

DOCKET NO. A-2009-1

IN RE:	§	BEFORE THE
HONORABLE BRUCE PRIDDY	§	SPECIAL COURT OF REVIEW,
JUDGE, 116TH DISTRICT COURT	§	APPOINTED BY THE
DALLAS COUNTY, TEXAS	§	SUPREME COURT OF TEXAS

CHARGING DOCUMENT

TO THE HONORABLE MEMBERS OF THE SPECIAL COURT OF REVIEW:

COME NOW the Examiners for the State Commission on Judicial Conduct (the “Commission”) and, pursuant to §33.034(d) of the Texas Government Code, and the provisions of Rule 9 of the Texas Procedural Rules for the Removal or Retirement of Judges, file this Charging Document requesting that the Special Court of Review appointed by the Chief Justice of the Supreme Court of Texas on January 22, 2009, review the Public Warning issued by the Commission on December 18, 2008 to the Honorable Bruce Priddy, Judge of the 116th District Court, Dallas, Dallas County, Texas (the “Respondent”).

I.

This Charging Document consists of the following factual allegations and relevant ethical standards for consideration by the Special Court of Review:

FACTUAL ALLEGATIONS

1. At all times relevant hereto, the Honorable Bruce Priddy (“Respondent” herein) was Judge of the 116th Judicial District Court in Dallas, Dallas County, Texas, having assumed office on or about January 1, 2007.
2. At all times relevant hereto, Respondent was subject to the requirements and charged with knowledge of the following provisions: Article V, §1-a(6) of the Texas Constitution, the Texas Election Code, including the provisions of the Texas Judicial Campaign Fairness Act (Texas Election Code §253.151, *et seq.*), the Texas Government Code, and the Texas Code of Judicial Conduct.

The First TEC Enforcement Action

3. On or about April 24, 2007, the Office of the Texas Attorney General (“OAG”), acting on behalf of the Texas Ethics Commission (“TEC”), filed a lawsuit in Travis County against Respondent to recover delinquent civil penalties assessed against Respondent by the TEC in connection with his failure to file, or timely file, at least four (4) statutorily required campaign finance reports while a candidate for judicial office.
4. Although served with citation on or about May 4, 2007, Respondent failed to appear in or answer the lawsuit.

5. On or about June 13, 2007, a default judgment was entered against Respondent in the total amount of \$38,000.00, representing \$30,500.00 in civil penalties for the campaign finance violations and \$7,500.00 in attorney's fees.
6. On or about August 27, 2007, Respondent filed a notice of appeal from the final judgment entered on June 13, 2007; however, Respondent ultimately took no further action to pursue that appeal.
7. On or before April 8, 2008, Respondent paid \$30,000.00 to the TEC in connection with the June 13, 2007 judgment. In addition, the sum of \$7,628.10 was garnished from Respondent's bank account and applied to the judgment; however, a balance of approximately \$2,079.22 in post-judgment interest remains outstanding on the judgment.

The Second TEC Enforcement Action

8. On or about September 28, 2007, the OAG notified Respondent of an additional claim for penalties assessed against him by the TEC in connection with his failure to file, or timely file, additional statutorily required campaign finance reports as an officeholder.
9. Specifically, Respondent was charged with failing to file a "Personal Financial Statement" on April 30, 2007 and a "Semiannual Report" on July 16, 2007, resulting in a \$1,000.00 fine.
10. Respondent eventually filed the Semiannual Report on September 1, 2007.
11. Respondent did not file the April 30, 2007 Personal Financial Statement.
12. Respondent was given a deadline of October 10, 2007 to pay the \$1,000.00 fine and avoid another lawsuit. Respondent failed to respond or pay the fine on or before the deadline.
13. On or about October 24, 2007, the OAG, again acting on behalf of the TEC, filed a second lawsuit in Travis County against Respondent to recover the delinquent civil penalties.
14. On or about November 7, 2007, Respondent paid the \$1,000.00 fine that was the subject of the second lawsuit.
15. On or about December 3, 2007, Respondent filed an answer to the second lawsuit. Respondent also filed a claim under Chapter 105 of the Texas Civil Practice and Remedies Code, asserting that the State's action against him was frivolous, unreasonable and without foundation.
16. On or about March 24, 2008, by court order, Respondent's claim under Chapter 105 of the Texas Civil Practice and Remedies Code was stricken from the record.
17. On or about July 30, 2008, the OAG recovered a judgment in the amount of \$4,400.00 in attorney's fees, plus court costs, against Respondent.
18. Although Respondent has paid the court costs and a portion of the attorney's fees awarded, approximately \$4,232.46 in attorney's fees remains outstanding in this action.

19. As of August 19, 2008, Respondent owed approximately \$6,811.68 to the State of Texas in connection with his failure to timely file public reports as required by law and the enforcement actions that resulted from such failure.

The Third TEC Enforcement Action

20. On October 1, 2008, the OAG filed a third lawsuit against Respondent on behalf of the TEC for his failure to file a Personal Financial Statement, which was due on April 30, 2008, resulting in a civil penalty of \$500.00.
21. Respondent has filed an answer to the lawsuit but has not responded to discovery requests.
22. On or about February 2, 2009, the OAG filed a Motion for Summary Judgment, which is scheduled to be heard in or around March 2009.
23. Respondent's campaign finance violations and the enforcement actions taken against him by the OAG received considerable media attention.

Failure to Cooperate with the Commission

24. On or about August 16, 2007, Respondent received notice from the State Commission on Judicial Conduct (the "Commission") that a complaint had been filed against him by an anonymous source citing the media coverage surrounding the enforcement actions pending against Respondent for his failure to comply with the Election Code and failure to pay the penalties owed to the State of Texas.
25. Respondent was provided a copy of the newspaper article(s) that formed the basis of the complaint and was asked to file a written response to the Commission's inquiry regarding that matter.
26. Respondent failed to respond to the Commission's inquiry.
27. On or about February 18, 2008, Respondent accepted service of a subpoena *duces tecum* issued by the Chair of the Commission wherein Respondent was ordered to file a written response to the Commission's inquiry on or before February 29, 2008.
28. Respondent failed to respond to the subpoena.
29. On or about April 16, 2008, the SCJC voted to initiate a new complaint against Respondent, alleging that he failed to cooperate with the Commission's investigation as required by law.
30. The Commission also ordered Respondent to appear at its June 2008 meeting and provide testimony concerning the two complaints.
31. On May 2, 2008, Respondent was served with the April 2008 subpoena and order compelling him to appear.
32. On June 18, 2008, Respondent appeared and testified before the Commission.
33. In his testimony before the Commission, Respondent stated that his failure to timely file campaign finance reports with the TEC was a mistake due to his misunderstanding of the filing requirements.

34. Respondent testified that he had received the Commission's inquiry in August 2007, but decided not to respond in writing, citing his disagreement with Commission procedures.
35. Respondent acknowledged that by failing to respond to the Commission's inquiry, he had made "a small problem a lot worse."
36. Based on Respondent's testimony, the Commission voted to table the matters in order to obtain additional information not previously requested from the judge.
37. On or about June 30, 2008, the Commission sent Respondent additional written questions and requested a prompt, thorough and candid response to its inquiry.
38. Again, despite additional requests that he do so, Respondent failed to respond to the Commission's written inquiry.
39. On or about August 26, 2008, Respondent was ordered by the Chair of the Commission to file a written response to the Commission's inquiry and to appear and testify before the Commission at its October 2008 meeting.
40. On October 16, 2008, Respondent appeared and testified before the Commission.
41. In his testimony before the Commission, Respondent acknowledged that he had received the Commission's second inquiry, but declined to respond due to his disagreement with Commission procedures.
42. When asked by the Chair if he would cooperate with the Commission and respond in writing to the second inquiry within two (2) weeks, Respondent represented that he would comply with the Commission's request and would not require another subpoena to compel his cooperation.
43. Based on Respondent's representations and agreement at that hearing, the Commission voted to table the matters in order to allow the judge the opportunity to provide the additional written information previously requested by the Commission.
44. Despite numerous requests that he do so, Respondent failed to provide the additional information as agreed.

Additional Information

45. On or about August 25, 2008, Respondent's law license was suspended by the State Bar of Texas for a period of twenty-four (24) months after an Evidentiary Panel of the District 06A Grievance Committee found he had engaged in professional misconduct prior to becoming a judge.
46. Among the matters for which Respondent's law license was suspended was his failure to file an appellate brief on behalf of his client, Terrence Gore ("Gore"), failure to pay the filing fee on behalf of Gore, and his failure to respond to inquiries from the Fifth Court of Appeals regarding the filing of the appellate brief and payment of the filing fee, which inaction resulted in the dismissal, with prejudice, of Gore's appeal on or about August 17, 2005.
47. Additionally, the Fifth Court of Appeals was forced to order Respondent to return the Clerk's record, which he took on April 22, 2005, and had failed to return despite numerous requests that he do so.

48. Respondent was required to respond in writing to the State Bar grievance filed against him by Gore. Although he requested and was granted additional time to provide a written response, Respondent failed to do so.
49. Although he was notified of the Evidentiary Panel's August 21, 2008 disciplinary hearing, and was also contacted immediately prior to the commencement of said hearing, Respondent failed to appear or participate in the evidentiary hearing.
50. The disciplinary action taken against Respondent by the State Bar of Texas received considerable media attention.
51. After the media reported that his law license had been suspended, Respondent filed a Motion for New Trial, which was granted.
52. A trial in the matter is scheduled for March 19, 2009.

RELEVANT STANDARDS

1. Article V, §1-a(6)A of the Texas Constitution states that a judge may be disciplined for willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice.
2. Section 33.001(b)(2) of the Texas Government Code defines "willful or persistent conduct that is clearly inconsistent with the proper performance of a judge's duties" to include willful violation of a provision of the Texas Code of Judicial Conduct
3. Section 33.001(b)(4) of the Texas Government Code defines "willful or persistent conduct that is clearly inconsistent with the proper performance of a judge's duties" to include incompetence in the performance of the duties of the office.
4. Section 33.001(b)(5) of the Texas Government Code defines "willful or persistent conduct that is clearly inconsistent with the proper performance of a judge's duties" to include failure to cooperate with the Commission.
5. Canon 2A of the Texas Code of Judicial Conduct provides that "[a] judge shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."
6. Canon 4I(2) of the Texas Code of Judicial Conduct provides that "[a] judge shall file financial reports and other reports as required by law."
7. Canon 5(4) of the Texas Code of Judicial Conduct provides that "[a] judge... subject to the Judicial Campaign Fairness Act...shall not knowingly commit an act for which he or she knows the Act imposes a penalty..."

CHARGE I

As a judicial officeholder, Respondent is subject to the requirements of the Texas Judicial Campaign Fairness Act. As a judicial officeholder, Respondent is charged with knowing the requirements set forth in the Texas Election Code, the Judicial Campaign Fairness Act, and the Texas Government Code, including the reporting requirements and

deadlines for filing campaign finance reports and personal financial statements with the Texas Ethics Commission. As a judicial officeholder, Respondent is also charged with knowing that the failure to timely file accurate campaign finance reports and personal financial statements is a violation of the Texas Election Code, the Texas Judicial Campaign Fairness Act, and the Texas Government Code, for which a penalty may be imposed. The Texas Code of Judicial Conduct requires all judges to comply with the law. The Code further requires any judge subject to the Texas Judicial Campaign Fairness Act to comply with its requirements. As a judicial officer, Respondent is charged with knowing the requirements of the Texas Code of Judicial Conduct.

As a judicial officeholder, Respondent willfully and/or persistently disregarded the requirements of the Texas Election Code, the Texas Judicial Campaign Fairness Act, and the Texas Government Code, by failing to timely file campaign finance and/or officeholder reports, including his personal financial statements. His conduct led to enforcement actions being taken against him by the Office of the Texas Attorney General on behalf of the Texas Ethics Commission. The enforcement actions, along with Respondent's failure to follow the law, led to considerable media attention that was critical of Respondent and cast public discredit on the judiciary and the administration of justice. Examiners for the Commission will show by a preponderance of the evidence that Respondent's conduct as described above constituted willful and/or persistent violations of:

1. Article V, §1-a(6)A of the Texas Constitution;
2. Section 33.001(b)(2)&(4) of the Texas Government Code
3. Canon 2A of the Texas Code of Judicial Conduct;
4. Canon 4I(2) of the Texas Code of Judicial Conduct; and
5. Canon 5(4) of the Texas Code of Judicial Conduct.

CHARGE II

As a judicial officer, Respondent is subject to the Texas Code of Judicial Conduct. Respondent is charged with knowing that a willful and/or persistent violation of the Texas Code of Judicial Conduct could subject him to disciplinary action, including removal from office, by the State Commission on Judicial Conduct. Respondent is charged with knowing that willful or persistent conduct that is clearly inconsistent with the proper performance of a judge's duties includes, among other things, failure to cooperate with the Commission.

Respondent was contacted by mail, telephone, and email at various times throughout the investigation and proceedings before the Commission. Respondent was provided copies of the complaints that had been filed against him and was asked to provide written responses to the allegations of judicial misconduct. Respondent willfully and persistently failed to respond to the Commission's requests for information, forcing the Commission to issue subpoenas compelling his attendance and cooperation at hearings before the Commission. While testifying before the Commission, Respondent waived any objections to the Commission's procedures when he represented that he would cooperate with the Commission's request to respond in writing to its inquiries. In reliance upon that promise, the Commission delayed action on the cases pending before it in order to afford the judge a fair opportunity to present facts and evidence that would

assist the Commission in making a just decision in these matters. Thereafter, Respondent failed to cooperate with the Commission's request. Examiners for the Commission will show by a preponderance of the evidence that Respondent's conduct as described above constituted willful and/or persistent violations of:

1. Article V, Section 1-a(6)A of the Texas Constitution;
2. Section 33.001(b)(5) of the Texas Government Code; and
3. Canon 2A of the Texas Code of Judicial Conduct;

II.

Pursuant to Rule 9(b) of the Texas Procedural Rules for the Removal or Retirement of Judges, and for purposes of establishing the Special Court of Review's jurisdiction over this matter in controversy, Examiners include a true and correct copy of the Sanction as **Exhibit "A"** attached hereto, as well as true and correct copies of papers, documents, records, and evidence upon which the Commission based its decision as **Exhibit "B"** attached hereto.

III.

Following appropriate hearing pursuant to Section 33.034(e) through (i) of the Texas Government Code, as well as the provisions of Rule 9 of the Texas Procedural Rules for the Removal or Retirement of Judges, Examiners for the Commission respectfully request that, by written opinion or order, this Special Court of Review affirm the Commission's December 18, 2008 decision, or, in the alternative, impose a more severe sanction, including, but not limited to, an order to the Commission to file formal proceedings against Respondent.

Respectfully Submitted,

EXAMINERS:

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BY: **ORIGINAL SIGNED BY**
Bob Warneke, Jr.

CERTIFICATE OF SERVICE

Service of this instrument has been made on the Honorable Bruce Priddy on February 6th, 2009, at the following addresses: 329 E. Colorado Blvd., #501, Dallas, Texas, 75203 (home) and the 116th Judicial District Court, Dallas County Civil Courthouse, 600 Commerce, 6th Floor, Dallas, Texas, 75202-4606 (work), by facsimile transmission, email transmission, and overnight delivery, in accordance with the Texas Rules of Civil Procedure.

ORIGINAL SIGNED BY

Bob Warneke, Jr.