



**BEFORE THE STATE COMMISSION
ON JUDICIAL CONDUCT**

CJC No. 17-1105-JP

**PUBLIC REPRIMAND
AND
ORDER OF ADDITIONAL EDUCATION**

**HONORABLE MICHAEL DUFF ENGLISH
JUSTICE OF THE PEACE
ASPERMONT, STONEWALL COUNTY, TEXAS**

During its meeting on December 6-8, 2017, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable Michael Duff English, Justice of the Peace, Aspermont, Stonewall County, Texas. Judge English was advised by letter of the Commission's concerns and provided a written response. After considering the evidence before it, the Commission entered the following Findings and Conclusion:

FINDINGS OF FACT

1. At all times relevant hereto, the Honorable Michael Duff English was the Justice of the Peace for Stonewall County, Texas.
2. On March 30, 2017, Judge English's brother, Roger, appeared in his court and filed a sworn complaint against his neighbor, John Mallett, alleging that the dogs kenneled on Mr. Mallett's property constituted a public nuisance in violation of law. Roger claimed in his complaint that Mr. Mallett failed to act under "S.B. 708 SBPCHAPTER [SIC] D PUBLIC NUISANCE ART.: 822.041 (6) PUBLIC NUISANCE, (DOGS)." (Errors in original.)
3. In response to the filing of Roger's complaint, Judge English sent a letter to Mr. Mallett on letterhead with the State of Texas seal on it notifying him that the dogs on his property constituted a public nuisance under the Texas Health and Safety Code, and ordering him to abate the nuisance within 30 days. Specifically, Judge English referred to "Texas Health and safety Code Subchapter D, Chapter 822. Section 822.041 (1) (1-a) and (6) -822.0415 (a)" and "H&S Code 822.041 (b)(1),6(A),(B),(C), or (D) and (b) 2." (Errors in original.)

4. Chapter 822 of the Texas Health and Safety Code deals with the regulation of animals. Subchapter D sets forth the regulatory requirements for owners of dangerous dogs, which are defined as dogs who make unprovoked attacks on people that cause bodily injury, or behave in a manner that would lead a reasonable person to believe the dog will attack and cause bodily injury. Tex. Health & Safety § 822.041(2) (1991). Chapter 822 does not address the regulation of dogs that are merely a public nuisance, as opposed to a danger to the community.
5. The provisions of the Health and Safety Code cited by Judge English in his letter to Mr. Mallett are either inapplicable to a nuisance complaint or nonexistent.
6. In his responses to the Commission, Judge English submitted a copy of Texas Senate Bill 708, which was introduced in 2015 but never enacted, that proposed amending Chapter 22 to address dogs who constitute a public nuisance. Roger cited this Senate Bill in his complaint, and it appears that Judge English was referencing these proposed amendments in his letter to Mr. Mallett.
7. In his responses to the Commission, Judge English admitted that he had spoken to Roger in the past regarding about what could be done to deal with the barking dogs kenneled on Mr. Mallett's property, but the Judge denied ever telling Roger he would help him with the problem.
8. Judge English stated that while he sent Mr. Mallett notification of the complaint, he informed Roger when the complaint was filed that he would need to recuse himself from the matter if any further actions became necessary.

RELEVANT STANDARDS

1. Canon 2B of the Texas Code of Judicial Conduct provides in relevant part that a judge "shall not lend the prestige of the judicial office to advance to private interests of the judge or others."
2. Canon 3B(1) of the Texas Code of Judicial Conduct provides in relevant part that a judge "shall hear and decide matters assigned to the judge except those in which disqualification is required or recusal is appropriate."
3. Texas Rule of Civil Procedure 18b(1)(c) requires a judge to disqualify himself or herself from all proceedings in which the judge is related to either party by affinity or consanguinity within the third degree.
4. Section 573.023(c)(2) of the Texas Government Code provides that an individual's brother constitutes a relative within the third degree of consanguinity.

CONCLUSION

The Commission concludes from the facts and evidence presented that Judge English lent the prestige of his judicial office to advance the private interests of his brother, Roger, in violation of Canon 2B of the Texas Code of Judicial Conduct, when he sent a letter to John Mallett on official letterhead notifying him he was in violation of nonexistent nuisance laws and ordering him to abate the nuisance within 30 days. The Commission further concludes that by failing to immediately disqualify himself from a matter in which his brother was the complaining party, Judge English violated Canon 3B(1) of the Texas Code of Judicial Conduct.

In view of the conduct described above that violated Canons 2B and 3B(1) of the Texas Code of Judicial Conduct, it is the Commission's decision to issue a **PUBLIC REPRIMAND AND ORDER OF ADDITIONAL EDUCATION** to the Honorable Michael Duff English, Justice of the Peace, Aspermont, Stonewall County, Texas.

Pursuant to this Order, Judge English must obtain **two hours** of instruction with a mentor, in addition to his required judicial education for Fiscal Year 2018. In particular, the Commission desires that Judge English receive this additional education in the areas of lending the prestige of judicial office to advance the private interests of others and disqualification/recusal.

Pursuant to the authority contained in §33.036 of the Texas Government Code, the Commission authorizes the disclosure of certain information relating to this matter to the Texas Justice Court Training Center to the extent necessary to enable that entity to assign the appropriate mentor for Judge English.

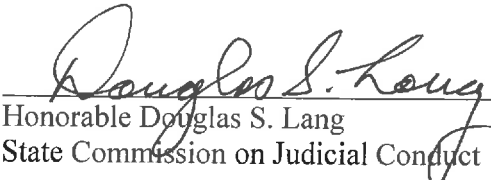
Judge English shall complete the additional **two hours** of instruction recited above within **60 days** from the date of written notification from the Commission of the assignment of a mentor. Upon receiving such notice, it is Judge English's responsibility to contact the assigned mentor and schedule the additional education.

Upon the completion of the **two hours** of instruction described herein, Judge English 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 REPRIMAND AND ORDER OF ADDITIONAL EDUCATION**.

The Commission has taken this action with the intent of assisting Judge English in his 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 the 07th day of February, 2018.



Honorable Douglas S. Lang
State Commission on Judicial Conduct