



**BEFORE THE STATE COMMISSION
ON JUDICIAL CONDUCT**

CJC No. 05-0161-JP

PUBLIC REPRIMAND

**HONORABLE OSCAR TULLOS
JUSTICE OF THE PEACE, PRECINCT 2, PLACE 2
BROWNSVILLE, CAMERON COUNTY, TEXAS**

During its meeting in Austin, Texas, on April 13-15, 2005, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Oscar Tullos, Justice of the Peace, Precinct 2, Place 2, Brownsville, Cameron County, Texas. Judge Tullos was advised by letter of the Commission's concerns and provided a written response. Although invited to testify before the Commission on February 10, 2005, Judge Tullos declined to do so. After considering the evidence, the State Commission on Judicial Conduct entered the following Findings and Conclusions:

FINDINGS OF FACT

1. At all times relevant hereto, the Honorable Oscar Tullos was Justice of the Peace for Precinct 2, Place 2, in Brownsville, Cameron County, Texas.
2. On or about May 25, 2004, Patricia Thrasher (hereinafter referred to as "Thrasher") filed an original petition in Judge Tullos' small claims court requesting damages of \$5,057.00 against defendant Juan Gutierrez and Prestige Body Shop (collectively referred to as "Gutierrez").
3. In preparing her petition, Thrasher relied on written instructions from Judge Tullos' court directing plaintiffs to include court costs and fees in their total claim for damages.

4. On or about July 7, 2004, Judge Tullos entered a default judgment in the amount of \$2,431.25 in favor of Thrasher after Gutierrez failed to answer the lawsuit or appear for trial.
5. On or about July 20, 2004, at Thrasher's request, Judge Tullos issued a Writ of Abstract and a Writ of Execution to enforce the default judgment.
6. On or about August 24, 2004, an attorney for Gutierrez filed a Motion to Dismiss for Lack of Jurisdiction arguing that the amount of damages requested by Thrasher in her original petition was \$57.00 over the \$5,000.00 jurisdictional limit of the court.
7. In his written responses to the Commission's inquiry, Judge Tullos testified that he initially advised the attorney that the motion was denied because the \$57.00 in excess of the \$5,000.00 jurisdictional limit of the court constituted court costs, which were allowed to be included in Thrasher's petition by law.
8. After the attorney was allowed to present his arguments to the court in an "informal hearing," Judge Tullos granted the Motion to Dismiss.
9. No notice of the "informal hearing" was provided to Thrasher, who later received a copy of the court's order dismissing her case in the mail.
10. On or about September 3, 2004, after Thrasher's attorney filed a Motion to Set Aside Order to Dismiss, Judge Tullos held another "informal hearing" with both attorneys present. At the conclusion of this hearing, the attorneys agreed to dismiss Thrasher's case based on a technical error in the original petition, which did not specifically identify \$57.00 of the total amount of damages as court costs.
11. Judge Tullos has been publicly sanctioned in the past for his improper handling of another small claims matter. As a result of that sanction, Judge Tullos obtained eight (8) hours of additional judicial education, with a mentor judge, in the area of the handling of small claims cases, from filing to completion and collection of judgments.

RELEVANT STANDARDS

1. Article V, Section 1-a(6)A of the Texas Constitution provides that any Texas judge may be disciplined for willful or persistent conduct that is clearly inconsistent with the proper performance of his duties.
2. Canon 2A of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall comply with the law . . ."
3. Canon 3B(2) of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall maintain professional competence in [the law]."

CONCLUSIONS

The Commission concludes based on the facts and evidence before it that Judge Tullos failed to comply with the law and demonstrated a lack of professional competence in the law, in violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct, by granting Gutierrez' untimely Motion to Dismiss, without proper notice and hearing to Thrasher. The Commission notes that dismissing Thrasher's case forty-eight (48) days after a default judgment had been granted was improper even if the court arguably lacked jurisdiction over the case because the amount in controversy, as originally pled by Thrasher, exceeded the court's jurisdiction by \$57.00. In such an instance, if the judgment were in fact void due to a lack of jurisdiction, the proper remedy would have been to set aside the default judgment. Because Judge Tullos has previously been sanctioned for similar misconduct, his actions in this case constituted persistent conduct that was inconsistent with the proper performance of his duties, in violation of Article V, Section 1-a(6)A of the Texas Constitution.

In condemnation of the conduct described above that violated Article V, Section 1-a(6)A of the Texas Constitution, and Canons 2A and 3B(2) of the Texas Code of Judicial Conduct, it is the Commission's decision to issue a **PUBLIC REPRIMAND** to the Honorable Oscar Tullos, Justice of the Peace, Precinct 2, Place 2, Brownsville, Cameron 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 be made the subject of a **PUBLIC REPRIMAND** 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 29th day of April, 2005.

ORIGINAL SIGNED BY

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