

Opinion Issued November 3, 2023



DOCKET NO. SCR 22-0004

SPECIAL COURT OF REVIEW

**IN RE INQUIRY CONCERNING HONORABLE BONNIE RANGEL
CJC NO. 21-0483, 21-0802, 21-1294 & 21-1609**

OPINION

Before QUINN, CJ Presiding, and BENAVIDES JJ and GOLEMON, CJ.

Truly, a picture is worth one thousand words, if not more. Here, we have more than pictures; rather, we have videos of conduct ascribed by the Texas State Commission on Judicial Conduct as unacceptable. While words may tend to describe that conduct, they fall short of grasping its essence. Thus, we use both in completing the duty assigned us by the Texas Supreme Court. That body ordered this panel to conduct a de novo review of various acts performed by the Honorable Bonnie Rangel, 171st District Court. Those acts were found sanctionable by the Commission, which issued both a public warning and public admonishment. We issue a public warning coupled with an order for further education and mentoring.

Background

The “public admonition” arose from a single instance of Judge Rangel filing a written response to a motion seeking her recusal from a particular case. Underlying the determination was the rule of procedure stating that a jurist subject to such a motion “should not file a response” to it. TEX. R. CIV. PROC. 18a(c)(2). According to the Commission, the mere fact that Judge Rangel filed a response meant she failed to comport and maintain competence in the law, thereby violating “Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.”

The “public warning” arose from the judge’s interaction with attorneys and court personnel during four separate hearings held within the two-year period of 2020 to 2021. Each hearing occurred electronically and remains within the morass of videos accessible to the public via YouTube. And, collectively, her conduct led the Commission to hold she “should be publicly warned for failing to [be] patient, dignified and courteous toward the Assistant District Attorney, attorneys and court personnel, all of whom she deals in an official capacity, during court hearings, in violation of Canon 3B(4) of the Texas Code of Judicial Conduct.”

Each of the foregoing determinations are subject to a de novo review. *In re Bell*, 894 S.W.2d 119, 121 (Tex. Spec. Ct. Rev. 1995); *In re Keller*, 357 S.W.3d 413, 425-26 (Tex. Spec. Ct. Rev. 2010). Thus, in July 2023, we convened a hearing to garner pertinent evidence. Both Judge Rangel and the Commission appeared. The following emanates from that hearing.

Responding to Recusal

We begin with the matter of responding to the recusal motion and reiterate that the Commission found Judge Rangel violated Canons 2A and 3B(2) in doing so. We conclude otherwise.

Canon 2A states that: a “judge shall comply with the law . . .” Per Canon 3B(2), a jurist also “shall maintain professional competence in“ the law. Of the myriad laws we “shall comply with” and “should maintain professional competence in” is that establishing the procedures to be followed when a litigant attempts to recuse a trial judge. Those procedures appear in Rule 18a of the Texas Rules of Civil Procedure. And, the subpart in play is that stating: “[t]he judge whose recusal or disqualification is sought should not file a response to the motion.” TEX. R. CIV. PROC. 18a(c)(2). No one disputes that Judge Rangel filed a response. She admitted as much and explained she “was not aware of that” provision. So too did she state she: 1) had not been in “very many contentious or contested motion[s] to recuse,” 2) failed to comply with the law when filing the response, and 3) failed to maintain professional competence in the law regarding motions to recuse and filing a response. Does that warrant sanction in this instance . . . we say no.

The violation of judicial canons may be the source of discipline when “willful.” TEX. CONST. art. V, §1-a(6)(A). Willful conduct, for purposes of that article, involves the improper or wrongful use of the power of office by a judge acting intentionally, or with gross indifference. *In re Ginsberg*, 630 S.W.3d 1, 7 (Tex. Spec. Ct. Rev. 2018); *In re Barr*, 13 S.W.3d 525, 534 (Tex. S. Ct. Rev. Trib. 1998); *In re Thoma*, 873 S.W.2d 477, 489 (Tex. S. Ct. Rev. Trib. 1994). This contemplates more than an error in judgment or lack of diligence. *In re Barr*, 13 S.W.3d at 534; *In re Thoma*, 873 S.W.2d at 489. Rather,

it must evince moral turpitude, dishonesty, corruption, misuse of office, bad faith or the like. *Id.* And, the Commission must prove the jurist had either: 1) the conscious objective of causing the result or of acting in the manner defined in the pertinent rule of conduct or 2) exercised indifference that is flagrant, shameful and beyond all measure and allowance when performing the act. *In re Ginsberg*, 630 S.W.3d at 7; *In re Barr*, 13 S.W.3d at 534-35.

At best, the evidence of record revealed a lack of knowledge on Judge Rangel's part about the applicability of Rule 18a and its allegedly absolute prohibitions. It depicts her failure to exercise diligence in discovering the law by which she had to abide when confronted with a motion to recuse. We find nothing in it evincing moral turpitude, dishonesty, corruption, misuse of office, or bad faith. See *In re Ginsberg*, 630 S.W.3d at 8 (defining bad faith as dishonesty of belief or purpose). Nor do we find within it a pattern of practice of ignoring applicable law or refusal to educate herself about the law.

Judges make mistakes when complying with, applying, and interpreting laws. Indeed, the obviousness of this is implicit within our tiered judicial system. Recognizing that, those writing the Constitution required violations of Canons 2A and 3B(2) to be willful. Judge Rangel's were not. Her mistake likened to simply an error in judgment or lack of diligence.

Interaction at Hearings

Next, we address Judge Rangel's comportment with Canon 3B(4). It provides that a "judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, and should require similar

conduct of lawyers, and of staff, court officials and others subject to the judge’s direction and control.” TEX. CODE JUD. CONDUCT, Canon 3B(4). The Commission charged Judge Rangel with violating this canon while presiding over four hearings. And, as said earlier, the Commission determined that collectively, the violation warranted a public warning. We concur after conducting our own de novo review of the evidence.

To reiterate, the conduct at issue was brought to the Commission’s attention through three complaints. One, CJC No. 21-0483, encompassed two incidents. Each of those incidents involved extended rebukes, one directed at an assistant district attorney and the El Paso County district attorney’s office.¹ The other entailed rebukes directed at two attorneys in a civil proceeding and stemmed from those attorneys characterizing an opponent’s discovery requests as “nonsensical.”² The second complaint, CJC No. 21-0802, concerned reference to a defendant suffering the effects of “karma,”³ while the third, CJC No. 21-1609, deals with reference to a court interpreter’s attitude and a curt directive to the interpreter about having a “good life.”⁴ We address each in turn.

Regarding the assistant district attorney and office of the El Paso District Attorney incident, Judge Rangel spoke in what can be described as an elevated, sometimes shrill, tone.⁵ With such a tone in her voice, interspersed with hopping in her seat and waving her arms, she 1) criticized how “you guys operate,” 2) opined that the district attorney’s office does not “operate with fairness and decency and justice,” 3) characterized arguments proffered by the assistant district attorney as “outrageous” and “stupid,” 4)

¹ <https://www.youtube.com/live/l1Yc5otb-kU?si=QhkNXHbFYy3i7sZB>

² <https://www.youtube.com/live/hvzgS9L2bc?si=a-0thJDmdZhVERDs>

³ <https://www.youtube.com/live/XFn0FpotMSI?si=G8xFzeOszjnXpvAM>

⁴ <https://www.youtube.com/live/esYQxeYT7ws?si=JUKjdGeSsVmUOYRP>

⁵ <https://www.youtube.com/live/l1Yc5otb-kU?si=QhkNXHbFYy3i7sZB> beginning at 1:23:30 *in passim*.

voiced disgust through her statement, “ I just can’t take that . . . can’t take it,” 5) criticized “how you guys think and how you dispense justice . . . it’s outrageous,” 6) espoused “this isn’t the first time this outrageousness has been brought to my attention . . . this is case, after case, after case on big cases . . . you guys just gotta get a conviction,” and 7) accused the office of repeatedly “play[ing] games” and “being obstructive in all the big big cases.” Given that this was a hearing conducted over Zoom during the period of COVID closures, the assistant district attorney sat alone and attempted to communicate with office colleagues through text messages. Judge Rangel then accused the lawyer of inattentiveness and extended her commentary. Again, this discourse transpired over a period of minutes as opposed to seconds. Furthermore, it evinced a general bias against the manner in which another elected official (the district attorney) operated his office. Indeed, she later admitted to 1) having a “contentious relationship” with the district attorney, 2) “everyone” knowing of that contentious relationship, 3) supporting a candidate running against him, 4) uttering “disparaging comments” about his office while conducting the Zoom hearing, and 5) having issues, in general, with the particular assistant district attorney sitting before her. The foregoing similarly demonstrates bias and prejudice by Judge Rangel, which also violates Canon 3B(5). TEX. CODE JUD. CONDUCT, Canon 3B(5).

As for the civil proceeding, it involved a discovery dispute and a Zoom hearing to resolve them. The three attorneys participating therein were female, two of whom worked for the same law firm. Through much of the proceeding, Judge Rangel spoke calmly and inquisitively. Yet, that changed when one attorney (movant’s counsel) described how the other two first “trashed” her by apparently characterizing her discovery requests as

“vague” and “nonsensical.”⁶ In a stern voice and a roll of her eyes, Judge Rangel began with: “you know, that would kind of piss me off.” This was followed, in an alternately calm and yelling tone, with her description of the “flavor” of the situation. That “flavor” consisted of: 1) “disrespect” as opposed to “kindness” and 2) two more experienced attorneys “pick[ing]” on a less seasoned one.⁷ She then can be heard both interchangeably emphasizing and yelling that: 1) “nonsensical is mean,” 2) “you guys are disrespectful and you guys are mean,” 3) “why would you say ‘nonsensical’, that’s disrespectful,” 4) “have you ever said nonsensical in other responses,” 5) “well you’re disrespectful to a lot of people and that’s rude,” 6) “let me tell you . . . in this world we do not need any more of that, we have plenty of that,” 7) “so be professional,” 8) “so when you say nonsensical you mean disrespect,” 9) “and let me tell you . . . disrespect is determined by the receiver,” 10) “stop shaking your head because you’re disrespecting me right now,” and 11) you may not mean it “but you do it to everybody,” 12) “you can’t deal with these people,” 13) “these people do not accept responsibility . . . do not accept . . . that ‘nonsensical’ was a little bit disrespectful,” and 14) “it’s a shame you all have to be female, that’s the shameful part.”⁸ These comments were also punctuated with body language like swinging of the arms, slapping of hands, waving of the head, and leaning towards the camera. Though more criticisms were made over the ensuing minutes despite apologies from counsel, this captures the tenor of her actions. It further captures

⁶ <https://www.youtube.com/live/hvzgS9L2bc?si=a-0thJDmdZhVERDs> beginning at 17:30 *in passim*.

⁷ The record indicates Rangel simply did not know that the lawyer she assumed was inexperienced had been licensed four years while one whom she castigated was newly licensed.

⁸ Judge Rangel informed the two attorneys that words like “vague,” “overbroad,” and “don’t make sense” were acceptable terms to her. Interestingly, the latter phrase is the definition of “nonsensical.” MERRIAM-WEBSTER ONLINE DICTIONARY, <https://merriam-webster.com/dictionary/nonsense> (last visited October 6, 2023). Furthermore, an electronic query of the term on a popular legal research site disclosed over 800 court opinions wherein it was used by the jurists authoring them.

their rather ironic nature, given the admonishment to act with respect and kindness. Judge Rangel would later concede that her conduct could have been better.

Next are the circumstances in CJC No. 21-0802. The hearing concerned a motion to dismiss charges against a defendant. Apparently, he had been accused of indecency with and sexual assault of a child. The defendant having since suffered severe medical issues implicating his groin area, Judge Rangel quipped: “sometimes karma’s a bitch.” She then followed that, in a raised voice and a wave of her arm with: “and let me tell you, if he did it, karmically he’s suffering right now cause God hit him right in the place where . . . it all started . . . really . . .” At that point, counsel observed that the defendant was also a double amputee. Thereafter, Judge Rangel quipped: “right, he can’t feel anything down there . . . that’s karmic . . . if he did it, there it is, God’s taken of it, there’s justice, God’s taken care of it, if he did it.”⁹ The above again demonstrates bias and prejudice by Judge Rangel, which violates Canon 3B(5). TEX. CODE JUD. CONDUCT, Canon 3B(5).

Asked at the hearing by this Special Court of Review whether her comments illustrated a bias or prejudice against the as-yet convicted defendant, she responded “no.” Instead, her intent was to “find some sense of justice for the complaining witnesses” and “give a little peace to the complaining witnesses.” Intending to bring a sense of justice for and peace to the complaining witnesses by describing defendant’s medical condition as karmic and God’s justice certainly suggests a predisposition regarding the defendant’s guilt. So too does it evince ridicule of his medical condition.

⁹ <https://www.youtube.com/watch?app=desktop&v=XFn0FpotMSI&feature=youtu.be> beginning 33:45 *in passim*.

The substance of the third and final complaint, i.e., CJC No. 21-1609, occurred at the end of a guilty plea proceeding. Judge Rangel inquired of the court interpreter if she could deactivate the interpreting program. An inaudible response came from the interpreter, which response apparently indicated she could not. Nevertheless, Judge Rangel calmly informed the interpreter to: 1) not be offended, 2) she was not trying to “piss [the interpreter] off,” and 3) another interpreter had successfully ended the program in a prior hearing. More was then said by the judge. It included, in an alternatingly raised and then stern voice: 1) “I’m not making this up and I’m not trying to piss you off;” 2) “you pissed me off with your attitude;” 3) “goodbye and have a good life . . . figure it out, please;” and 4) “that’s what you should have said from the very beginning instead of pissing me off”¹⁰

Judicial Conduct

Media, movies, and television influence the public’s perception of their elected judges. Whether it be the wizened, yet stern, Judge Chamberlain Haller, or the witty, sharpened-tongued Judge Judy, their performance on screen may easily be perceived as examples of how we should act. Yet, we are not them or Judge Dredd or even Judge Elihu Smalls. We are not entertainers, but rather Texas jurists obligated to abide by actual rules as opposed to a story or show script. Those rules include the Code of Judicial Conduct. Furthermore, Article V, Section 1-a(6)(A) of the Texas Constitution states for what a judge may be disciplined and mandates that a jurist shall not engage in the willful violation of the Code of Judicial Conduct, or in willful or persistent conduct that is clearly

¹⁰ <https://www.youtube.com/watch?v=esYQxeYT7ws&list=PPSV> 1:51:45 *in passim*.

inconsistent with the proper performance of her duties or casts public discredit upon the judiciary or on the administration of justice. TEX. CONST. ART. V, § 1-a(6)(A); *see also* TEX. GOV'T CODE ANN. § 33.001(b)(2); TEX. CODE JUD. CONDUCT, Canon 2(A), *reprinted in* TEX. GOV'T CODE ANN., tit. 2, subtit. G, app. B.

Again, Cannon 3B(4) of that Code requires us to “be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity . . .” TEX. CODE JUD. CONDUCT, Canon 3B(4); *In re Barr*, 13 S.W.3d at 538-39. Heeding this mandate does not obligate us to be robots, shorn of individual personality and character. *In re Barr*, 13 S.W.3d at 538-39. Indeed, it is that individuality in spirit, experience, and background that refreshes our ranks and reinvigorates our jurisprudence. Yet, there are limits. For instance, a judge may not threaten to crawl “across the bench and slap[] the crap out of” an attorney without repercussion. *In re Barr*, 13 S.W.3d at 539-40 (finding such violative of the Canon). And should they be impatient, vindictive, undignified, and sarcastic, they risk discipline. *Id.* at 539 (noting that jurists have been disciplined for such conduct). Similarly, insulting, degrading, vile, and sexist language has little place within the courtroom. *Id.* at 540.

Rangel's Conduct

The conduct captured in the videos and described above falls below that acceptable under 3B(4). Extended shouting at counsel for using a word commonly found in legal writings coupled with a tone reasonable jurists would find disrespectful, if not contemptible, if directed at him or her, falls outside the penumbra of patient and dignified. The same could be true of repeatedly uttering, in anger, a word (“piss”) found contemptible if said by lawyers. *E.g., In re Hesse*, No. 07-16-00437-CR, 2017 Tex. App.

LEXIS 7230, at *1 (Tex. App.—Amarillo Aug.1, 2017, orig. proc.) (mem. op.) (wherein a trial court held counsel in contempt for repeating the word “piss”). Indeed, jurists should practice what they preach. Levelling extended and global accusations of misconduct in a loud, angered voice against counsel and the office for which she worked, and ridiculing a party’s severe medical condition also evince conduct violative of 3B(4). Moreover, nothing presented us suggested that Judge Rangel’s utterances and accusations were involuntary. Rather, the evidence showed them to be intentionally said. Thus, the violations of Canon 3(B)4 were willful.

Nonetheless, not every violation need be sanctioned. A brief quip, an instance of raised voice to garner attention and stress seriousness, an exasperated shake of head or rolling of eyes, a stern look or even a harsh word may not warrant sanction. We are human, after all, not that robot spoke of in *Barr*. Our emotions may well show themselves in unique situations irrespective of the effort used to suppress them. It is for this reason that the measure of sanction, if any, is influenced by such things as the seriousness of the transgression, its frequency, its nature, its impact on the perception of the judiciary, the physical situs of its occurrence, its occurrence in private life or while performing duties of an elected office, the judge’s tenure, the judge’s effort to recognize and correct misbehaviors, repetition of the misconduct, and other relevant indicia. See *In re Sharp*, 480 S.W.3d 829, 839-40 (Tex. Spec. Ct. Rev. 2013) (listing various indicia).

Judge Rangel structured her defense, in part, upon the theme of “24 years . . . four complaints.” In other words, she asks us to infer that because only four complaints had been filed during her 24-year tenure on the bench, she necessarily erred only four times. To withstand analysis, the inference necessitates another component. That component

would consist of proof that everyone who witnesses improper conduct necessarily complains. We know that is not true. Indeed, Judge Rangel admitted to witnessing what she labelled misconduct by attorneys without formally complaining of it. If she remained silent, why would not others? In our field, it is not unheard of for attorneys to withhold complaint due to fear of retaliation, which fear one witness actually mentioned during our de novo review. Many also accept ill conduct as part and parcel of practicing our trade. We may not like it but we let it go. Acknowledging that truth leads us to reject the inference that she committed only four instances of misconduct in her 24 years since only four complained. On the other hand, the evidence does establish that within the years 2020 and 2021, she engaged in at least four instances of impropriety.

More importantly, there is a reason these four instances occurred in 2020 and 2021. It relates to the presence of COVID and the ensuing need to conduct public hearings via ZOOM and YouTube. Therefore, referencing the prior 20+/- years and lack of complaint is somewhat misleading and irrelevant given the non-utilization of Zoom and universal viewing through YouTube before then.

Additionally, the evidence illustrates that the conduct in question was not private, but quite public; it occurred during official court proceedings. Anyone in the world with access to the internet could and can view it, as did many. Moreover, the attorneys and court personnel subject to her utterances were comparable to a captive audience. Being participants in a hearing, they were not necessarily free to leave without experiencing additional reaction. Simply put, a judge controls the proceeding, which legal counsel generally know. Engaging in impermissible diatribe while exercising that control is a misuse of that office.

Judge Rangel realizing the improper nature of her action was commendable, as was her effort to alter her behavior through educational instruction. Yet, her realization and efforts at modification were not contemporaneous with or soon after her activity, but rather she acted after the Commission did, that is, after it sanctioned her and she sought review of that decision.

We also find troubling her effort to justify her conduct by suggesting that segments of the YouTube viewing public found it acceptable. As said earlier, we are not entertainers; we do not play to the public crowd. Though the public is free to grade us through the ballot box, we grade our department through compliance with canons regulating judicial conduct. Again, Article V, Section 1-a(6)(A) of the Texas Constitution states what a judge may be disciplined for and provides in relevant part that the jurist shall not engage in a willful violation of the Code of Judicial Conduct, or in willful or persistent conduct that is clearly inconsistent with the proper performance of her duties or casts public discredit upon the judiciary or on the administration of justice. TEX. CONST. ART. V, § 1-a(6)(A); *see also* TEX. GOV'T CODE ANN. § 33.001(b)(2); TEX. CODE JUD. CONDUCT, Canon 2(A), *reprinted in* TEX. GOV'T CODE ANN., tit. 2, subtit. G, app. B.

Our consideration of the incidents in total, leads us to find both a misuse of office in which Judge Bonnie Rangel intentionally engaged and one warranting the sanction of a public warning. We further direct Judge Rangel to complete 1) 2 hours of education on courtroom decorum and judicial deportment as offered by the Texas Center for the Judiciary, and 2) 2 hours of mentoring with the Honorable Judge Mark Atkinson, executive

director of the Texas Center for the Judiciary. Such must begin within one month and completed within six months from the date of this opinion.¹¹

Judge Rangel is so Ordered. We further order that no party or their representative shall remove any video or like media mentioned in this opinion from Youtube or the internet for one year from the date of this opinion.

Per Curium

¹¹ Regarding Judge Rangel's pending motion to dismiss, we deny it. Her first ground focused on purported non-compliance with statutory time periods. Those time periods were effective September 1, 2022 and applied only to complaints filed after that date. The complaints against Judge Rangel were filed in 2020 and 2021. As for the second ground, any purported denial of due process during the administrative hearing held by the Commission was rendered harmless through the de novo review. Comparing the de novo review held here to that from a justice court to a county court at law, perfecting the appeal or review annulled or vacated the judgment or decision of the Commission. See *Golden v. Milstead Towing & Storage*, Nos. 09-21-00043-CV, 09-21-00044-CV, 09-21-00045-CV, 2022 Tex. App. LEXIS 2988, at *5 (Tex. App.—Beaumont May 5, 2022, no pet.) (mem. op.) (stating that: 1) an appeal from the justice court is de novo, 2) the reviewing court does not review alleged errors of the justice court, and 3) the justice court's decision is set aside upon perfection of the appeal). Furthermore, this panel afforded her the due process to which she was entitled.