



**BEFORE THE  
STATE COMMISSION ON JUDICIAL CONDUCT**

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**CJC Nos. 08-0085-MU, 08-0528-MU & 08-0274-MU**

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**PUBLIC REPRIMAND  
AND  
ORDER OF ADDITIONAL EDUCATION**

**HONORABLE JOE HENRY GARZA  
LA JOYA MUNICIPAL COURT  
LA JOYA, HIDALGO COUNTY, TEXAS**

During its meeting on December 9-11, 2009, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable Joe Henry Garza, Justice of the Peace, Precinct 2, La Joya, Hidalgo County, Texas. Judge Garza was advised by letter of the Commission's concerns and provided written responses. Judge Garza appeared with counsel before the Commission on December 10, 2009, 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 Joe Henry Garza was Judge of the Municipal Court in La Joya, Hidalgo County, Texas.
2. At all times relevant hereto, Judge Garza was also employed as the court coordinator of the La Joya Municipal Court.

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**Rolando Garcia**

3. In July of 2007, Rolando Garcia (hereinafter "Rolando") received two traffic citations for failure to maintain financial responsibility and for "unauthorized equipment" (hereinafter the "original traffic citations"), and was directed to appear in Judge Garza's court on or before July 26, 2007.
4. When Rolando failed to appear in court on his appearance date, Judge Garza issued a warrant for Rolando's arrest, and opened a third case against Rolando for "violate promise to appear" that same day, but never filed a criminal complaint against Rolando for that offense and never notified Rolando of the charge.

5. On July 27, 2007, Rolando appeared in court, and at that time was told that a warrant had been issued for his arrest, and that he owed a total of \$900.00 in fines for the three charges that were pending against him.
6. Judge Garza dismissed the two original traffic citations on an oral motion of the prosecution, and allowed Rolando to enter a “no contest” plea to the “violate promise to appear” charge.
7. Judge Garza orally advised Rolando that his fine in the “violate promise to appear” case was \$300.00, and verbally ordered him to “appear in court” on August 9, 2007, to pay the fine.
8. Judge Garza did not issue a written judgment of conviction on the “violate promise to appear” offense, and did not issue any written orders directing Rolando to appear in court on August 9, 2007.
9. Rolando was unable to appear in court on August 9, 2007, and contacted the court by telephone in an unsuccessful attempt to obtain an extension of time to pay his fine.
10. On the morning of August 10, 2007 at 11:08 a.m., the court opened an additional case against Rolando for the offense of “failure to appear/bail jumping.”
11. Later that afternoon, Rolando arrived at the courthouse and attempted to pay the \$300.00 fine in the “violate promise to appear” case, but was told that he now owed an additional \$300.00 fine in the “failure to appear/bail jumping” case.
12. Rolando requested an extension of time to pay the additional \$300.00 fine, explaining that his “financial situation” did allow him to make the payment that day.
13. Judge Garza denied his request and advised him that he would be incarcerated until he could pay the fine, and would be given a \$50.00 credit for each day that he was incarcerated.
14. Judge Garza then ordered an officer to come to the courthouse at 3:08 p.m., to arrest Rolando on the warrant for his “failure to appear.”
15. Judge Garza, however, failed to issue a criminal complaint against Rolando charging him with this additional offense prior to his arrest and did not give Rolando the opportunity to enter a plea to this offense. In addition, Judge Garza did not conduct an indigency hearing and/or making any findings regarding Rolando’s financial status before he incarcerated Rolando based on his inability to pay his fine.

16. Rolando was incarcerated in the city jail for four hours, and was released after signing a bond document indicating that he had been charged with the offense of “warrants,” and after posting a \$603.00 cash bond. The bond document also included a plea form, which Judge Garza printed out shortly before Rolando’s arrest, indicating that Rolando would forfeit his cash bond if he did not appear for a hearing set for August 16, 2007.
17. Rolando’s two cases were “closed” on August 16, 2007, when he did not appear on his scheduled court date. Judge Garza, however, did not issue a written judgment of conviction and/or any final orders in either matter.

#### **Salvador Garcia and Margarito Maldonado**

18. After learning that Rolando had been incarcerated on August 10, 2007, several of his family members arrived at the courthouse, including his father, Salvador Garcia (“Salvador”), and his sister’s fiancé, Margarito Maldonado (“Maldonado”).
19. When Salvador entered the courthouse lobby, he spoke to court personnel located in an office area behind two glassed-in windows, and inquired about his son’s incarceration.
20. Judge Garza was in the office area, along with other court personnel, when Salvador began speaking to one of his clerks, using what Judge Garza described as “vulgar” language.
21. Judge Garza identified himself to Salvador and tried to explain what had occurred in Rolando’s case.
22. According to Judge Garza, Salvador continued using vulgar language and would not respond to his warnings to be quiet. As a result, Judge Garza summoned a La Joya police officer to the courthouse.
23. Judge Garza testified that the officer who arrived on the scene, Pft. Cosme A. Muniz III, made the decision to arrest Salvador, and was responsible for mistakenly “filing” a charge against Salvador for “contempt of court,” rather than for “disorderly conduct.
24. Judge Garza, however, was not able to provide a copy of a complaint or any other charging document filed by the police department against Salvador, and Officer Muniz’s arrest report indicates that Judge Garza ordered Salvador arrested for contempt of court.
25. Judge Garza did not issue any written order or findings of contempt and/or any written commitment order either before or after Salvador’s arrest.
26. Salvador was incarcerated in the city jail for four hours, and was released upon signing a document entitled “personal bond,” indicating that he had been charged with the offense of “contempt of court,” and that he was being released on a personal recognizance (“PR”) bond, upon his promise to appear in court on August 17, 2007. Salvador thereafter appeared in court on August 17, 2007, at which time he pled *nolo contendere* to the contempt charge and paid a fine of \$50.00.
27. After Salvador was arrested, Rolando’s other family members remaining in the court lobby, including Maldonado, questioned why Salvador had been arrested.
28. According to statements provided by the four remaining family members, Judge Garza told all of them to either “be quiet” or to “shut up,” and threatened to order all four of them placed under arrest.

29. When Maldonado questioned Judge Garza about the propriety of his threat, Judge Garza warned him that if he did not remain quiet and/or leave the building, he would be arrested.
30. As Maldonado was attempting to leave the building, he was arrested by La Joya police officer, Sgt. Carlos Zamarron.
31. Judge Garza testified that Sgt. Carlos Zamarron made the decision to arrest Maldonado based on his personal observations of him, and was responsible for mistakenly “filing” a charge against Maldonado for “contempt of court,” rather than for “disorderly conduct.”
32. Judge Garza, however, was not able to provide a copy of a complaint or any other charging document filed by the police department against Maldonado, and Officer Zamarron’s arrest report indicates that Judge Garza ordered Maldonado placed under arrest for contempt of court.
33. Judge Garza did not issue any written order or findings of contempt and/or any written commitment order either before or after Maldonado’s arrest.
34. Maldonado was incarcerated in the city jail for four hours, and was released upon signing a document entitled “personal bond,” indicating that he had been charged with the offense of “contempt of court,” and that he was being released on a PR bond, upon his promise to appear in court for a hearing on August 16, 2007.
35. Although Maldonado requested a trial in the matter, when he later appeared for his court hearing, Maldonado was required to pay a \$100.00 fine at the hearing, and his case was then “closed.”

## **CJC No. 09-0274-MU**

### **Contempt Cases**

36. On various instances beginning in May of 2007, Judge Garza held at least eight individuals in contempt of court without legal authority for doing so. Further, in each instance, Judge Garza ordered the individuals arrested and placed in the city jail, where most remained for at least four hours before they were able to post cash-only bonds, as required by the judge. In most instances, Judge Garza failed to issue a written order or finding of contempt either before or after order the individual was incarcerated.
37. In one instance, Judge Garza held 70-year old Lamar Castaneda in contempt of court for refusing to answer a question on an application for indigency status, and ordered him incarcerated for four hours until he posted a \$488.00 cash bond.
38. In two other instances, Judge Garza held two defendants, Hector Marez and Perla Garza, in contempt of court when they stated that they either “might” or “would” not return to court after he found that them in violation of the court’s dress code, and ordered them to go home to change their clothes. One defendant was arrested and incarcerated for six hours until she posted a \$100.00 cash bond. The other defendant was incarcerated for four hours until he was released on a PR bond.
39. In another instance, Judge Garza, who was not present in the courthouse at the time, ordered the arrest of an Claudia Garza (“Claudia”) in the court lobby after his court staff telephoned him to report that Claudia was being “rude” to his court staff and using “vulgar” language. According to a police incident report, the officers who arrived on the scene spoke with Judge Garza by telephone after they arrived, and the judge ordered them to arrest Claudia for “contempt of court.”

40. Judge Garza, however, testified that he did not order the officers to arrest Claudia for contempt of court, as he was not present in the courthouse at the time, and instead directed them to charge her with “disorderly conduct.” Although the judge blamed the officers for mistakenly “charging” Claudia with this offense, he was not able to provide a copy of a complaint or other charging document filed by the police department charging Claudia with any criminal offense.
41. After Claudia spent four hours in the city jail, she was released upon signing a bond document reflecting that she had been charged with “contempt of court.”
42. In another instance, Francisco Eloy Salinas, a traffic defendant, approached Judge Garza and a group of police officers standing outside the municipal court building, which was closed due to a power outage, and stated that he wanted to pay his ticket that day despite the power outage.
43. When Judge Garza advised him that the court was closed and that he could not pay his ticket that day, Salinas made a comment that offended Judge Garza, and he thereafter threatened to arrest Salinas if he said anything else of that nature. Judge Garza then asked Salinas if he understood what he had said, and Salinas failed to answer him, Judge Garza ordered him arrested for contempt of court by two nearby police officers, and Salinas was thereafter incarcerated for four hours until he was released upon posting a \$100.00 cash bond.
44. In another instance, Judge Garza ordered Yolanda Guajardo arrested for contempt of court, after she allegedly showed up late for her 17-year-old son’s truancy hearing, which had been scheduled to begin at 8:30 a.m. that morning.
45. Although Judge Garza testified that he found her in contempt of court for being “disruptive,” his testimony contradicted the police report and an affidavit that Guajardo made to the arresting officers. Further, Judge Garza failed to issue any findings to the effect that Guajardo was “disruptive” at the time of her arrest.
46. Guajardo subsequently spoke about her arrest with a local television crew, complaining about Judge Garza’s conduct, causing the incident to receive local media coverage.
47. In another instance, Judge Garza had verbally ordered 17-year old Eva Comacho to attend school and thereafter allowed her mother to bring Comacho to court for a “hearing,” because she believed Comacho was not attending school and was causing disciplinary issues.
48. Neither Judge Garza nor the school sent Comacho any prior notice to appear in court on this particular day, and the record reflects that Comacho was in court solely at her mother’s request.
49. Judge Garza testified that he routinely schedules “hearings” in truancy cases at the request of parents that believe their child is not attending school and/or is not otherwise obeying the court’s prior orders.
50. At the hearing, Comacho’s mother requested that Judge Garza either arrest Comacho or order her to “boot camp.” Because he had no authority to order Comacho to boot camp, he verbally ordered Comacho arrested for failing to obey his prior verbal orders.
51. Although Judge Garza testified during his appearance that he ordered Comacho arrested because she was continuously interrupted him and used “vulgar” language, the police report contradicts Judge Garza’s testimony, and the judge did not issue any written findings regarding Comacho’s allegedly inappropriate conduct.

52. Pursuant to the judge's verbal orders, as reflected in his docket sheet, Comacho was incarcerated in the city jail for three days and ordered to pay a \$100.00 fine.
53. In a similar instance, Judge Garza ordered the arrest and incarceration of another 17-year old student, Cecilia Zuniga ("Cecilia") who he had previously verbally ordered to attend school when she was still sixteen years old
54. Shortly after Cecilia turned seventeen, Cecilia was brought to court by her parents, and without any prior written notice to her and/or without issuing a notice to show cause, Judge Garza found Cecilia in contempt of court for failing to attend school, and ordered her incarcerated for three days in the city jail, and imposed a \$100.00 fine on her.
55. Finally, on this same day, Judge Garza also ordered the arrest of another seventeen year old, Ariana Plascencia ("Ariana") who was brought to court by her father, who complained that she was not attending school in accordance with the judge's prior verbal orders to attend school. Prior to the hearing, the judge did not issue a written notice of the hearing and/or an order to show cause warning her that she could be found in contempt at the hearing.
56. Before her incarceration, the judge signed a commitment order indicating that she had been charged with the offense of "contempt of court," and ordered Ariana, who was pregnant at the time, confined for three days in the city jail, in addition to imposing a \$100.00 fine.

#### **Telephone Confiscations**

57. In several cases involving truancy defendants, including the case of Angela Pena ("Pena"), Judge Garza orally placed defendants on deferred disposition, and as a condition thereof, ordered them to relinquish their cell phones to the court, advising them that their phones would only be returned when they were able to "prove to their court" that their court attendance and their grades were in compliance with "state requirements."
58. Judge Garza acknowledged that when he took the cell phones from the truancy defendants, he did not issue written orders, and did not give the defendants written receipts and/or any other documentation indicating that the court had possession of their cell phones.
59. Judge Garza testified that he directed his court staff keep track of the phones by placing "sticky notes" on them, containing the students' names and school identification numbers, as well as the dates on which the phones were taken.
60. All of the phones were stored in a desk drawer in his office, and Judge Garza acknowledged that at one point in time he had at least fifteen (15) other cell phones belonging to truancy defendants in his desk, some of which had been there for over two years.
61. Judge Garza retained Angela Pena's phone for over a year, despite repeated requests from her grandmother seeking the return of her phone, and despite the fact that she filed a police report regarding the incident.
62. Judge Garza testified that his office had started the process of attempting to contact the various truancy defendants whose phones had been taken so that their personal property could be returned to them. The judge could not recall, however, whether Pena's cell phone had been returned to her.

### **Emergency Protective Orders**

63. Judge Garza issued emergency protective orders against two defendants who were charged with offenses involving family violence. In both cases, the judge ordered the defendants to attend anger management classes at a particular counseling facility chosen by the judge. In addition, in one of the orders, Judge Garza ordered the defendant to “register and attend drug rehabilitation counseling” as well.
64. Judge Garza also issued several other emergency protective orders in which he set a weekly visitation schedule for a defendant to see his children; directed at least two defendants to make temporary spousal and child support payments; and ordered a defendant to relinquish possession of a pickup truck to the defendant’s wife.
65. Judge Garza could not cite to any specific provision in the law that would allow a municipal judge to issue such orders, but expressed his opinion that the Texas Family Code allowed him to make temporary support orders if they were in the “best interest” of a child.

### **Cases Involving Family Members**

66. Beginning in September 2007, Judge Garza presided over at least two cases involving his relatives, Joshua and Michael Alaniz.
67. Judge Garza was asked to describe what “familial relationship,” if any, he had with the Alaniz brothers, to which he replied: “As a judge, I do not have a relationship with either Joshua or Michael Alaniz.”
68. During his informal appearance before the Commission, however, Judge Garza testified that Joshua and Michael Alaniz were the children of his first cousin, Michael Alaniz, who, as the La Joya City Manager, is also the immediate supervisor of Judge Garza when the judge serves in the capacity of court coordinator.
69. In both instances, Judge Garza magisterated the defendants on charges of public intoxication, and released one defendant without setting a bond, and released the other defendant on a PR bond.
70. Although both defendants failed to appear for their court hearings, Judge Garza did not file any additional charges against them, but did issue warrants for their arrest.
71. When the defendants eventually appeared in court months later, Judge Garza cleared the warrants, and dismissed one of the defendant’s cases based on a verbal motion to dismiss made by the prosecutor, without issuing a written order of dismissal.
72. Judge Garza orally placed the other defendant on deferred disposition, and although the record does not contain any documentation that the defendant completed the terms of his deferred disposition, Judge Garza subsequently dismissed his case, but failed to issue a written order to that effect.

### **RELEVANT STANDARDS**

1. Canon 2A of the Texas Code of Judicial Conduct states, in pertinent part: “A judge shall comply with the law. . . .”
2. Canon 2B of the Texas Code of Judicial Conduct states, in pertinent part: “A judge shall not use the prestige of judicial office to advance the private interests of the judge or others.”

3. Canon 3B(1) of the Texas Code of Judicial Conduct states: “A judge shall hear and decide matters assigned to the judge except those in which disqualification is required or recusal is appropriate.”
4. Canon 3B(2) of the Texas Code of Judicial Conduct states, in relevant part: “A judge should be faithful to the law and shall maintain professional competence in it.”
5. Canon 3B(5) of the Texas Code of Judicial Conduct states, “A judge shall perform judicial duties without bias or prejudice.”
6. Article V, section 1-a(6)A of the Texas Constitution states, in relevant part that a judge may be disciplined or removed from office for incompetence in performing the duties of the office.

### CONCLUSIONS

The Commission concludes from the facts and evidence presented that Judge Garza failed to follow the law and failed to maintain professional competence in the law, in violation of Canons 2A, 2B, 3B(1), 3B(2), and 3B(5) of the Texas Code of Judicial Conduct, and Article V, section 1-a(6)A of the Texas Constitution, in the following instances: (1) finding numerous individuals in contempt of court without any legal authority for doing so, and thereafter ordering them arrested and incarcerated without first issuing a written finding of contempt and/or a written commitment order; (2) requiring defendants to post “cash only” bonds, in violation of Article 17.02 of the Texas Code of Criminal Procedure; (3) dismissing citations without a written motion from the prosecutor; (4) failing to reduce orders of deferred disposition and other orders and judgments to writing; (5) ordering the arrest of and incarceration of defendants for contempt of court orders that were issued when the defendants were sixteen years old, in violation of Article 45.050 of the Code of Criminal Procedure; (6) ordering truancy defendants to relinquish their cell phones to the court as a condition of deferred disposition, without legal authority for doing so, and thereafter retaining them for a period in excess of 180 days; (7) holding contempt hearings in truancy cases at the request of parents, without prior notice to the truancy defendants and/or without any documentation of school attendance from the school district; (8) issuing emergency protective orders containing directives outside the scope of the judge’s legal authority; (9) directing defendants to attend anger management courses at an institute of the judge’s choosing; (10) presiding over two matters involving family members, who were the sons of his immediate supervisor, in which he gave them favorable treatment; and (11) engaging in sloppy and inadequate recordkeeping procedures.

In addition, in Rolando Garcia’s case, Judge Garza acted improperly by: (1) charging Rolando with the offense of “failure to appear/bail jumping” after Rolando failed to pay a fine, rather than issuing a *capias pro fine* warrant for his arrest; (2) failing to issue a written complaint and/or other charging document against Rolando for the “failure to appear/bail jumping” offense; (3) failing to give Rolando the opportunity to enter a plea to that charge prior to his incarceration; and (4) ordering Rolando incarcerated until he could pay the fine without first holding an indigency hearing, as required by Article 45.046 of the Texas Code of Criminal Procedure.

In mitigation, the Commission recognizes that Judge Garza has recently taken steps to correct some of these deficiencies, and in particular, has recently been more cautious in the use of his contempt powers during the past twelve months; now issues written orders in all cases in which he places defendants on deferred disposition, and is currently engaged in efforts to return the confiscated cell phones to their rightful owners. Judge Garza also testified that he now

reduces all of his orders and judgments to writing, and has attempted to document his actions in the court's files in more detail.

In reaching its decision, the Commission also notes that Judge Garza initially provided misleading and incomplete information to the Commission in his sworn written responses, and provided oral testimony that contradicted court records supplied to the Commission. Judge Garza's lack of cooperation in this regard proved to be an aggravating factor in reaching a final decision in this case.

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In condemnation of the conduct described above that violated Canons 2A, 2B, 3B(1), 3B(2) and 3B(5) of the Texas Code of Judicial Conduct, and Article V, section 1-a(6)A of the Texas Constitution, it is the Commission's decision to issue a **PUBLIC REPRIMAND AND ORDER OF ADDITIONAL EDUCATION** to the Honorable Joe Henry Garza, Judge of the Municipal Court, La Joya, Hidalgo County, Texas.

Pursuant to this Order, Judge Garza must obtain **twenty (20) hours** of instruction with a mentor, in addition to his required judicial education. In particular, the Commission desires that Judge Garza receive this additional education in the following areas: (a) the limits of a court's authority to find an individual in contempt of court and/or to order the arrest of individuals for disorderly conduct; (b) the proper procedures to be followed in both direct and indirect contempt cases; (c) the proper procedures to be followed in cases involving deferred disposition; (d) the proper procedures to be followed in scheduling hearings in truancy matters; (e) the proper procedures to be followed when a defendant violates a promise to appear and/or fails to timely comply with a previously imposed judgment; (f) the procedures to be followed when a defendant is unable to make a fine payment; (g) the proper procedures to be followed before dismissing a pending criminal case; (h) proper bond setting procedures; (i) the limits of a municipal court's jurisdiction when issuing emergency protective orders; and (j) proper record-keeping practices.

Judge Garza shall complete the additional **twenty (20)** of instruction recited above within **one-hundred and twenty (120) days** from the date of written notification of the assignment of a mentor. It is Judge Garza's responsibility to contact the assigned mentor and schedule the additional education.

Upon the completion of the **twenty (20) hours** of instruction described herein, Judge Garza 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** by the Commission.

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 30th day of March, 2010.

**ORIGINAL SIGNED BY**

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Honorable Jorge C. Rangel, Chair  
State Commission on Judicial Conduct