed an answer, and Judge Christian disputes all pending charges, and

WHEREAS the Examiner believes there is a preponderance of evidence to substantiate the pending charges against Judge Christian, which would result in disciplinary action against Judge Christian, and

WHEREAS no Findings of Fact or Conclusions of Law have been made in the above-referenced action, and

WHEREAS the parties are desirous of resolving this matter without further time and expense.

IT IS THEREFORE AGREED that Judge Christian shall voluntarily resign his judicial office in lieu of further disciplinary action by the Commission, and the Commission, through Examiner, agrees that it shall take no further disciplinary action against Judge Christian based on the Notice of Formal Proceedings in the above-referenced action.

IT IS FURTHER AGREED that Judge Christian shall be disqualified from: sitting or serving as a judge in the State of Texas; standing for election or appointment to judicial office in the State of Texas; or, performing or exercising any judicial duties or functions of a judicial office, including the performance of weddings pursuant to the authority of section 2.202(a)(4) of the Texas Family Code, in the State of Texas.

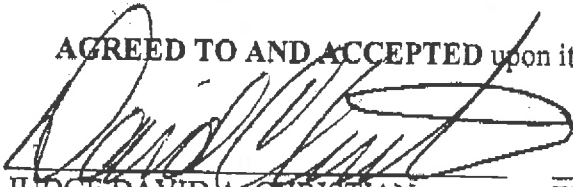
IT IS FURTHER AGREED that any violation of this Agreement by Judge Christian would constitute: willful or persistent conduct that is clearly inconsistent with the proper performance of his duties in violation of Article 5, Section 1-a(6)A of the Texas Constitution and section 33.001(b) of the Texas Government Code; or, willful or persistent conduct in violation of the Texas Code of Judicial Conduct, including Canon 5(2) of the Code.


IT IS FURTHER AGREED that any violation of this Agreement by Judge Christian would be subject to review by the Commission, the Secretary of State, the Attorney General, or, if the circumstances warrant, the local District Attorney for appropriate action.

IT IS FURTHER AGREED that this Agreement is not an admission by Judge Christian of the charges against him in the above-referenced action, any such admission being denied in this compromise and settlement.

IT IS FURTHER AGREED that the Commission may enforce this Agreement through any legal process necessary, including injunctive relief; that Travis County, Texas, shall be the proper venue for any dispute between the parties or proceeding relating to this Agreement.

AGREED TO AND ACCEPTED upon its execution by the parties.


JUDGE DAVID A. CHRISTIAN


EXAMINER for the State Commission on
Judicial Conduct

Date: 12-5-2001

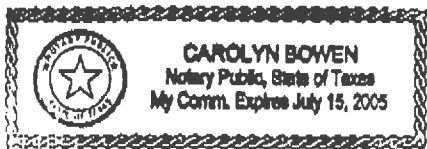
Date: 12-7-01

VERIFICATION

State of Texas §
 §
 County of Brazoria §

BEFORE ME, the undersigned authority, on this day personally appeared **DAVID A. CHRISTIAN**, who by me being first duly sworn, on his oath deposed and said that the above "Voluntary Agreement to Resign from Judicial Office in Lieu of Disciplinary Action" is a true and correct recitation of the facts and accurately reflects his understanding of the terms and conditions of, and voluntary consent to enter into, such Agreement.

SUBSCRIBED AND SWORN TO BEFORE ME, on this the 5th day of December, 2001.



Carolyn Bowen

 NOTARY PUBLIC, IN AND FOR THE
 STATE OF TEXAS

Seal of the State Commission on Judicial Conduct
FILED
Date 05/03/01 in Precinct No. 82
By Crystal Velasco
CRYSTAL VELASCO

BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT

IN RE JUDGE DAVID CHRISTIAN
INQUIRY No. 82

COPY

NOTICE OF FORMAL PROCEEDINGS

TO THE HONORABLE DAVID CHRISTIAN, JUSTICE OF THE PEACE,
PRECINCT 2, PLACE 1, MANVEL, BRAZORIA COUNTY, TEXAS

Pursuant to Sec. 33.022 of the Texas Government Code (V.A.T.S. 1998), and Rule 10 of the Procedural Rules for the Removal or Retirement of Judges, as promulgated by the Texas Supreme Court, this NOTICE is hereby given to the Honorable David Christian, Justice of the Peace, Precinct 2, Place 1, Manvel, Brazoria County, Texas, that formal proceedings have been instituted against him, based upon the following:

FACTUAL ALLEGATIONS

1. At all times relevant hereto, the Honorable David Christian was Justice of the Peace for Precinct 2, Place 1, Manvel, Brazoria County, Texas.

CJC #00-0452-JP

2. On or about November 21, 1996, Kyle Knight, a former employee of Judge Christian's court, filed a complaint against Brazoria County, Texas, with the Equal Employment Opportunity Commission (EEOC), alleging that Judge Christian engaged in sexual harassment, retaliation, and constructive discharge in violation of Title VII of the Civil Rights Act of 1964.
3. The EEOC complaint was dismissed on or about October 26, 1999, after a hearing before an Administrative Law Judge (ALJ). The ALJ found that although the judge's speech and conduct at the workplace may have been "crude, tasteless and offensive" to Knight, there was no evidence that the conduct was severe or pervasive enough to affect her employment.
4. The ALJ criticized the judge's conduct and found that the judge acted with ill-will when, in December of 1996, after Knight filed discrimination charges with the EEOC, the judge attempted to have her husband, Eddie Knight, a County official, arrested for stealing a sledgehammer. The sledgehammer, which belonged to the County, had been given or loaned to the judge by Mr. Knight in August of 1996 in order for the judge to post signs for his election campaign. The sledgehammer was still in the judge's possession when he contacted the Sheriff's office to make the theft allegations against Mr. Knight.

EXHIBIT A

5. The ALJ criticized the judge for secretly tape recording conversations with Knight.
6. The ALJ found that the judge had engaged in a consensual sexual relationship with a female employee who was under his supervision. With regard to this sexual relationship, the judge testified that certain sexual acts took place at his court offices, but after hours.
7. The ALJ found that the judge acted improperly and exercised poor judgment when he gave \$100.00 to his clerk and other employees who had been called as witnesses during the first and second day of the EEOC hearing. The judge testified that the money was intended to pay for his employees' lunches.
8. The ALJ found the judge's motives to be "questionable," when, on or about August 6, 1999, after the close of evidence in the EEOC hearing, the judge attempted to communicate *ex parte* with the ALJ by writing that Eddie Knight had allegedly retaliated against one of the judge's witnesses in the case.
9. By affidavit dated February 6, 2001, the female employee with whom the judge acknowledged having the sexual relationship testified that she and Judge Christian did not have sexual relations "at the precinct office." Judge Christian caused this affidavit, which contradicts his earlier testimony, to be submitted to the State Commission on Judicial Conduct for consideration in the proceedings pending against him. In conjunction with his submission of the affidavit, the judge testified before the Commission that his relationship with the employee did not take place at the court offices.

CJC #00-0567-JP

10. On or about February 8, 2000, while involved in a contested election for the position of Justice of the Peace against H. M. Atchison, a Brazoria County deputy sheriff, Judge Christian filed a written complaint with the Brazoria County Sheriff, alleging that Deputy Atchison had accepted a bribe to perform personal services for a prisoner. Said complaint was written on official court letterhead and was based on information allegedly obtained from an "inside reliable source," which turned out to be another prison inmate.
11. Thereafter, Judge Christian suggested to Brazoria County Sheriff E. J. King that the judge would withdraw his complaint against Deputy Atchison if Atchison withdrew from the race for Justice of the Peace.
12. An internal investigation conducted by the Brazoria County Sheriff's Department determined that the allegations raised by the judge against Deputy Atchison were unfounded.

RELEVANT STANDARDS

1. Article V, Section 1-a(6)A of the Texas Constitution provides, in relevant part, that any Justice or Judge of the courts established by the Constitution or created by the Legislature may be removed from office, disciplined, or censured for "incompetence in performing the duties of office, willful violation of the Code of Judicial Conduct,

or willful or persistent conduct that is clearly inconsistent with the proper performance of duties or casts public discredit upon the judiciary on the administration of justice;”

2. Canon 2A of the Texas Code of Judicial Conduct provides 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 2B of the Texas Code of Judicial Conduct provides that a judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge.

CHARGE I
CJC #00-0452-JP

Based on the official record and findings made by the ALJ in the EEOC proceedings, as well as Judge Christian’s testimony before the Commission, it is the decision of the Commission that Judge Christian’s speech and conduct in the workplace as it related to Kyle Knight, his attempt to bring criminal charges against Eddie Knight, his sexual relationship with a subordinate at the office, his conduct during the course of the EEOC hearings, as well as his conduct during the proceedings before the Commission, including Judge Christian’s submission of an affidavit containing false testimony concerning his sexual relationship with the subordinate, and the judge’s inconsistent testimony concerning his sexual relationship with the subordinate, constitute willful and persistent conduct in violation of:

1. Article V, Section 1-a(6) of the Texas Constitution;
2. Canon 2A of the Texas Code of Judicial Conduct;
3. Canon 2B of the Texas Code of Judicial Conduct.

CHARGE II
CJC #00-0567-JP

Based on Judge Christian’s testimony before the Commission, it is the decision of the Commission that the judge’s conduct toward Deputy Atchison, including the use of official court letterhead to attempt to initiate criminal charges against the Deputy without a reasonable basis, and the judge’s communication to the Sheriff that the judge would withdraw the criminal complaint if Deputy Atchison withdrew from the Justice of the Peace race, constitute willful and persistent conduct in violation of:

1. Article V, Section 1-a(6)A of the Texas Constitution;
2. Canon 2A of the Texas Code of Judicial Conduct;
3. Canon 2B of the Texas Code of Judicial Conduct.

Judge Christian is hereby notified that he has the right to file a written answer to the foregoing charges within fifteen (15) days after service of this Notice of Formal Proceedings upon him. Judge Christian's answer should be forwarded or delivered to Crystal Velazco, Clerk of the Commission, State Commission on Judicial Conduct, P.O. Box 12265, Austin, Texas, 78711-2265.

Signed this 3rd day of May, 2001.

EXAMINERS

P.O. Box 12265
Austin Texas 78711
(512) 463-5533
FAX: (512) 463-0511

Margaret J. Reaves
Executive Director
Texas State Bar No. 16643800

Seana Willing
General Counsel
Texas State Bar No. 00787056

By: Seana Willing
Seana Willing
Texas State Bar No. 00787056