



SCR 22-0006
SPECIAL COURT OF REVIEW

IN RE INQUIRY CONCERNING THE HONORABLE GRACE UZOMBA
CJC No. 20-0623

In February 2018, Dario E. Davis pled no contest to the offense of driving while intoxicated. The Honorable Grace M. Uzomba, then judge of the County Court at Law No. 2 of Bexar County, placed Davis on two years' community supervision and ordered him to pay a fine and court costs. For her actions taken against Davis during the course of his community supervision and as a result of a complaint Davis filed, the Texas State Commission on Judicial Conduct (the Commission) charged Judge Uzomba with

(1) violating Canons 2(A) and 3(B)(2) of the Texas Code of Judicial Conduct by “fail[ing] to comply with the law and demonstrat[ing] professional incompetence in the law with respect to Davis’[s] conditions of community supervision, including placing Davis in custody for allegedly violating a condition of his community supervision which had not been ordered,”

(2) violating Canon 3(B)(4) by “fail[ing] to be patient, dignified and courteous towards Davis during [his] case, including ordering that he be handcuffed for hours in the jury box for allegedly violating a condition of his community supervision which had not been ordered,” and

(3) violating Article V, Section 1-a(6)(A) of the Texas Constitution by “fail[ing] to comply with and maintain professional competence in the law” and because “her inability to be patient, dignified and courteous towards Davis constituted willful and persistent conduct clearly inconsistent with the proper performance of her judicial duties and cast public discredit upon the judiciary or the administration of justice.”

Before this Special Court of Review (the Review Tribunal)¹ is an appeal from a public reprimand issued by the Commission against Judge Uzomba. For the reasons stated below, we find that Judge Uzomba violated Article V, Section 1-a(6)(A), of the Texas Constitution and Canons 2(A), 3(B)(2), and 3(B)(4) of the Texas Code of Judicial Conduct. Accordingly, we issue a Public Reprimand.

I. Introduction

On January 8, 2020, Davis submitted a complaint to the Commission stating that he initially appeared in Judge Uzomba's court for the purpose of asking her to assign a new community supervision officer to his case. According to Davis's complaint, he had never received an "alcohol violation" while on community supervision or been ordered to attend a compliance hearing. Judge Uzomba asked Davis to attend a veterans affairs outpatient program for individuals with alcohol issues. Davis complied with Judge Uzomba's request, and during a compliance hearing, he informed her that he was rejected by the program because he did not have a drug- or alcohol-related problem. In response, Judge Uzomba ordered Davis to attend a MOTC² retreat, which he was unable to attend. When he appeared before Judge Uzomba during a compliance hearing three months later, she repeated her request that Davis attend a MOTC retreat and specified the one located in San Antonio. Davis stated that before attending the San Antonio retreat, his lawyer, his community supervision officer, and Judge Uzomba gave him permission to attend the MOTC retreat in Corpus Christi, instead of San Antonio.

Davis arrived in Corpus Christi on October 24, 2019, with plans to stay at the retreat until October 27. But, on October 25, when Judge Uzomba learned that Davis was attending the

¹The Review Tribunal consisted of the Honorable Scott E. Stevens, Chief Justice of the Sixth Court of Appeals in Texarkana, and the Honorable Amanda L. Reichel and the Honorable Cory L. Carlyle, Justices of the Fifth Court of Appeals in Dallas.

²MOTC is the acronym for Ministry of the Third Cross.

Corpus Christi retreat, she ordered that he be brought to her courtroom. That same day, Davis was transported back to San Antonio and appeared before Judge Uzomba. Judge Uzomba informed Davis that she had not given him permission to attend the Corpus Christi retreat. As a result, Judge Uzomba amended his conditions of community supervision without a motion from the State, ordering him to (1) submit to four drug tests every week, which cost \$20.00 per test, (2) install an interlock device in his vehicle, (3) attend weekly visits with his community supervision officer, and (4) complete an additional twenty hours of community service. However, Judge Uzomba's amended order did not require Davis to attend the San Antonio retreat.

When Davis made his subsequent appearance in Judge Uzomba's court, she asked him if he had attended the San Antonio retreat. When he told her that he had not, Judge Uzomba detained Davis. Even after Davis's attorney informed Judge Uzomba that her amended community supervision order did not require his attendance at the San Antonio retreat, Judge Uzomba remained insistent that Davis be placed under arrest and held without bail until a later date. Authorities detained Davis for approximately six hours. Approximately two hours into his detention, Judge Uzomba became aware of the fact that the State refused to obtain an arrest warrant or file a motion to revoke Davis's community supervision. Eventually, Judge Uzomba allowed Davis to leave. Later, Judge Uzomba recused from Davis's case. Regarding the events, Davis stated, "These events as a whole and leading up to December 9th have been challenging and caused me overwhelming embarrassment and emotional distress."

After a hearing on the matter, the Commission issued a public reprimand against Judge Uzomba, finding that she failed

- (1) . . . to comply with the law and maintain professional competence in the law regarding the handling of [Dario] Davis'[s] conditions of community supervision regarding the MOTC retreat, and detaining Davis for allegedly

violating a condition of his community supervision regarding attending a certain MOTC retreat which was not ordered in the Davis Case; and

(2) . . . to be patient, dignified and courteous to Davis regarding the conditions of his community supervision regarding the MOTC retreat and ordering him handcuffed for a few hours while waiting to have a warrant issued or motion to revoke probation filed against him for allegedly violating the conditions of his community supervision regarding attending a certain MOTC retreat in the Davis Case which constituted willful and persistent conduct that is clearly inconsistent with the proper performance of her duties and that cast public discredit upon the judiciary or the administration of justice, in violation of Canons 2A, 3B(2), and 3B(4) of the Texas Code of Judicial Conduct, and Article V, Section 1-a(6)A of the Texas Constitution.

Judge Uzomba filed this appeal, maintaining

(a) that the . . . Commission . . . overcharged the underlying [p]ublic [r]eprimand and th[e] proceeding without a proper, fair investigation; (b) the Examiners . . . wholly failed to meet their burden of proof at the [review tribunal's] trial *de novo* by a preponderance of the evidence; (c) that Judge Uzomba did not violate Article V, section 1-a(6)A of the Texas Constitution, and/or any additional erroneously-charged Canons of Judicial Conduct or any provisions of the Constitution of the United States

In her conclusion, Judge Uzomba contends the Examiners failed to show that she “did anything wrong” and that she acted willfully or persistently “with regard to [the] one incident.” She asks this Review Tribunal to vacate and dismiss the Commission’s public reprimand against her.

II. Evidence Before the Special Court of Review

A. Summary of Trial De Novo Testimony

1. Andrew Froelich

Andrew Froelich, who began representing Davis *pro bono* during October 2019,³ testified that he had previously been employed with the Bexar County District Attorney’s Office. Froelich explained that Davis had called him and said he needed permission to travel to a MOTC Corpus Christi retreat. Froelich knew Gerald Wright, a community liaison officer in Judge

³At the time of the hearing, Froelich was self-employed.

Uzomba's courtroom, fairly well. He texted Wright and asked if Davis could go to the MOTC Corpus Christi retreat instead of the one in San Antonio.

Froelich testified that Davis was unable to complete the Corpus Christi retreat "[b]ecause Judge [Uzomba] ordered him to be brought back to the courtroom after the first night by MOTC staff."⁴ After Davis arrived, Froelich attended the proceeding with him. When the pair entered the courtroom, they "were kind of confused about what was going on, but he went in front of the - - he went to the bench and [Judge Uzomba] was asking him what he was doing at the Corpus Christi retreat without authorization." Wright, who was present at the hearing, attempted to explain to Judge Uzomba that she gave Davis permission to attend the Corpus Christi retreat. "Hey, Judge, you did let him. We talked about this. You said it was okay for him to attend that." Froelich said that Judge Uzomba "barely acknowledged it or was very frustrated with it." Instead, Judge Uzomba amended Davis's conditions of community supervision and reinstated a fine of \$300.00, added additional community service hours, and required him to submit to four drug tests per week. Froelich said, "I'll never forget this - - [Judge Uzomba] said: And I'm going to order four UAs per week, or would you prefer five UA's per week? I'll let you pick." According to Froelich, Judge Uzomba's demeanor was "[c]ondescending, extraordinarily condescending." He continued,

It was . . . very much looking down. I mean, I know that [judges are] always like this, . . . you're looking down, it's just how it is, but she was definitely looking down on him and it was: You didn't obey my order. You got an attorney for this. I'm going to punish you. It was definitely punitive.

Froelich stated that Judge Uzomba was not patient, dignified, or courteous towards Davis. According to Froelich, she "[a]bsolutely" demonstrated a bias or prejudice against Davis. In addition, Froelich emphasized that, during the hearing, Judge Uzomba never mentioned the

⁴The retreat began on October 24. Judge Uzomba ordered Davis to return to her courtroom on October 25.

San Antonio retreat or ordered him to attend it. After the hearing ended, Froelich saw Judge Uzomba by the elevators, and she made a comment to him that “definitely showed that she was biased” against Davis. Froelich opined that Judge Uzomba did not properly perform her judicial duties as they related to Davis.

On December 9, 2019, Froelich and Davis appeared in front of Judge Uzomba for another compliance hearing. Froelich explained that Judge Uzomba had contacted Davis about the scheduled hearing even though she was aware that he was representing Davis. There were no court reporters, lawyers, or prosecutors attending the hearing. Froelich stated that he and Davis arrived in the courtroom in a timely fashion. Judge Uzomba asked Davis if he had attended the San Antonio retreat. Davis responded that he had not been to the retreat. In response to Davis’s answer, Judge Uzomba ordered the bailiff to take Davis into custody, to cuff Davis, and to place him in the jury box. Froelich said that the bailiff took Davis to a holding cell at different times during the hearing but that “[Davis] was handcuffed the entire time.” Froelich did not “think [Judge Uzomba] had the authority to take him into custody. There was no warrant; there was no violation, in [his] opinion; there was no motion to revoke that had been filed; none of those things.” According to Froelich, Davis remained in handcuffs “from whenever the hearing started until about 7:00 at night.”

Soon after Davis was placed into custody, Froelich asked Judge Uzomba numerous times for an “immediate hearing and a bond reset.” Judge Uzomba refused to set a bond, but she did set a hearing for two days later, on December 11. Froelich stated that there were multiple people in the courtroom by that time, including (1) Daryl Harris, the assistant district attorney; (2) Christian Henricksen, who later became the first assistant district attorney; (3) Philip Kazan, who was the first assistant at the time; (4) Juanita Vasquez-Gardner, a former district court

judge; and (5) a misdemeanor assistant district attorney. At one point, Kazan suggested to Judge Uzomba that they reconvene in Judge Uzomba's chambers to discuss Davis's situation.

Kazan "plead[ed] with Judge Uzomba," stating,

With all due respect, Your Honor, we understand how you feel about this. We are ask - - if you proceed to take him into custody and order him arrested, we will have someone at - - from the DA's Office meet him at the Bexar County Jail with a PR bond, a personal recognizance bond, waiting for him to get him released that night, so - - however, we would appreciate if you would set a bond, allow him to bond out at this time - - allow him to be - - not be taken into custody, reset this for a few days, and let us decide whether or not to issue - - to file a motion to revoke and let her, you know, do that.

Davis explained that it was a polite way of telling Judge Uzomba "that she can't do legally what she wanted." During the discussion, Judge Uzomba asked Froelich to leave her chambers. She continued her discussion with the remaining people in her chambers, "and then a while later, the deputy came out, released Mr. Davis, and [everyone] left." Froelich said that Judge Uzomba was not patient, dignified, or courteous towards Davis during that encounter and that she was clearly biased against him. Froelich stated, "[Judge Uzomba] felt, I believe, as though he was, you know, trying to do something." Froelich continued, "[Judge Uzomba] wanted to punish him, and she was going to find a way to lock him up."

Following the incident, Froelich filed a motion to recuse against Judge Uzomba. Davis's case was then transferred to another court. After that, Davis had no issues with his community supervision, and he successfully completed it. When asked for his opinion regarding Judge Uzomba's handling of Davis's community supervision, Froelich said, "Man, his due process rights were violated. He - - it was completely ridiculous how he was treated. It was completely unfair. He had - - he didn't deserve that, and, I mean, I could go on but - - I don't like it. It was not right. What happened there was not right; it was injustice."

2. Gerald Wright

Bexar County Court Liaison Officer (CLO) Gerald Wright described his job as being a link between the court and the community supervision office. When Davis was on community supervision, Wright worked with Judge Uzomba as a CLO. According to Wright, he received a text message from Froelich asking him to ask Judge Uzomba about the location change of the MOTC retreat. Wright asked Judge Uzomba if she would permit Davis to attend the Corpus Christi retreat instead of the San Antonio retreat. After speaking with Judge Uzomba, Wright sent a text message to Froelich telling him that Judge Uzomba had approved Davis's request.

Wright recalled the day that Davis was transported from the Corpus Christi retreat to Judge Uzomba's courtroom.⁵ Wright said that, while he was preparing for other status hearings, he saw Davis walk into the courtroom with "his escort" from the Corpus Christi retreat. Wright was surprised to see Davis because he was not scheduled to be in court that day. Wright learned that Davis was there because Judge Uzomba ordered that he be brought back "straight to court from Corpus." Wright reminded Judge Uzomba that she gave Davis permission to attend the Corpus Christi retreat instead of the San Antonio retreat. Judge Uzomba disagreed with him. Wright said that, when he texted Froelich to tell him that Judge Uzomba gave Davis permission to attend the Corpus Christi retreat, he was not attempting to circumvent Judge Uzomba's wishes. According to Wright, Davis received a travel permit to go to Corpus Christi from the

⁵Wright seemed to be confused about the October 25, 2019, hearing date and the December 9, 2019, hearing date (when Davis was brought back to San Antonio and handcuffed). Judge Uzomba asked Wright if he recalled Davis being in handcuffs. Wright responded, "The day that he was brought from Corpus." He continued, "I don't recall the date. I just know . . . the person that escorted him was Mr. Troy." Judge Uzomba then asked Wright, "Okay. And so if that date was the . . . 25th of October, 2019, you would have no reason to object to or say that is incorrect?" Wright answered, "Right."

The record shows that, although Wright was unsure of the dates, he was clearly testifying to events that took place at the December 9, 2019, hearing, and not the October 25, 2019, hearing.

community supervision office. In Wright's view, Davis was attempting to comply with Judge Uzomba's request. Wright explained,

The day that the escort service brought [Davis] back from Corpus, Judge Uzomba ordered the bailiff to put him in the jury box and handcuff him, after she instructed me to prepare a warrant for his arrest. So as I was preparing the warrant, I heard the handcuffs, and the bailiff put him in the [jury] box. So I went to Judge Uzomba and said, basically: I haven't prepared the warrant yet. The assistant district attorneys have not signed the warrant yet. Please unhandcuff him. You can leave him in the box, but we don't need handcuffs on him yet.

And she complied. She stated . . . okay and had the bailiff unhandcuff him.

Wright testified that he would not say that Judge Uzomba was "detain[ing]" Davis because "[h]e was sitting in the box unhandcuffed." Wright continued, "[Davis] was instructed to sit in the jury box, but I don't think he was told to not move. I don't think he was going to move, but I don't think the Judge told him that he's detained. You know, I don't remember it that way."

In addition, Wright said that Judge Uzomba did not give him an underlying reason for telling him to prepare a violation report so that an arrest warrant for Davis could be issued. Moreover, Judge Uzomba told Wright to look in the computer to determine whether Davis had any community supervision violations from the past that she could use as the basis for an arrest warrant. However, Wright said that there were no new violations that could be used to justify the issuance of an arrest warrant. Wright explained that, in order to issue an arrest warrant for Davis, there would have to be a new violation "because if you take an old violation and you've already addressed it in court, that violation goes away so it has to be new violations."⁶ When Wright was asked if he would have, on his own volition, prepared a violation report against Davis for attending the Corpus Christi retreat, he answered, "No, no, no."

⁶According to Wright, all of Davis's old violations had been "taken care of" prior to the December 9 hearing.

Wright left the courtroom around 3:30 that day. When he left, there was no signed warrant for Davis's arrest. Likewise, there was no prepared motion to revoke his community supervision. And, according to Wright, Davis was not handcuffed at that time.

3. Cory Richardson

Bexar County Community Supervision Officer/CLO Cory Richardson testified that he was at Davis's compliance hearing in December 2019. Richardson oversaw the compliance hearing after Wright left at 3:30. According to Richardson, Judge Uzomba started questioning Davis, even though his attorney was not in the courtroom with him. Richardson could hear bits and pieces of the conversation between Davis and Judge Uzomba. He explained that their conversation "kind of escalated a little bit to the point where [he] felt it was necessary to go get Mr. Froelich out of the hallway." Judge Uzomba wanted Richardson to file a motion to revoke, but she did not provide him with an underlying violation to use as the basis for the motion. Richardson said that he had to search Davis's file to see if he could locate a violation, but he was unable to find one. Richardson explained that it was unusual for a judge to order a community supervision officer to prepare a motion to revoke a person's community supervision. Instead, that task was normally completed by the State. In Richardson's opinion, it was not a violation of Davis's community supervision when he went to the Corpus Christi retreat instead of the San Antonio retreat. Richardson based his opinion on the fact that Davis was given permission to travel to Corpus Christi by a community supervision officer.

According to Richardson, Davis was "confined or detained" during the December 9 hearing, and Judge Uzomba asked the State to prepare a motion to revoke Davis's community supervision. Richardson explained that there were assistant district attorneys in the courtroom that day, the first assistant district attorney Kazan, "and [he] want[ed] to say at some point, the DA himself came down." Richardson was in the courtroom for over two hours, he did not leave

the courtroom until 5:30 p.m., and he never saw Davis unhandcuffed. Richardson said that he worked as a CLO for eight years, that he had never seen anything like what he observed in Judge Uzomba's courtroom on December 9, and that the event was concerning to him.

Richardson testified that Davis was not in handcuffs when he entered the courtroom. Prefacing with the fact that the incident occurred two years prior to the compliance hearing, Richardson estimated that Davis was handcuffed about an hour after he arrived in the courtroom. Richardson conceded that he had seen "probationers" handcuffed in the courtroom before, but only when a person was late for court, when a person had failed to appear for a prior court date, when there was a bond forfeiture in the case, or when a motion to revoke community supervision had been previously filed. According to Richardson, none of those examples applied to Davis. Moreover, Richardson did not believe Davis had acted in a manner that would have given Judge Uzomba a reason to find him in contempt of court.

4. Daryl Harris

Daryl Harris, chief assistant district attorney of the trial division for Bexar County,⁷ testified that he was in Judge Uzomba's courtroom during the December incident involving Davis.⁸ Harris explained, "Judge [Uzomba] was on the bench. I think Davis was in the jury box, which, in Bexar County, that typically is akin to being in custody, handcuffs are on." Harris began to explore what was going on with Davis after speaking with Froelich. At that point, he called other members of the senior staff in his office, first assistant district attorney Kazan and Misdemeanor Chief Vasquez.

⁷Harris was subpoenaed to testify.

⁸Harris could not remember the exact date of the hearing. Instead, he said it took place "sometime in the fall." However, Harris's description of what occurred during the hearing was consistent with the events that took place at the December 9 hearing.

When Harris was asked whether he signed an arrest warrant or a motion to revoke, he answered, “I did not, definitely, and my recollection from that day is there was no supporting documentation that would put Mr. Davis in the box in custody.” Harris was in the courtroom for two or three hours that day, and he had concerns that Davis’s due process rights had been violated. Harris stated, “The concern was that a jail sanction was being contemplated without the procedural guarantees of due process, some type of violation or report and a [motion to revoke] signed by the State, tendered to the Court, notice given to defense, and then a hearing and presentation of evidence.” Harris explained,

Because, again, to even take him into handcuffs, there had to be a basis recognized by the system, procedure. You don’t just take someone who has been given liberty, put him in handcuffs, hold him in the box for - - again, the process for that to happen is - - traditionally, typically, and to my knowledge, by the Code of Criminal Procedure - - with an allegation, and [motion to revoke], and referral to the Court, and that had - - I was not - - that had not happened to the best of my knowledge.

Like Richardson, Harris said that he had seen a judge place an individual in the jury box when that person was late, had a history of being late, or was disruptive. Finally, Harris testified that Davis was not provided with written notice of any claimed violations of his community supervision, nor was he given any disclosures of the evidence against him.

5. Judge Uzomba

Judge Uzomba testified that she modified Davis’s community supervision on August 5, 2019, to include the condition that he participate in the San Antonio retreat on September 25 to September 29. Davis did not attend the San Antonio retreat, and on October 9, Judge Uzomba admonished him during the compliance hearing for failing to attend the retreat. Judge Uzomba maintained that, via her written order, she required Davis to attend the San Antonio retreat in

December.⁹ Judge Uzomba learned that Davis was attending the Corpus Christi retreat when she received a telephone call from the director of the retreat. Judge Uzomba testified, “I told [the director] to go ahead and return him because he did not have permission to be at - - I did not order - - allow him to go to any other MOTC. I directed him to go to MOTC in December in San Antonio.”

After Davis was returned to her courtroom, Judge Uzomba admonished Davis and then modified, in writing, his conditions of community supervision by ordering him (1) to meet with his community supervision officer one time a week, (2) to install a portable alcohol-monitoring device in his vehicle, (3) to submit to random drug tests four times a week for thirty days, (4) to attend and complete the community supervision department’s substance abuse outpatient treatment program, (5) to complete an additional twenty hours of community service, and (6) to pay a fine. Judge Uzomba conceded that there was no written order requiring Davis to attend the San Antonio retreat.

Judge Uzomba said that she conducted another compliance hearing with Davis on December 9. According to Judge Uzomba, she was aware that Froelich was representing Davis at the time, but she could not recall whether Froelich was in the courtroom when she began the compliance hearing. She did remember that there were no assistant district attorneys in the courtroom at the beginning of Davis’s compliance hearing. Moreover, there was no court reporter present in the courtroom.

Judge Uzomba asked Davis if he had attended the San Antonio retreat on December 5, and he responded that he had not done so. Judge Uzomba maintained that she had not ordered the bailiff to place Davis in custody but, instead, ordered him to place Davis in the jury box.

⁹Judge Uzomba stated that exhibit two was the written order modifying Davis’s conditions, but in fact, it was her court notes from the hearing.

Froelich objected to holding Davis in custody and asked Judge Uzomba to issue a bond. According to Judge Uzomba, she did not set a bond because “[a] bond was not warranted.” She conceded that there was no arrest warrant issued for Davis’s arrest and that there was no pending motion to revoke his community supervision. Despite having said that she did not order the bailiff to place Davis in custody, Judge Uzomba agreed that, when she had her bailiff place Davis in the jury box, Davis was not free to leave.

Later, when the group met in chambers, there was a discussion about revoking Davis’s community supervision. According to Judge Uzomba, the district attorney’s office let her know that it would not be filing a motion to revoke. After that discussion, Davis was released.

Judge Uzomba agreed that notice and an opportunity to be heard are prerequisites to depriving a person of their liberty. However, she indicated that, in Davis’s case, it was “[n]ot necessarily” so because “[she] was not taking [Davis’s] liberty away with regard to his jail sanction.” She stated, “I placed him in the box.” Judge Uzomba also conceded that there were no motions to revoke filed against Davis between October 2019 and December 2019. In addition, Judge Uzomba explained that she conducted “performance review hearings”¹⁰ to help individuals successfully complete their term of community supervision.

On December 10, Froelich, on Davis’s behalf, filed a motion to recuse Judge Uzomba from presiding over Davis’s case. Judge Uzomba voluntarily recused.

III. Analysis

A. Standards

A special court of review is required to conduct a trial de novo of the Commission’s decision to publicly reprimand Judge Uzomba. *See In re Slaughter*, 480 S.W.3d 842, 845 (Tex.

¹⁰Judge Uzomba changed the name of the compliance hearings to “performance review hearings” because she received complaints from probationers and attorneys that “compliance hearings” had a negative connotation.

Spec. Ct. Rev. 2015) (per curiam). Section 33.034(f) states, “Except as otherwise provided by this section, the procedure for the review of a sanction issued in an informal proceeding is governed to the extent practicable by the rules of law, evidence, and procedure that apply to the trial of civil actions generally.” TEX. GOV’T CODE ANN. § 33.034(f). Consequently, “the Commission has the burden to prove the charges against [Judge Uzomba] by a preponderance of the evidence.” *In re Slaughter*, 480 S.W.3d at 845.

B. Charges Against Judge Uzomba

Judge Uzomba maintains that the Commission did not show by a preponderance of the evidence that she “did anything wrong and was not willful or persistent with regard to a [sic] one incident.” We presume that Judge Uzomba is referring to the December 9 compliance hearing as the “one incident.”

Judge Uzomba argues that Davis was in contempt of court when he chose, on his own, to go to the Corpus Christi retreat. In her post-submission brief, she states,

This is the third (3rd) time that Mr. Davis was in defiance of [a] court order and thus, warranted h[i]m being handcuffed and placed in the Jury box while I considered my options which include[d] (1) Jury box sanction; (2) overnight in Bexar County Detention facility, (3) Motion to Revoke (MTR) with a voluntary recusal, which comported with the best evidence practice.

According to Judge Uzomba, she chose to proceed with a motion to revoke Davis’s community supervision. She stated, “My actions were in keeping with law and not violative of judicial canons, 2A, nor 3B(4), or Article V, Section 1-a(6)A of the Texas Constitution.”

In *In re Barr*, the review tribunal explained,

The Texas jurist must be held to the highest standards of integrity and ethical conduct, much more so than the standards to which members of the executive and legislative branches are held accountable. Consequently, the ultimate standard for judicial conduct in the State of Texas must be more than effortless obedience to the law, but rather, must be conduct which constantly reaffirms one’s fitness for the high responsibilities of judicial office and which continuously maintains, if

not furthers, the belief that an independent judiciary exists to protect the citizen from both government overreaching and individual self-help.

In re Barr, 13 S.W.3d 525, 534 (Tex. Rev. Trib. 1998, no appeal). With these standards in mind, we now address each of the allegations against Judge Uzomba.

1. Canon 3(b)(4)

In Charge II, the Commission alleged that Judge Uzomba violated Canon 3(B)(4)¹¹ when she “failed to be patient, dignified and courteous towards Davis during this case, including ordering that he be handcuffed for hours in the jury box for allegedly violating a condition of his community supervision which had not been ordered.”

On August 5, 2019, Judge Uzomba amended Davis’s community supervision and ordered “Condition 28. Ministry of the Third Cross (MOTC) (9/25/19 – 9/29/19).” The order did not specify a specific location to attend the MOTC retreat. On September 4, Davis told his community supervision officer that he did not attend the MOTC retreat. However, Davis did attend a spiritual retreat on October 4–6 in Port Aransas. As a result, a violation report was prepared and submitted to Judge Uzomba at the October 9 compliance hearing. At the October 9 compliance hearing, Judge Uzomba orally ordered Davis to attend the December 5–8 MOTC conference. However, Davis’s community supervision was never specifically amended to require his attendance at the MOTC San Antonio retreat.

It is clear from the record that Judge Uzomba orally ordered Davis to attend the San Antonio retreat and that Davis did not comply with her oral instructions. However, after the October 9 compliance hearing, Davis believed that he had obtained Judge Uzomba’s permission to attend the Corpus Christi retreat rather than the San Antonio retreat. To corroborate Davis’s

¹¹Canon 3(B)(4) states, “A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, and should require similar conduct of lawyers, and of staff, court officials and others subject to the judge’s direction and control.” TEX. CODE JUD. CONDUCT, Canon 3(B)(4), *reprinted in* TEX. GOV’T CODE ANN., tit. 2, subt. G, app. B.

belief, Froelich testified that he asked Wright to inquire as to whether Judge Uzomba would allow Davis to attend the Corpus Christi retreat. In turn, Wright testified that he spoke to Judge Uzomba pursuant to Froelich's request, that Judge Uzomba did, in fact, give Davis permission to attend the Corpus Christi retreat, and that he passed that information back to Froelich. Other than Judge Uzomba's testimony to the contrary, there was no evidence to support her assertion that she did not give Davis permission to attend the Corpus Christi retreat.

Regardless, when Judge Uzomba learned that Davis was at the MOTC retreat in Corpus Christi, she ordered her bailiff to make immediate arrangements to bring him back to her courtroom on October 25. Presumably, those arrangements were made without Davis's knowledge. When Davis returned to the courtroom, Judge Uzomba amended Davis's conditions of community supervision to include several new conditions.¹² However, her written modification order did not include the requirement that Davis attend the San Antonio retreat.

During the December 9 compliance hearing, Judge Uzomba again asked Davis if he had attended and completed the San Antonio retreat, to which he answered that he had not. Froelich explained to Judge Uzomba that she had not included that requirement in her October order modifying Davis's conditions of community supervision. Even so, Judge Uzomba completely dismissed Froelich's assertions, instead ordered Davis to sit in the jury box, and ultimately ordered her bailiff to place Davis in handcuffs. At that time, there was no evidence that Davis was late to the hearing, that he was being combative, or that he was a flight risk. In fact, there does not appear to be any rational reason for Judge Uzomba to have ordered her bailiff to restrict

¹²Judge Uzomba modified Davis's community supervision conditions to include, among other things, that he submit to and pay for four drug/alcohol tests per week and that he install an interlock device on his vehicle, both of which involved a substantial increase in costs to Davis. At that time, there was very little, if any, evidence that Davis had alcohol-related issues. In fact, with the exception of his DWI conviction, the evidence shows the contrary to be true. As a result, those modifications appear to be punitive in nature.

Davis's movements, other than that she was upset that he had not attended the San Antonio retreat.

Moreover, there was testimony that Judge Uzomba was rude and condescending to Davis during both the October 25 and the December 9 compliance hearings. Froelich testified that Judge Uzomba "look[ed] down" on Davis and that her actions during the October 25 hearing were "definitely punitive" in nature. Froelich also testified that, when Wright tried to explain to Judge Uzomba that she had given Davis permission to attend the Corpus Christi retreat, Judge Uzomba "barely acknowledged it or was very frustrated with it." He testified further that Judge Uzomba did not act in a patient, dignified, or courteous manner towards Davis.

Richardson also testified that, at the December hearing, while Davis's attorney was not present in the courtroom, he observed a conversation between Davis and Judge Uzomba. Richardson explained that the tone of their conversation "kind of escalated a little bit to the point where [he] felt it was necessary to go get Mr. Froelich out of the hallway."

For all these reasons, we find that this evidence demonstrated that Judge Uzomba failed to be patient, dignified, and courteous towards Davis during this case.

2. Canons 2A and 3(B)(2)

In Charge I of its Charging Document, the Commission alleged that Judge Uzomba violated Canons 2(A)¹³ and 3(B)(2)¹⁴ of the Texas Code of Judicial Conduct when she "failed to comply with the law and demonstrated professional incompetence in the law with respect to

¹³Canon 2(A) states, "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." TEX. CODE JUD. CONDUCT, Canon 2(A), *reprinted in* TEX. GOV'T CODE ANN., tit. 2, sub. G, app. B.

¹⁴Canon 3(B)(2) states, "A judge should be faithful to the law and shall maintain professional competence in it, including by meeting all judicial-education requirements set forth in governing statutes or rules. A judge shall not be swayed by partisan interest, public clamor, or fear of criticism." TEX. CODE JUD. CONDUCT, Canon 3(B)(2), *reprinted in* TEX. GOV'T CODE ANN., tit. 2, sub. G, app. B.

Davis'[s] conditions of community supervision,^[15] including placing Davis in custody for allegedly violating a condition of his community supervision which had not been ordered.”

! In *Tapia v. State*, 462 S.W.3d 29 (Tex. Crim. App. 2015), the Texas Court of Criminal Appeals noted,

In *Gagnon v. Scarpelli*, the Supreme Court enunciated the minimum requirements of due process which must be observed in community supervision revocation hearings: (1) written notice of the claimed violations of probation; (2) disclosure to the probationer of the evidence against him; (3) opportunity to be heard in person and to present witnesses and evidence, and the right to confront and cross-examine adverse witnesses; (4) a neutral and detached hearing body; and (5) a written statement by the fact[-]finders as to the evidence relied on and the reasons for revoking probation. *Gagnon v. Scarpelli*, 411 U.S. 778, 786, 93 S.Ct. 1756, 36 L.Ed.2d 656 (1973) (citing *Morrissey v. Brewer*, 408 U.S. 471, 489, 92 S.Ct. 2593, 33 L.Ed.2d 484 (1972)). In Texas, the procedure for revoking probation affords a probationer!greater safeguards than those required by *Gagnon* and *Morrissey*. See *Ruedas v. State*, 586 S.W.2d 520, 523 (Tex. Crim. App. [Panel Op.] 1979) (citing to *Whisenant v. State*, 557 S.W.2d 102 (Tex. Crim. App. 1977)).

Tapia, 462 S.W.3d at 41–42.

Judge Uzomba violated these requirements in a number of ways. Despite the fact that there was no written modification order requiring Davis to attend the San Antonio retreat, Judge Uzomba was intent upon revoking Davis's community supervision for his failure to do so (1) without giving him written notice of the claimed violations, (2) without disclosing the evidence against him, (3) without the opportunity to be heard and to present witnesses on his behalf, (4) without a court reporter present to record the proceedings, and (5) without the right to confront witnesses against him.

In addition, although there were differing accounts regarding the amount of time Davis was in the jury box and handcuffed during the December hearing, the evidence shows that it was

¹⁵Judge Uzomba ordered that Davis's community supervision be conditioned on “FULLY COMPL[YING] AND ABID[ING] BY ALL THE TERMS AND CONDITIONS OF [COMMUNITY SUPERVISION] AS [WERE] CONTAINED IN THE ORDER GRANTING [COMMUNITY SUPERVISION,] WHICH ORDER [WAS] ATTACHED [T]HERETO AND MADE A PART OF TH[E] JUDGMENT.”

at least a couple of hours and, at the most, six hours. Furthermore, despite Judge Uzomba's wishes, the State refused to file a motion to revoke Davis's community supervision, presumably because it believed there was no basis to support such a motion.

Accordingly, we find that the evidence demonstrates that not only was Judge Uzomba's conduct a violation of Davis's due process rights, it also failed to comply with the law and demonstrated professional incompetence in the law.

3. Article V, Section 1-A(6)(A), of the Texas Constitution

Finally, the Commission alleged in Charge III that Judge Uzomba violated Article V, Section 1-a(6)(A), of the Texas Constitution¹⁶ when she "fail[ed] to comply with and maintain professional competence in the law" while presiding over Davis's case and because "her inability to be patient, dignified and courteous towards Davis constituted willful and persistent conduct clearly inconsistent with the proper performance of her judicial duties and cast public discredit upon the judiciary or the administration of justice."

As it relates to Article V, Section 1-a(6)(A), the Texas Government Code states that "wilful or persistent conduct that is clearly inconsistent with the proper performance of a judge's duties' includes," in part, the "wilful violation of a provision of the Texas . . . Code of Judicial Conduct" and "incompetence in the performance of the duties of the office." TEX. GOV'T CODE ANN. § 33.001(b). To determine whether a judge has acted in a willful manner, the

¹⁶Article V, Section 1-a(6)(A), of the Texas Constitution states as follows:

Any Justice or Judge of the courts established by this Constitution or created by the Legislature as provided in Section 1, Article V, of this Constitution, may, subject to the other provisions hereof, be removed from office for willful or persistent violation of rules promulgated by the Supreme Court of Texas, incompetence in performing the duties of the office, willful violation of the Code of Judicial Conduct, or 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. Any person holding such office may be disciplined or censured, in lieu of removal from office, as provided by this section.

TEX. CONST. art. V, § 1-a(6)(A).

Commission must show an intentional or grossly indifferent misuse of the judicial office. *In re Davis*, 82 S.W.3d 140, 148 (Tex. Spec. Ct. Rev. 2002). “This contemplates more than an error in judgment or lack of diligence.” *In re Rangel*, 677 S.W.3d 918, 920 (Tex. Spec. Ct. Rev. 2023) (per curiam) (citing *In re Barr*, 13 S.W.3d at 534; *In re Thoma*, 873 S.W.2d 477, 489 (Tex. Rev. Trib. 1994, no appeal)). “Rather, it must evince moral turpitude, dishonesty, corruption, misuse of office, bad faith or the like.” *Id.* “A specific intent to use the powers of the judicial office to accomplish a purpose which the judge knew or should have known was beyond the legitimate exercise of h[er] authority may in and of itself constitute bad faith.” *In re Barr*, 13 S.W.3d at 534. “A judge need not have specifically intended to violate the Code of Judicial Conduct; a willful violation occurs if the judge intended to engage in the conduct for which he or she is disciplined.” *In re Curnutt*, No. SCR 23-0002, 2024 WL 1224229, at *2 (Tex. Spec. Ct. Rev. Jan. 22, 2024) (citing *In re Davis*, 82 S.W.3d at 148; *In re Barr*, 13 S.W.3d at 539).

Based on the reasoning above, we find that Judge Uzomba failed to maintain professional competence in the law while presiding over Davis’s case and that she failed to be patient and courteous towards Davis during the October and December compliance hearings. Despite the fact that Davis had not violated a condition of his community supervision at the time of the December compliance hearing, Judge Uzomba placed him in handcuffs and held him in the jury box. Judge Uzomba refused to set a bond for Davis. She requested that Wright and Richardson both look to see if they could find any violations by Davis that could be used as the underlying reason for an arrest warrant or motion to revoke for Davis. It was not until she met with members of the district attorney’s office in her chambers and they explained to her that she could not legally do what she wanted to do that she decided to finally release Davis.

The evidence shows that Judge Uzomba became increasingly frustrated with Davis over his failure to attend the MOTC retreat in San Antonio. Even though Davis was in attendance at

the MOTC retreat in Corpus Christi, Judge Uzomba had him returned to her courtroom in San Antonio. And, when she failed to require Davis's attendance at the San Antonio retreat as part of his community supervision and then later learned of her mistake, instead of correcting her mistake, Judge Uzomba had Davis placed in handcuffs in an open courtroom for all to see.

To the extent that Judge Uzomba contends that she did not know she was violating Davis's due process rights, she clearly should have. Her willful and persistent behavior as outlined above was clearly inconsistent with the performance of her duties, and it cast public discredit on the State's judiciary in violation of Article V, Section 1-a(6)(A), of the Texas Constitution.

Accordingly, we find that the Examiners established by a preponderance of the evidence that Judge Uzomba violated Canons 2(A), 3(B)(2), and 3(B)(4) of the Texas Code of Judicial Conduct and Article V, Section 1-a(6)(A), of the Texas Constitution.

IV. Discipline

Because we find that Judge Uzomba violated Canons 2A, 3(B)(2), 3(B)(4) of the Code of Judicial Conduct and Article V, Section 1-a(6)(A), of the Texas Constitution, "we must now determine an appropriate degree of discipline to impose against [Judge Uzomba]." *In re Sharp*, 480 S.W.3d 829, 838 (Tex. Spec. Ct. Rev. 2023). The Examiners have requested "at least a Public Reprimand." Judge Uzomba argues that "all such sanctions be vacated and dismissed."

The Code of Judicial Conduct requires that the discipline imposed "should depend on such factors as the seriousness of the transgression, whether there is a pattern of improper activity and the effect of the improper activity on others or on the judicial system." TEX. CODE JUD. CONDUCT, Canon 8(A), *reprinted in* TEX. GOV'T CODE ANN., tit. 2, sub. G, app. B. To ensure those requirements have been met, courts have used the *Deming* factors, which are as follows:

(a) whether the misconduct is an isolated instance or evidenced a pattern of conduct; (b) the nature, extent and frequency of occurrence of the acts of misconduct; (c) whether the misconduct occurred in or out of the courtroom; (d) whether the misconduct occurred in the judge's official capacity or in h[er] private life; (e) whether the judge has acknowledged or recognized that the acts occurred; (f) whether the judge has evidenced an effort to change or modify h[er] conduct; (g) the length of service on the bench; (h) whether there have been prior complaints about this judge; (i) the effect the misconduct has upon the integrity of and respect for the judiciary; and (j) the extent to which the judge exploited h[er] position to satisfy h[er] personal desires.

In re Matter of Deming, 736 P.2d 639, 659 (Wash. 1987).

Based on the evidence above, Judge Uzomba's actions toward Davis were ongoing and evidenced a pattern of conduct, which unnecessarily culminated in Davis's loss of liberty, along with a violation of his due process rights. Judge Uzomba exhibited this behavior in her courtroom and in her official capacity. To some extent, Judge Uzomba acknowledged that her actions were less than judicial, but she continued to maintain that they were not willful. There was no evidence as to whether Judge Uzomba modified her course of conduct because, pursuant to Davis's motion to recuse, Judge Uzomba no longer presided over his case. Although Judge Uzomba's time on the bench was relatively brief, her actions toward Davis caused, at the very least, a loss of respect for the judiciary, especially as it related to Froelich and the other individuals in the courtroom during the October and December compliance hearings.

Additionally, the evidence shows that there were three prior complaints of judicial misconduct against Judge Uzomba. One was for a violation of Article V, Section 1-a(6)A, but that particular complaint was eventually dismissed. *See In re Uzomba*, 683 S.W.3d 358, 362, 373 (Tex. Spec. Ct. Rev. 2024) (per curiam). However, in October 2022, Judge Uzomba received a private warning and order of additional education for a violation of Canons 2A and 3B(2). In June 2023, she received a private warning for a violation of Canon 3B(4) for failing to be patient, dignified, and courteous to her court reporter.

In sum, we find the majority of the *Deming* factors weigh in favor of, and support, publicly reprimanding Judge Uzomba.

V. Conclusion

After considering the pleadings, evidence, arguments of counsel, and the parties' pre- and post-submission briefing, the Special Court of Review finds that the Honorable Grace M. Uzomba (1) willfully and persistently failed to comply with the laws and maintain professional competence in the law in regard to her handling of Davis's case and (2) failed to be patient, dignified, and courteous toward Davis when, among other things, she handcuffed him for a substantial period of time without an arrest warrant or a prepared motion to revoke his community supervision based on his failure to attend the San Antonio retreat, which requirement was not included as a condition of his community supervision. Judge Uzomba's conduct was willful and persistent and was clearly inconsistent with the proper performance of her judicial duties and caused public discredit upon the judiciary or the administration of justice in violation of Article V, Section 1-a(6)(A), of the Texas Constitution and in violation of Canons 2(A), 3(B)(2), and 3(B)(4) of the Texas Code of Judicial Conduct. Accordingly, the Special Court of Review issues a Public Reprimand of the Honorable Grace M. Uzomba for those violations.¹⁷

PER CURIAM

¹⁷The Examiners filed objections to and a motion to strike Judge Uzomba's written closing argument. We overrule the Examiners' motion.