



**BEFORE THE  
STATE COMMISSION ON JUDICIAL CONDUCT**

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**CJC No. 04-0793-JP**

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**PUBLIC WARNING**

**HONORABLE EDDIE J. VOGT  
FORMER JUSTICE OF THE PEACE, PRECINCT 1  
BOERNE, KENDALL COUNTY, TEXAS**

During its meeting in Austin, Texas, on October 13-15, 2004, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Eddie J. Vogt, Former Justice of the Peace, Precinct 1, Boerne, Kendall County, Texas. Judge Vogt was advised by letter of the Commission's concerns and provided written responses. Judge Vogt appeared before the Commission on October 14, 2004, 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 Eddie J. Vogt was Justice of the Peace for Precinct 1 in Boerne, Kendall County, Texas.
2. In March 2002, Judge Vogt won the primary election for the office of Kendall County Judge. He was unopposed in the November 2002 general election.
3. Ruth Ann Lucchelli owned property in Kendall County adjacent to that of Dennis Lempar. At the time of the incident in question, Lucchelli and Lempar were involved in a well-known dispute over the boundary line dividing their properties.
4. Judge Vogt, a personal friend of Lucchelli, was aware of the on-going boundary dispute between Lucchelli and Lempar.

5. On the morning of September 13, 2002, Judge Vogt came to Lucchelli's home to watch the removal of a fence and old automobiles owned by Dennis Lempar, all of which Lucchelli claimed were located on her side of the property line.
6. Also present to observe this activity was Lucchelli's friend and attorney, Russell Busby.
7. Busby had won the March 2002 primary election for the position of Kendall County Commissioner and, like Judge Vogt, was unopposed in the November 2002 general election.
8. With Judge Vogt and her attorney present, Lucchelli planned to build a new fence based on the property line contained on her survey. To accomplish this task, Lucchelli employed a fence crew to use a "bobcat" to push the vehicles onto what she believed was Lempar's property.
9. Sometime after Judge Vogt's arrival, a physical altercation ensued between Busby, and Kenneth Lempar, Dennis Lempar's brother, over the removal of Lempar's fence and automobiles.
10. Judge Vogt witnessed the altercation, but took no action regarding the combatants.
11. The Kendall County Sheriff's department was dispatched to investigate the disturbance, but no arrests were made.
12. An Austin attorney retained by County officials to conduct an independent investigation into the incident concluded that Judge Vogt's "presence at the scene of the altercation further complicated an already difficult situation" and may have "contributed to the aire [sic] of impropriety surrounding the incident."
13. In his appearance before the Commission, the judge explained that he was present at the scene to "socialize" and to meet with a fence crew in order to make sure Lucchelli was "getting a good deal."

### **RELEVANT STANDARD**

Canon 2B of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall not allow any relationship to influence judicial conduct or judgment. 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."

### **CONCLUSION**

The Commission concludes from the facts and evidence presented that by going to Lucchelli's property to oversee the removal of Lempar's automobiles and the placement of a new fence on a disputed boundary line, Judge Vogt did lend the prestige of his judicial office to further the private interests of his friend, in violation of Canon 2B of the Texas Code of Judicial Conduct. The Commission further concludes that Judge

Vogt's failure to take appropriate action as a magistrate upon witnessing a physical altercation between Busby and Lempar demonstrated that Judge Vogt allowed his relationship with Busby to influence his judicial conduct or judgment and allowed Busby, in turn, to convey the impression that he was in a special position to influence the judge, also in violation of Canon 2B of the Texas Code of Judicial Conduct.

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In condemnation of the conduct described above that violated Canon 2B of the Texas Code of Judicial Conduct, it is the Commission's decision to issue a **PUBLIC WARNING** to the Honorable Eddie J. Vogt, Former Justice of the Peace, Precinct 1, Boerne, Kendall County, Texas.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the conduct described above is made the subject of a **PUBLIC WARNING** by the State Commission on Judicial Conduct.

The Commission has taken this action 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 \_\_\_\_2\_\_\_\_ day of November, 2004.

**ORIGINAL SIGNED BY**

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Honorable Joseph B. Morris, Chair  
State Commission on Judicial Conduct