



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC Nos. 04-1181-RT AND 05-0256-RT

PUBLIC REPRIMAND

**HONORABLE H. LON HARPER
FORMER JUDGE
HOUSTON, HARRIS COUNTY, TEXAS**

During its meeting in Austin, Texas, on April 13-15, 2005, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable H. Lon Harper, Former Judge, Houston, Harris County, Texas. Judge Harper was advised by letter of the Commission's concerns, but failed to provide a written response. Judge Harper was invited to appear before the Commission on June 10, 2004, and on August 12, 2004; however, he failed to appear. Again, on February 16, 2005, Judge Harper was advised by letter of the Commission's additional concerns, but failed to provide a written response. 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 H. Lon Harper was a Former Judge eligible to sit by assignment.
2. On or about December 18, 2003, the Court of Criminal Appeals reported that Judge Harper failed to obtain the required judicial education for fiscal year 2003 (September 1, 2002 through August 31, 2003).
3. On or about January 12, 2004, the Commission received the affidavit of Mari Kay Bickett, Executive Director for the Texas Center for the Judiciary, in which she stated that during fiscal year 2003, Judge Harper completed 9.75 hours out of the 16 hours of judicial education required of a district court judge. Judge Harper was not granted a waiver from this requirement.

4. On February 26, 2004, Judge Harper was asked to respond to the allegation that he had failed to obtain the required judicial education for fiscal year 2003. Judge Harper failed to respond to the Commission's inquiry.
5. On April 15, 2004, Judge Harper was invited to appear before the Commission on June 10, 2004, in order to provide additional information concerning the complaint.
6. On June 9, 2004, Judge Harper notified the Commission that he would not be appearing at the June 10, 2004 hearing, but that he was interested in resolving the complaint through a Voluntary Agreement to Resign in Lieu of Disciplinary Action.
7. On June 14, 2004, Judge Harper was asked to execute a resignation agreement, but failed to do so.
8. On July 7, 2004, Judge Harper was invited to appear before the Commission on August 12, 2004, in order to provide additional information concerning the complaint. He failed to appear.
9. At the conclusion of the August 12, 2004 hearing, the Commission issued a Private Order of Additional Education ordering Judge Harper to complete the remaining 6.25 hours of judicial education for fiscal year 2003, in addition to his required education for fiscal years 2004 and 2005. Judge Harper failed to comply with the Commission's order.
10. On or about November 12, 2004, the Court of Criminal Appeals reported that Judge Harper failed to obtain the required judicial education for fiscal year 2004 (September 1, 2003 through August 31, 2004).
11. On or about January 18, 2005, the Commission received the affidavit of Mari Kay Bickett, Executive Director for the Texas Center for the Judiciary, in which she stated that during fiscal year 2004, Judge Harper completed none of the 16 hours of judicial education required of a district court judge. Judge Harper was not granted a waiver from this requirement.
12. On October 2, 2004, January 4, 2005, and February 16, 2005, Judge Harper was asked to respond to allegations that he failed to cooperate with the Commission and failed to obtain the required judicial education for fiscal year 2004. Judge Harper failed to respond to the Commission's inquiries.
13. According to the records of the Presiding Judge of the Second Administrative Judicial Region, Judge Harper has not notified that office that he no longer wishes to serve as a visiting judge or that he wishes to be removed from the list of judges who are eligible to sit by assignment.

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. Section 33.001(b)(5) of the Texas Government Code provides that a judge's failure to cooperate with the Commission constitutes "willful or persistent conduct that is clearly inconsistent with the proper performance of a judge's duties."
3. Canon 2A of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall comply with the law. . . ."
4. Canon 3B(2) of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall maintain professional competence in [the law]."

CONCLUSION

The Commission concludes from the facts and evidence presented that by failing to complete his judicial education requirements for fiscal years 2003 and 2004, Judge Harper failed to comply with the law and failed to maintain professional competence in the law, in violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct. The Commission further concludes that Judge Harper willfully and persistently failed to cooperate with the Commission in its efforts to investigate the allegations against him. The judge's actions in these matters were 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 above-recited conduct 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 H. Lon Harper, Former Judge, Houston, Harris County, Texas.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the actions described above be made the subject of a **PUBLIC REPRIMAND** 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 the 29th day of April, 2005.

ORIGINAL SIGNED BY

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