



**BEFORE THE STATE COMMISSION  
ON JUDICIAL CONDUCT**

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**CJC Nos. 20-1415 & 21-0679**

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**PUBLIC REPRIMAND**

**HONORABLE FRANKLIN BYNUM  
FORMER JUDGE OF COUNTY CRIMINAL COURT AT LAW NO. 8  
HOUSTON, HARRIS COUNTY, TEXAS**

During its meeting on August 7, 2024, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable Franklin Bynum, Former Judge of the County Criminal Court at Law No. 8, in Houston, Harris County, Texas. Judge Bynum was advised by letter of the Commission's concerns and provided written responses. Judge Bynum with counsel appeared before the Commission on April 19, 2022, and gave testimony regarding these matters.

**BACKGROUND INFORMATION**

Judge Franklin Bynum began his service as the Judge for the Harris County Criminal Court at Law No. 8 in 2019. Judge Bynum ran for the position as a Democratic Socialist and is known as an advocate for radical criminal justice reform. Judge Bynum made several posts on his social media accounts disparaging the Harris County criminal justice system and expressing his support for reforms thereto.

In July of 2020, the Commission received a complaint against Judge Bynum from the Harris County District Attorney's Office with supplemental complaints in September 2020, November 2020, January 2021, and October 2021. Overall, the Harris County District Attorney's Office alleged that, since assuming the bench, Judge Bynum "repeatedly and willfully ignored basic principles of criminal jurisprudence and conducted proceedings in his court with an unprofessional and irredeemable bias against the State of Texas and its prosecutors."

After receiving Judge Bynum's responses to the Letter of Inquiry, the Commission held a Pre-Suspension Hearing in April of 2022. After Judge Bynum appeared before the Commission at the Pre-Suspension Hearing and gave testimony regarding the allegations against him, the Commission voted to initiate formal proceedings against Judge Bynum and to request that the Texas Supreme Court suspend

him from the bench. In July of 2022, the Commission filed with the Supreme Court its Notice of Formal Proceeding, the Request for Suspension, and a Request for a Special Master. Judge Bynum filed his Verified Answer to the Notice of Formal Proceeding in July of 2022 and Response to the Request for Suspension in September of 2022.

In December of 2022, Judge Bynum left judicial office. In June of 2023, the Texas Supreme Court requested a status report as to whether the Request for Suspension and Request for a Special Master were moot in light of the passage of time and the fact Judge Bynum no longer served as a judge. After the Commission filed its Status Report, the Texas Supreme Court appointed a special master in June 2023. In August of 2024, the Commission voted to withdraw the formal proceeding against Judge Bynum because of the passage of time and the fact that Judge Bynum no longer serves on the bench.

After considering the evidence before it, the Commission enters the following findings and conclusions:

### FINDINGS OF FACT

1. At all times relevant hereto, the Honorable Franklin Bynum was the Judge for the Harris County Criminal Court at Law No. 8, in Houston, Harris County, Texas.
2. On July 2, 2019, in an interview with *The Nation* magazine, Judge Bynum openly expressed his continuing desire to contribute, even after assuming the bench, to the “demolition” of the criminal justice system as it currently exists.
3. On July 25, 2019, Judge Bynum engaged in a panel discussion on a local television show sponsored by the Harris County Criminal Lawyers Association titled “Reasonable Doubt” during which he disparaged the Texas judiciary as a whole, the Texas Center for the Judiciary and its training program for new judges, and the Honorable Mark Atkinson, director of the Texas Center for the Judiciary, for his contribution to what Judge Bynum described as a failed system.
4. In public statements he made after assuming the bench, Judge Bynum made clear he would continue his advocacy for criminal justice reform in his role as a judge, only now from “within” the system, and exhibited contempt for the pillars of said system, including the Harris County District Attorney’s Office (“HCDAO”).
5. On March 20, 2020, Judge Bynum presided over *State of Texas v. Christopher Bales*, Cause No. 2305212 (the “Bales Case”) and engaged in a series of bad faith decisions that ultimately led to his recusal. Judge Bynum exhibited an improper and abusive demeanor towards Assistant District Attorney Michael Eber during the Bales Case in response to the HCDAO’s prosecutorial decisions.
6. Judge Bynum implemented a series of targeted court policies amounting to “retaliatory conduct” against the HCDAO which included: (1) denying HCDAO staff the opportunity to communicate with the judge or his staff by email, while not prohibiting similar communications between the judge/his staff and defense attorneys; (2) not allowing HCDAO staff to communicate with other court participants during Zoom proceedings; (3) adopting a blanket policy of not accepting agreed pleas from the State; and (4) refusing to allow HCDAO staff to view court proceedings remotely.
7. On June 1, 2020, Judge Bynum sent an e-mail to prosecutors assigned to his court directing them to appear personally for jail dockets going forward, in violation of orders designed to protect court participants from the COVID-19 pandemic, including: (1) the Texas Supreme Court’s 1<sup>st</sup>, 12<sup>th</sup>, and 17<sup>th</sup> Emergency Orders; (2) the 11<sup>th</sup> Administrative Judicial Region’s proposed schedule dated

May 29, 2020; and (3) Harris County Judge Lina Hidalgo's 4<sup>th</sup> Amended Stay Home, Work Safe Order.

8. Judge Bynum issued improper *sua sponte* orders of protection directing the Harris County Sheriff's Office not to collect DNA specimens from defendants convicted of certain enumerated misdemeanor offenses, in violation of the requirements of Tex. Gov't Code § 411.1471(b-1).
9. Judge Bynum made *sua sponte* findings of "No Probable Cause" in at least four (4) cases without a motion or notice to/participation of the State or defendant, in situations where the defendant had been previously magistrates and already appeared in court. In at least one of these cases, the defendant had already entered into a plea agreement with the HCDAO.
10. Judge Bynum set aside the State's charging document in 20 cases because the complaints did not include a sworn probable cause affidavit on their face, which is not required under the law.
11. Judge Bynum's findings of no probable cause in cases of alleged family violence and the violation of protective orders demonstrated bias or prejudice against victims of domestic assaults.
12. While presiding over *State of Texas v. Jaime Martinez-Contreras*, Cause No. 2275979 (the "Contreras Case"), in which the defendant was charged with DWI-2<sup>nd</sup> offender, Judge Bynum accepted a plea agreement that included a statutory 30-day jail sentence, but then improperly awarded the defendant credit for 30 days in jail when he was in custody for, at most, two days.
13. While presiding over *State of Texas v. Johnny Ernesto Ortiz*, Cause No. 2255605 (the "Ortiz Case"), another DWI-2<sup>nd</sup> offender case, Judge Bynum accepted a plea agreement that included a probated one-year jail sentence, but improperly refused to apply the 72-hour mandatory jail sentence mandated in such situations by Tex. Code Crim. Proc. Art. 42A.401(a)(1).
14. During the COVID-19 pandemic, citing the "emergency powers" conveyed to him by the Texas Supreme Court's Emergency Orders regarding same, Judge Bynum engaged in the practice of setting certain cases for a bench trial despite the State's refusal to consent to a jury waiver.
15. In *State of Texas v. Celso Sapon-Rosales*, Cause No. 2282643 (the "Sapon-Rosales Case"), Judge Bynum set the case for a bench trial despite the State's refusal to consent to a jury waiver. The State requested appellate relief in the Sapon-Rosales Case and obtained a stay of the trial court proceeding.
16. Judge Bynum frequently denied requests by the State to provide an existing record or require a court reporter to record the proceedings before him.
17. Judge Bynum improperly refused to issue warrants or summonses, when necessary, instead requiring the State to do so, in contravention of the requirements of Tex. Code Crim Proc. Arts, 15.03 & 15.09.
18. During a Zoom docket for *State of Texas v. Mark Burns*, Cause No. 2314045 (the "Burns Case"), Judge Bynum engaged in an initial, off-the-record exchange with Assistant District Attorney Charles Hagerman ("Hagerman") during which the judge suggested the HCDAO used domestic violence victims as "pawns". Hagerman later asked Judge Bynum to make a record of their earlier discussion, a request Judge Bynum declined, and which ultimately resulted in Judge Bynum instructing Hagerman to leave the courtroom.
19. After receiving a request from Judge Bynum's court coordinator via text asking him to return to court, Hagerman rejoined the Zoom proceeding. With a court reporter now on the Zoom call,

Judge Bynum called the Burns Case for the stated purpose of giving Hagerman a “formal contempt warning on the record” for his conduct.

20. While presiding over *State of Texas v. Austin Kane Reyes-Cisneros*, Cause No. 2232126 (the “Reyes-Cisneros Case”), Judge Bynum conducted a bench trial over the State’s objection to proceeding without its consent to the defendant’s jury waiver. Judge Bynum refused to stay the proceedings pending the State’s petition for writ of mandamus. Judge Bynum acquitted the defendant.
21. On May 27, 2021, the Houston 14<sup>th</sup> Court of Appeals conditionally granted the State’s petition for writ of mandamus in the Reyes-Cisneros Case and ordered Judge Bynum to vacate his judgment of acquittal.<sup>1</sup> Despite the Court of Appeals’ ruling and the State’s notice to the court of same, Judge Bynum did not act to vacate the judgment until the Court of Appeals issued the writ and he was personally served with a copy of same.
22. Judge Bynum improperly used the threat of contempt against Assistant District Attorney Sean Powers (“Powers”) with respect to *State of Texas v. Gregory Massenburg* (the “Massenburg Case”)<sup>2</sup>. Judge Bynum issued a Show Cause Order against Powers<sup>3</sup>, requiring him to appear on July 16, 2021 at 11:00 a.m., but when Powers and other ADAs appeared as ordered, Judge Bynum kept them waiting for approximately 45 minutes. When he finally took the bench, Judge Bynum announced the hearing would be reset for September 2, 2021.
23. While presiding over *State of Texas v. Bradley Rose*, Cause No. 2277968 (the “Rose Case”), following a series of failures to appear by Defendant Bradley Rose, Judge Bynum failed to forfeit the defendant’s bond on the State’s motion despite the requirements of Tex. Code. Crim Proc. Arts. 22.01 & 22.02.
24. Judge Bynum took a selfie while wearing a “Defund Police” t-shirt given to him by the Chicago Public Defender’s Office, which was posted on his Twitter feed and reposted on the Houston Police Officers Union’s Facebook page.
25. In his written responses to the Commission regarding the allegations against him, Judge Bynum stated that quotes attributed to him in his interview with *The Nation* were correct with the exception of one spelling error.
26. Regarding his public comments about the Texas Center for the Judiciary and its training program for new judges, Judge Bynum indicated in his written responses that the training he received did not “comport with [his] experience as a lawyer or a judge and, in fact, is the kind of approach to judicial education that perpetuates structural unfairness.”
27. In his written responses to the Commission, Judge Bynum expressed his opinion that requiring prosecutors to appear personally in court for jail dockets in contravention of orders designed to protect court participants from the COVID-19 pandemic was reasonable given that some prosecutors were already appearing in person voluntarily. Judge Bynum argued he needed prosecutors in his courtroom every day and that Zoom was not an adequate substitute for having prosecutors in the courtroom.

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<sup>1</sup> See *In re State ex rel. Ogg*, Case No. 14-20-00793-CR.

<sup>2</sup> Cause No. 2363768.

<sup>3</sup> See *Ex Parte Powers, Sean Jeffrey Valenzuela, Contemnor*, Case No. 2364645.

28. Judge Bynum acknowledged in his written responses that at various times he instituted a “temporary” policy of not accepting any pleas of guilty with an agreed punishment recommendation.
29. During his appearance before the Commission, Judge Bynum acknowledged that all or virtually all the cases before him involved law enforcement officials and the Harris County District Attorney, about whom he has made numerous adverse public comments.
30. During his testimony, Judge Bynum responded “Yes” when asked if he ever proceeded to a bench trial or scheduled a bench trial in a case in which the State refused to waive a jury trial.
31. When asked during his appearance whether he ever refused to accept the guilty plea of a defendant who acknowledged his guilt and wished to enter such plea, Judge Bynum responded, “Yes, Yeah, I have rejected . . . plea bargains. I have not accepted guilty pleas at certain times.”

### **RELEVANT STANDARDS**

1. Canon 2A of the Texas Code of Judicial Conduct provides, in relevant part, “A judge shall comply with the law...”
2. Canon 2B
3. Canon 3B(2) of the Texas Code of Judicial Conduct provides, in relevant part, “A judge...shall maintain professional competence in [the law].”
4. Canon 3B(4) of the Texas Code of Judicial Conduct provides, in relevant part, “A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers, and other with whom the judge deals in an official capacity...”
5. Canon 3B(5) of the Texas Code of Judicial Conduct provides, in relevant part, “A judge shall perform judicial duties without bias or prejudice.”
6. Canon 3B(6) of the Texas Code of Judicial Conduct provides, in relevant part, “A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice.”
7. Canon 3B(8) of the Texas Code of Judicial Conduct provides, in relevant part, “A judge shall accord to every person who has a legal interest in a proceeding, or that person’s lawyer, the right to be heard according to law,” and “A judge shall not initiate, permit, or consider *ex parte* communications or other communications made to the judge outside the presence of the parties between the judge and a party, an attorney ... or any other court appointee concerning the merits of a pending or impending judicial proceeding.”
8. Canon 3B(10) of the Texas Code of Judicial Conduct provides, in relevant part, “A judge shall abstain from public comment about a pending or impending proceeding which may come before a judge’s court in a manner which suggests to a reasonable person the judge’s probable decision on any particular case.”
9. Canon 4A(1) of the Texas Code of Judicial Conduct provides, in relevant part, “A judge shall conduct all of the judge’s extra-judicial activities so that they do not cast reasonable doubt on the judge’s capacity to act impartially as a judge.”

10. Canon 4A(2) of the Texas Code of Judicial Conduct provides, in relevant part, “A judge shall conduct all of the judge’s extra-judicial activities so that they do not interfere with the proper performance of judicial duties.”
11. Article V, Section 1-a(6)A of the Texas Constitution provides, in relevant part, that a judge shall not engage in “willful or persistent conduct” that “is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary...”
12. Section 33.001(b)(5) of the Texas Government Code provides, in relevant part, that for purposes of Section 1-a, Article V of the Texas Constitution, “willful or persistent conduct that is clearly inconsistent with the proper performance of a judge’s duties” includes, *inter alia*, “willful violation of a provision of the Texas penal statutes or the Code of Judicial Conduct” and “failure to cooperate with the commission.”
13. Article 1.13 (a) of the Texas Code of Criminal Procedure provides, in relevant parts, “The defendant in a criminal prosecution for any offense ... shall have the right, upon entering a plea, to waive the right of trial by jury, conditioned, however, that, except as provided by Article 27.19, the waiver must be made in person by the defendant in writing in open court with the consent and approval of the court, and the attorney representing the state The consent and approval by the court shall be entered of record on the minutes of the court, and the consent and approval of the attorney representing the state shall be in writing, signed by that attorney, and filed in the papers of the cause before the defendant enters the defendant’s plea.”
14. Article 15.03 of the Texas Code of Criminal Procedure provides, in relevant parts, “(a) A magistrate may issue a warrant of arrest or a summons:
  1. In any case in which he is by law authorized to order verbally the arrest of an offender;
  2. When any person shall make oath before the magistrate that another has committed some offenses against the laws of the State; and
  3. In any case named in this Code where he is specially authorized to issue warrants of arrest.(b) A summons may be issued in any case where a warrant may be issued and shall be in the same form as the warrant except that it shall summon the defendant to appear before a magistrate at a stated time and place.”
15. Article 15.09 of the Texas Code of Criminal Procedure provides, “A complaint in accordance with Article 15.05, may be forwarded as provided by Article 15.08 to a magistrate in the State; and the magistrate who receives the same shall forthwith issue a warrant for the arrest of the accused, when arrested, shall be dealt with as provided in this Chapter in similar cases.
16. Article 22.01 of the Texas Code of Criminal Procedure provides, “When a defendant is bound by bail to appear and fails to appear in any court in which such case may be pending and at any time when his personal appearance is required under this Code, or by any court or magistrate, a forfeiture of his bail and a judicial declaration of such forfeiture shall be taken in the manner provided in Article 22.02 of this Code and entered by such court.
17. Article 22.02 of the Texas Code of Criminal Procedure provides, “Bail bonds and personal bonds are forfeited in the following manner: The name of the defendant shall be called distinctly at the courthouse door, and if the defendant does not appear within a reasonable time after such call is made, judgment shall be entered that the State of Texas recover of the defendant the amount of money in which he is bound, and of his sureties, if any, the amount of money in which they are

respectively bound, which judgment shall state that the same will be made final, unless good cause be shown why the defendant did not appear.”

18. Article 42A.401(a)(1) of the Texas Code of Criminal Procedure provides, “A judge granting community supervision to a defendant convicted of an offense under Chapter 49, Penal Code, shall require as a condition of community supervision that the defendant submit to: (1) not less than 72 hours of continuous confinement in county jail if the defendant was punished under 49.09(a), Penal Code; ...”
19. Section 411.1471(a)(2) of the Texas Government Code provides, “This section applies to a defendant who is: ... (2) convicted of an offense: (A) under Title 5, Penal Code, that is punishable as a Class A misdemeanor, except for an offense punishable as a Class A misdemeanor under Section 22.05, Penal Code; or (B) punishable as a Class A or B misdemeanor, as applicable, under Section 21.08, 25.04, or 43.24, Penal Code.
20. Section 411.1471(b-1) of the Texas Government Code provides, “After a defendant described by Subsection (a)(2) is convicted, the Court shall require the defendant to provide to a law enforcement agency one or more specimens for the purpose of creating a DNA record.

## CONCLUSION

Based on the record before it and the factual findings recited above, the Texas State Commission on Judicial Conduct has determined that the Honorable Frank Bynum, Former Judge of the County Criminal Court at Law No. 8, in Houston, Harris County, Texas, should be publicly reprimanded for: (1) failing to comply with the law nor maintaining professional competence in the law regarding: (a) requiring prosecutors to appear in person in the courtroom for jail docket during the COVID-19 pandemic in violation of several orders designed to protect court participants from the COVID-19 pandemic; (b) issuing *sua sponte* orders of protection directing the Harris County Sheriff’s Office not to collect DNA specimens from defendants convicted of certain enumerated misdemeanor offenses; (c) making *sua sponte* “no probable cause” orders in situations where the defendant had already been magistrates, appeared in court, and/or entered a plea agreement without notifying the State and defendant; (d) setting aside charging documents because the complaint did not include a sworn probable cause affidavit on its face; (e) crediting a defendant in a DWI-2<sup>nd</sup> case with 30 days of jail credit when the defendant was only in jail for two days; (f) refusing to apply the 72-hour mandatory jail sentence to a defendant who pled guilty to a DWI-2<sup>nd</sup> offense; (g) setting bench trials in certain cases during the COVID-19 pandemic despite the State refusing to consent to a jury waiver; (h) refusing to issue warrants or summonses when necessary; (i) proceeding with a bench trial over the State’s objection, not staying the proceedings pending the State’s petition of writ of mandamus, and acquitting the defendant; (j) failing to vacate a judgment as ordered by the Court of Appeals until after the Court issued, and he was personally served, a writ of mandamus; and (k) failing to forfeit a defendant’s bond on the State’s motion after defendant failed several times to appear in court; (2) lending the prestige of his office to advance his private interest in his admitted agenda of extreme criminal justice reform; (3) failing to be patient, dignified, and courteous towards the director of the Texas Center for the Judiciary, the Honorable Mark Atkinson, and several prosecutors appearing before in his court ; (4) performing his judicial duties with, and/or manifesting though words or conduct in the performance of same: (a) bias in favor of defendants and defense attorneys; (b) prejudice towards the Harris County District Attorney’s Office; and (c) prejudice towards domestic violence victims; (5) not according the State and/or the defendant the right to be heard according to law in the above-referenced cases by, among other things, not allowing the State into Zoom court proceedings; (6) engaging in

improper *ex parte* communications with defense attorneys and/or defendants during Zoom proceedings when the State was not present and/or had not been admitted to the Zoom proceeding; (7) making adverse public comments regarding pending and impending criminal proceedings which suggested to a reasonable person the judge's probable decision in any case involving law enforcement officials and the Harris County District Attorney's Office; and (8) conducting extra-judicial activities, such as giving an interview to a magazine, appearing on a local television show, and sharing on social media a picture of himself wearing a "Defund the Chicago Police" t-shirt, that cast reasonable doubt on his capacity to act impartially as a judge and/or would interfere with the proper performance of his judicial duties. Judge Bynum's failure in these respects constituted willful or persistent conduct that is clearly inconsistent with the proper performance of his duties and cast public discredit upon the judiciary and the administration of justice, in violation of Canons 2A, 2B, 3B(2), 3B(4), 3B(5), 3B(6), 3B(8), 3B(10), 4A(1), and 4A(2) of the Texas Code of Judicial Conduct, Section 33.001(b)(5) of the Texas Government Code, and Article V, Section 1-a(6)A of the Texas Constitution.

The Commission has taken this action pursuant to the authority conferred it in Article V, Section 1-a(8) of the Texas Constitution in a continuing effort to protect the public and promote public confidence in the judicial system.

Issued this the 21 day of August, 2024.



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Gary Steel  
Chairman, State Commission on Judicial Conduct