



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC No. 07-0455-MU

**PUBLIC ADMONITION
AND
ORDER OF ADDITIONAL EDUCATION**

**HONORABLE LYNDA LAWLESS
MUNICIPAL COURT JUDGE
MARLIN, FALLS COUNTY, TEXAS**

During its regularly scheduled meeting on June 18-20, 2008, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Lynda Lawless, Municipal Court Judge for the City of Marlin, Falls County, Texas. Judge Lawless was advised by letter of the Commission's concerns and provided a written response. Judge Lawless appeared with counsel before the Commission on June 20, 2008, and gave testimony. 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 Lynda Lawless was Municipal Court Judge for the City of Marlin, Falls County, Texas.
2. Court records show that on January 31, 2006, Joan Barganier had numerous citations pending against her, including a speeding citation issued in June 2005, and citations for failure to vaccinate her dogs and for allowing her dogs to run "at large," issued in December 2005.
3. Although Barganier had been notified by the animal control officer to appear in municipal court on January 31, 2006, to answer the charges relating to her dogs, she failed to appear in court on that date.

4. On or about January 31, 2006, without a prosecutor present, Judge Lawless questioned several witnesses concerning the citations issued to Barganier regarding her dogs. The judge reviewed the evidence presented by the witnesses and discussed possible courses of action, including removing the “wild dogs” from the property and euthanizing them.
5. At the conclusion of this proceeding, although no judgment had been entered against the defendant, Judge Lawless issued *capias pro fine* warrants for Barganier’s arrest on the speeding citation and for her failure to appear on that charge.
6. Judge Lawless also issued a seizure order for Barganier’s dogs, which included an order requiring Barganier to appear for a hearing on February 7, 2006.
7. On February 2, 2006, Judge Lawless issued arrest warrants against Barganier for the outstanding citations relating to her failure to vaccinate her dogs and for her failure to appear on those charges.
8. None of the warrants was served on Barganier.
9. On February 7th, Barganier appeared in Judge Lawless’ court.
10. Those present at the February 7th hearing included the chief of police, the court clerk, and the animal control officer, who had provided the probable cause affidavit for the warrants issued against Barganier.
11. As was the case on January 31st, no prosecutor was present for the proceedings.
12. Because Judge Lawless was home due to illness, the court clerk contacted the judge by telephone to set up a telephonic hearing.
13. The animal control officer went to Judge Lawless’ home to deliver copies of the paperwork relating to the cases.
14. The court clerk then handed the police chief the warrants previously issued against Barganier, and instructed the officer to execute the warrants and take Barganier to jail if she did not pay the fines and enter a plea of guilty in all of the cases.
15. No written plea regarding any of the outstanding citations against Barganier was found in the court’s files; however, Barganier testified that she informed the judge over the telephone that she was not guilty, and that she wanted a jury trial, a copy of all the complaints and evidence being used against her, and an opportunity to question the witnesses.
16. According to Barganier, these requests were ignored by the judge.
17. While on the telephone with Judge Lawless, Barganier was questioned by the animal control officer as to her ownership and care of the dogs in question. Thereafter, Barganier was instructed that if she did not promptly remove the dogs from the property and if she permitted the dogs to continue to live on the property, they would be seized and destroyed by the animal control officer.

18. According to Barganier, she was led to believe from the proceedings that her only recourse was to pay the accumulated fines in the total amount of \$5,160.00, or be taken to jail.
19. Faced with no other options, Barganier paid all of the fines to avoid arrest and jail.
20. Judge Lawless acknowledged that no written judgment was signed or noted on the docket in these cases. The only record that the cases had been disposed was the receipt given to Barganier for payment of the fines.

RELEVANT STANDARDS

1. Canon 2A of the Texas Code of Judicial Conduct states: “A judge shall comply with the law”
2. Canon 3B(2) of the Texas Code of Judicial Conduct states, in pertinent part: “A judge . . . shall maintain professional competence in [the law].”
3. Canon 6C(2) of the Texas Code of Judicial Conduct states, in pertinent part: “A justice of the peace or municipal court judge, except as authorized by law, shall not directly or indirectly initiate, permit, nor consider *ex parte* or other communications concerning the merits of a pending judicial proceeding.”

CONCLUSION

The Commission concludes based on the facts and evidence before it that Judge Lawless failed to comply with the law and demonstrated a fundamental lack of professional competence in the law by, and not limited to: (a) conducting the January 31, 2006, proceeding without a prosecutor; (b) conducting the February 7th proceeding over the telephone and without a prosecutor; (c) discussing the merits of cases with complaining witnesses outside the presence of the defendant and/or a prosecutor; (d) issuing *capias pro fine* warrants without a judgment against the defendant; (e) coercing the defendant to pay all fines instanter with the threat of arrest and jail for entering a plea of not guilty; (f) failing to announce or render her judgments in open court; and (g) failing to reduce her judgments to writing. Judge Lawless’ actions in this matter constituted willful or persistent violations of Canons 2A, 3B(2), and 6C(2) of the Texas Code of Judicial Conduct.

In condemnation of the conduct described above that violated Canons 2A, 3B(2) and 6C(2) of the Texas Code of Judicial Conduct, it is the Commission’s decision to issue a **PUBLIC ADMONITION AND ORDER OF ADDITIONAL EDUCATION** to the Honorable Lynda Lawless, Municipal Court Judge, in Marlin, Falls County, Texas.

Pursuant to the order, Judge Lawless must obtain **four (4) hours** of instruction with a mentor in addition to her required judicial education. In particular, the Commission directs that Judge Lawless receive instruction in the following areas: appearance bonds, warrants, class C misdemeanor pre-trial and trial procedures, and record-keeping.

Judge Lawless shall complete the additional **four (4) hours** of instruction recited above within **ninety (90) days** from the date of written notification of the assignment of a mentor. It is Judge Lawless' responsibility to contact the assigned mentor and schedule the additional education.

Upon the completion of the **four (4) hours** of instruction described herein, Judge Lawless 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 ADMONITION AND ORDER OF ADDITIONAL EDUCATION** by the Commission.

The Commission has taken this action with the intent of assisting Judge Lawless in her continued judicial service, as well as in a continuing effort to protect 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 **1st** day of **July**, 2008.

ORIGINAL SIGNED BY

Honorable Sid Harle, Chair
State Commission on Judicial Conduct