



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC No. 04-0466-CC

PUBLIC WARNING

**HONORABLE E. MASON MARTIN II
COUNTY COURT AT LAW NO. 3
CONROE, MONTGOMERY COUNTY, TEXAS**

During its meeting in Austin, Texas, on December 8-10, 2004, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable E. Mason Martin II, County Court at Law No. 3, Conroe, Montgomery County, Texas. Judge Martin was advised by letter of the Commission's concerns and provided written responses. Judge Martin appeared with counsel before the Commission on December 10, 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 E. Mason Martin II was judge of County Court at Law No. 3 in Conroe, Montgomery County, Texas.
2. On January 12, 2004, Judge Martin conducted jury selection in Cause Number 03-185535, styled *State of Texas v. Alexander*, a misdemeanor marijuana possession case. Although the defendant had already entered a plea of guilty, the jury was to assess punishment.
3. After a member of the panel of prospective jurors (the "venireman" herein) indicated that he thought the potential punishment for marijuana possession was too harsh, the venireman was brought before the bench to discuss his opinions with Judge Martin, the prosecutor, and defense counsel, and to determine whether the venireman should be excused for cause from serving on the jury.

4. Upon the venireman's arrival before the bench, Judge Martin remarked, "The next time you ever come to court, if you look like you do when you come here I'm going to put you in jail."
5. The judge continued to berate the venireman by stating, "So you know, if I sent you to jail today because you came here looking contentious, I'd have you tested." The venireman responded, "That's fine, sir. I'll go take one. I've been at my job four years and we take a drug test every so often." Judge Martin retorted, "Good. I am glad you are not a user. You ought to quit looking like one."
6. When the venireman attempted to walk away from the bench, Judge Martin made the following comments, "I didn't excuse you. . . Stand there straight and just drop your hands to your side and act like you know what you are doing here. . . Because you don't look like it, just act like it."
7. In his appearance before the Commission, Judge Martin testified that his conduct and statements to the venireman were due to his perception that the man was a "street person."

RELEVANT STANDARDS

1. Canon 3B(4) of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity . . ."
2. Canon 3B(6) of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based on . . . socioeconomic status . . ."

CONCLUSION

The Commission concludes from the facts and evidence presented that the manner in which Judge Martin berated the venireman demonstrated a lack of the patience, dignity and courtesy required of a judicial officer, in violation of Canon 3B(4) of the Texas Code of Judicial Conduct. The judge's conduct before this panel of prospective jurors, all of whom deserve to be applauded for responding to their jury summons and for their willingness to serve as jurors, did little to promote public confidence in the integrity, impartiality, and independence of the Texas judiciary. The Commission further concludes that by Judge Martin's words or conduct, he manifested a bias or prejudice against the venireman on the basis of the man's perceived socioeconomic status as a "street person," in violation of Canon 3B(6) of the Texas Code of Judicial Conduct.

In condemnation of the conduct described above that violated Canons 3B(4) and 3B(6) of the Texas Code of Judicial Conduct, it is the Commission's decision to issue a

PUBLIC WARNING to the Honorable E. Mason Martin II, County Court at Law No. 3, Conroe, Montgomery 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 ___21___ day of December, 2004.

ORIGINAL SIGNED BY

Honorable James A. Hall, Chair
State Commission on Judicial Conduct