

Misc. Docket No. 02- 9081

**ORDER
OF
THE SUPREME COURT OF TEXAS**

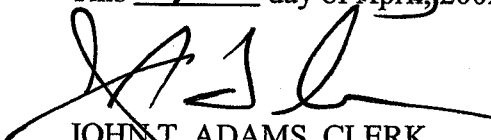
The State Commission on Judicial Conduct has recommended that the Honorable Diana R. Rodriguez, Justice of the Peace for Precinct 2, Place 1, Encinal, LaSalle County, Texas, be suspended without pay pursuant to Texas Constitution Article 5, §1-a(6)A, and Rule 15(b) of the Procedural Rules for the Removal or Retirement of Judges, pending final disposition by the Commission of the charge pending against Respondent.

Having considered the Commission's Request for Order of Suspension of Judge and its exhibits, it is the Order of the Supreme Court of Texas that the Honorable Diana R. Rodriguez, Justice of the Peace for Precinct 2, Place 1, Encinal, LaSalle County, Texas, be immediately suspended from office without pay pursuant to Texas Constitution Article 5, §1-a(6), pending final disposition by the Commission of the charge pending against Respondent.

As ordered by the Supreme Court of Texas, in chambers,

With the Seal thereof affixed at the
City of Austin

This 9th day of April, 2002.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

State Commission on Judicial Conduct

Officers

Michael L. O'Neal, Chair
Kathleen H. Olivares, Vice-Chair
Dee Coats, Secretary

Members

L. Scott Mann
Keith Baker
Martin Chiuminatto, Jr.
Gilbert M. Martinez
James A. Hall
Ronald D. Krist



April 24, 2002

Executive Director
Margaret J. Reaves

RECEIVED
IN SUPREME COURT
OF TEXAS

APR 25 2002

JOHN T. ADAMS, Clerk
By _____ Deputy

John T. Adams, Clerk
Supreme Court of Texas
Supreme Court Building
P.O. Box 12248
Austin, Texas 78711

Re: Inquiry Concerning CJC No. 02-0342-JP

Dear Mr. Adams:

Enclosed for filing are the original and 11 copies of *Commission's Request for Order of Suspension of Judge* in the above-referenced matter for the Court's consideration. Also enclosed is an Order for the Court's convenience. I ask that you please file stamp two of the copies provided and return them for our records.

By copy of this letter, I am providing the subject judge a true and correct copy of the *Commission's Request for Order of Suspension of a Judge*.

If you have any questions or need further information, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Lisa Mogil".

Lisa Mogil
Commission Counsel

LM/et

Encl.

xc: Honorable Diana Rodriguez
Justice of the Peace, Pct. 2
LaSalle County
P.O. Box 67
Encinal TX 78019

Via Certified Mail, Return Receipt Requested
No. 7000 0600 0027 2944 9774

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 02-9081

ORIGINAL

INQUIRY CONCERNING
CJC No. 02-0342-JP

COMMISSION'S REQUEST FOR ORDER OF SUSPENSION OF JUDGE

TO THE HONORABLE SUPREME COURT OF TEXAS:

COMES NOW the undersigned counsel for the State Commission on Judicial Conduct (hereinafter the "Commission") and files this request that the Supreme Court suspend, without pay, the Honorable Diana R. Rodriguez, Justice of the Peace for Precinct 2, Place 1, Encinal, LaSalle County, Texas, and would show the Court as follows:

I. Authority

Article 5, §1-a(6)A of the Texas Constitution provides, in pertinent part, as follows:

On the filing of a sworn complaint charging a person holding such office with 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 and persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or the administration of justice, the Commission, after giving the person notice and an opportunity to appear and be heard before the Commission, may recommend to the Supreme Court the suspension of such person from office. The Supreme Court, after considering the record of such appearance and the recommendation of the Commission, may suspend the person from office with or without pay, pending final disposition of the charge.

Rule 15(b) of the Procedural Rules for the Removal or Retirement of Judges sets forth the procedure for the suspension of a judge by using substantially the same language as that used in the Texas Constitution, as recited above.

The Rules of Judicial Education, promulgated by the Court of Criminal Appeals pursuant to Section 56.006 of the Texas Government Code, require justices of the peace to complete 20 hours of continuing judicial education each year as an official duty of office. The Commission views this education requirement as a basic qualification necessary to serve as a judge. Other

jurisdictions that take this approach have removed judges from the bench for failing to comply with education requirements. *See, e.g., Matter of Lobdell v. State Comm'n on Judicial Conduct*, 59 NY2d 338 (1983); *In re Yusko*, Determination (N.Y. Comm'n on Judicial Conduct, March 7, 1995); *In re Judge No. 1791*, 418 S.E.2d 83 (Ga. Sup. Ct. 1992) (per curiam). In addition, Georgia laws require the Judicial Qualifications Commission to recommend removal of certain judges who fail to obtain training, and Utah law mandates that the Supreme Court order the reprimand, censure, suspension, removal, or involuntary retirement of certain judges who do not complete training. O.C.G.A. §15-9-1.1 (2001); Utah Code Ann. §78-8-103 (2001). Finally, some state statutes declare a judge ineligible to serve or to receive a salary unless the judge has completed the requisite training. *See, e.g., Miss. Code Ann. §9-11-3* (2001); *Mont. Code Ann. §3-1-1502* (2001); *N.M. Stat. Ann. §35-14-10* (2001).

II. Factual and Procedural Background

At all times relevant hereto, Diana R. Rodriguez (hereafter "Respondent") has been a Justice of the Peace for Precinct 2, Place 1, Encinal, LaSalle County, Texas.

On February 25, 2002, a Sworn Complaint was filed with the Commission by Roger Rountree, Executive Director of the Texas Justice Court Training Center of Austin, Travis County, Texas, alleging that Respondent failed to comply with her judicial education requirements under the Rules of Judicial Education for fiscal year 2001. (A true and correct copy of the Sworn Complaint is attached hereto as **Exhibit A** and incorporated herein for all relevant purposes).

III. Suspension

On March 12, 2002, pursuant to Article 5, §1-a(6)A of the Texas Constitution and Rule 15(b) of the Procedural Rules for the Removal or Retirement of Judges, a copy of the Sworn Complaint was served on Respondent. In addition, Respondent was notified that the Commission had set the matter of Respondent's suspension for an informal hearing to be held at

the Commission's offices located in the William P. Clements, Jr. Building, 300 West 15th Street, Suite 415, Austin, Texas on April 10, 2002, at 3:10 p.m. (A true and correct copy of the notice to Respondent is attached hereto as **Exhibit B** and incorporated herein for all relevant purposes).

On April 10, 2002, Respondent appeared at the suspension hearing held before the Commission. (A true and correct copy of the transcript of the April 10, 2002 suspension hearing is attached hereto as **Exhibit C** and incorporated herein for all relevant purposes). After considering the Sworn Complaint, Respondent's testimony, and the argument of counsel, the Commission made the following findings:

1. On August 16, 2001, the Texas Justice Court Training Center notified Respondent that she had failed to obtain her required 20 hours of judicial education during fiscal year 2001, which commenced on September 1, 2000 and ended on August 31, 2001;
2. Respondent did not apply for, nor was she granted, a waiver of her judicial education for fiscal year 2001 by the Texas Justice Court Training Center Education Committee; and
3. Respondent represented during her testimony before the Commission that she did not attend the judicial education classes for fiscal year 2001 because she wanted to attend a location close to her home.

Based on the evidence before it, the Commission concluded that Respondent has engaged in willful and persistent conduct that is clearly inconsistent with the proper performance of her duties or casts public discredit upon the judiciary or on the administration of justice in the State of Texas.

Based on the above, the Commission recommends that the Texas Supreme Court order the immediate suspension of Respondent from her office as Justice of the Peace for Precinct 2, Place 1, Encinal, LaSalle County, Texas, without pay. (A true and correct copy of the Commission's Recommendation of Suspension is attached hereto as **Exhibit D** and incorporated herein for all relevant purposes).

Prayer

WHEREFORE, premises considered, the undersigned counsel for the Commission respectfully requests that, pursuant to Article 5, §1-a(6)A of the Texas Constitution and Rule 15(b) of the Procedural Rules for the Removal or Retirement of Judges, this Honorable Court issue an order suspending Judge Diana R. Rodriguez, without pay, from her office as Justice of the Peace for Precinct 2, Place 1, Encinal, LaSalle County, Texas, pending final disposition by the Commission of the charge pending against Respondent.

Respectfully submitted,

State Commission on Judicial Conduct

P.O. Box 12265
Austin Texas 78711
(512) 463-5533
FAX: (512) 463-0511

Margaret J. Reaves
Executive Director
Texas State Bar No. 16643800

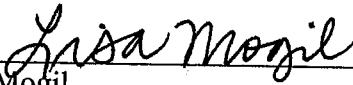
Seana Willing
General Counsel
Texas State Bar No. 00787056

Lisa Mogil
Commission Counsel
Texas State Bar No. 24002622

By: *Lisa Mogil*
Lisa Mogil
Texas State Bar No. 24002622

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the "Commission's Request for Order of Suspension of a Judge" has been sent to Honorable Diana R. Rodriguez, Justice of the Peace, Pct. 2, Place 1, LaSalle County PO Box 67, Encinal Texas 78019, on this the 25th day of April 2002, via certified mail, return receipt requested.



Lisa Mogil

AFFIDAVIT OF ROGER ROUNTREE

Received by _____



FEB 25 2002

STATE COMMISSION
ON JUDICIAL CONDUCT

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

BEFORE ME, the undersigned notary public, personally appeared Roger Rountree and upon his oath duly sworn testified as follows:

"I am over the age of 18, have never been convicted of a felony and have personal knowledge of all facts stated herein.

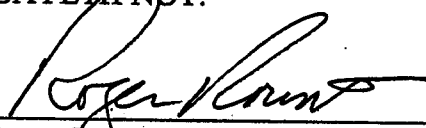
I am the Executive Director for the Texas Justice Court Training Center. As part of my duties, I ensure judges' compliance with judicial education requirements under the Rules of Judicial Education promulgated by the Court of Criminal Appeals of Texas, a copy of which is incorporated by reference and made a part of this affidavit.

Judge Diana R. Rodriguez, Justice of the Peace, Precinct 2, Place 1, of Encinal, LaSalle County, Texas, is not in compliance with Rule 3a(2) of the Rules of Judicial Education for fiscal year 2001.

Judge Rodriguez completed 0 hours out of the 20 required hours of education for fiscal year 2001.

Judge Rodriguez was not granted a waiver or other permission to relieve her of her educational requirements for fiscal year 2001."

FURTHER AFFIANT SAYETH NOT.



Roger Rountree
Executive Director, Texas Justice Court Training Center

SWORN AND SUBSCRIBED TO BEFORE ME, on this the 21 day of February, 2002.

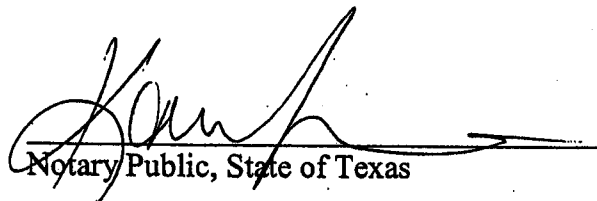
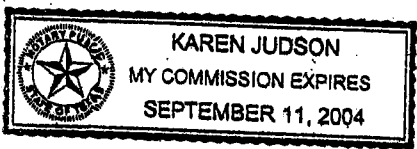

Notary Public, State of Texas

EXHIBIT A

State Commission on Judicial Conduct **COPY**

Officers

Michael L. O'Neal, Chair
Kathleen H. Olivares, Vice-Chair
Dee Coats, Secretary



Executive Director
Margaret J. Reaves

Members

L. Scott Mann
Keith Baker
Martin Chiuminatto, Jr.
Gilbert M. Martinez
James A. Hall
Ronald D. Krist

March 12, 2002

CONFIDENTIAL

**CERTIFIED MAIL # 7000 0600 0027 2944 9620
RETURN RECEIPT REQUESTED**

Honorable Diana R. Rodriguez
Justice of the Peace, Pct. 2, Place 1
LaSalle County
P.O. Box 67
Encinal TX 78019

Re: CJC No. 02-0342-JP

Dear Judge Rodriguez:

As you are aware, the State Commission on Judicial Conduct exercises jurisdiction over allegations of judicial misconduct. Article 5, §1-a(7) of the Texas Constitution provides that, "The Commission shall keep itself informed as fully as may be of circumstances relating to the misconduct or disability of particular persons holding an office named in Paragraph A of Subsection (6) of this Section, receive complaints or reports, formal or informal, from any source in this behalf, and make such preliminary investigations as it may determine."

In addition, the Texas Court of Criminal Appeals has adopted Rules of Judicial Education, which establish requirements for mandatory instruction of judges. Such rules provide that the names of judges failing to obtain the required instruction shall be forwarded to the Commission for disciplinary review. Your name has been reported by the Court of Criminal Appeals as not having completed the required 20 hours of instruction during fiscal year 2001, the year beginning on September 1, 2000 through August 31, 2001. Enclosed as *Attachment A*, please find a sworn complaint provided to us by Roger Rountree, Executive Director of the Texas Justice Court Training Center.

In the course of its preliminary investigation into this issue, the Commission has decided to consider whether to recommend to the Supreme Court that it suspend you from further judicial service pursuant to its authority under Rule 15(b) of the Procedural Rules for the Removal or Retirement of Judges promulgated by the Supreme Court of Texas by order dated May 21, 1992. Rule 15 provides that:

Rule 15. SUSPENSION OF A JUDGE

(a) ...

(b) Upon the filing with the Commission of a sworn complaint charging a person holding such office with willful or persistent violation of rules promulgated by the Supreme Court of Texas, incompetence in performing the duties of office, willful violation of the Code of Judicial Conduct, or willful and persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or the administration of justice, the Commission, after giving the person notice and an opportunity to appear and be heard before the Commission (under Rule 6), may recommend to the Supreme Court the suspension of such person from office.

(c) When the Commission or the Supreme Court orders the suspension of a judge or justice, with or without pay, the appropriate city, county, and/or state officials shall be notified of such suspension by certified copy of such order.

The Commission hereby puts you, Justice of the Peace Diana R. Rodriguez of LaSalle County, Texas, on notice that pursuant to the above cited Procedural Rule 15(b), the Commission may seek to recommend to the Texas Supreme Court that you be immediately suspended from office, pending further action by the Commission on Judicial Conduct. This action is based on the contents of the sworn complaint filed with the Commission on February 25, 2002 by Roger Rountree, Executive Director of the Texas Justice Court Training Center.

In compliance with Article 5, §1-a(6)A of the Texas Constitution and Rule 15(b) of the Procedural Rules for the Removal or Retirement of Judges, the Commission requests that you appear before it on **Wednesday, April 10, 2002 at 3:10 p.m.**, in the Commission's offices located in the William P. Clements, Jr. Building, 300 West 15th Street, Suite 415, Austin, Texas.

An appearance before the Commission is governed by Section 33.022 of the Texas Government Code. While you may not invite witnesses to testify, you may invite guests to observe the hearing. You may be asked to discuss any matter relating to the above-referenced case. Please review your written responses and notify us of any changes. You are free to submit any written documents or court records that you deem material, including any affidavits or sworn statements from witnesses. Any documents you wish the Commission to consider must be received by this office no later than **3:00 p.m. on April 9, 2002.**

If you are unable to attend this hearing, you must notify the Commission in writing no later than **April 3, 2002.** Your failure to attend or provide a good cause reason for your failure to attend could result in the Commission initiating a complaint against you for failure to cooperate. The date and time of the hearing are reserved to allow you the opportunity to clarify your actions to the Commission and to allow the Commission the opportunity to more fully understand the facts and circumstances of the case. Such discussion may result in an early resolution of the issues. However, please be advised that your testimony will be under oath and may be used in subsequent proceedings. For security reasons, if you desire to invite guests to the hearing, your appearance confirmation letter should identify those persons. Of course, you have the right to be represented by an attorney.

The hearing will take place during a regularly scheduled Commission meeting; therefore, it is the Commission's policy that no requests for a continuance of the hearing will be entertained.

EXHIBIT B


In order for us to complete the investigation into this matter, we ask that you respond to the questions contained in item QJ-1 attached hereto. Please write or type your answers in the space provided below each question. If you need more space, please feel free to attach additional pages. After responding to the questions, please feel free to submit any comment, explanation, or justification you believe appropriate. Additionally, please personally sign, date and verify your answer before a notary public.

We do appreciate your helping us to carry out our responsibilities and request your written response by **Friday, March 29, 2002**. If you have any questions or if we may be of assistance to you, please do not hesitate to contact Lisa Mogil, the staff attorney assigned to this matter, at (877) 228-5750 (toll free).

At the conclusion of the hearing, the Commission may vote to dismiss the matter, issue a private or public sanction against you, order that you obtain additional education, or initiate formal proceedings in order to recommend your removal and/or suspension from office. In some situations, the Commission may postpone its decision in order to obtain additional testimony or other evidence.

Thank you for your time and consideration.

Sincerely,


Seana Willing
General Counsel

SW/LM/et
Encl.

EXHIBIT B

AFFIDAVIT OF ROGER ROUNTREE

Received by [Signature]

FEB 25 2002

STATE COMMISSION
ON JUDICIAL CONDUCT

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

BEFORE ME, the undersigned notary public, personally appeared Roger Rountree and upon his oath duly sworn testified as follows:

"I am over the age of 18, have never been convicted of a felony and have personal knowledge of all facts stated herein.

I am the Executive Director for the Texas Justice Court Training Center. As part of my duties, I ensure judges' compliance with judicial education requirements under the Rules of Judicial Education promulgated by the Court of Criminal Appeals of Texas, a copy of which is incorporated by reference and made a part of this affidavit.

Judge Diana R. Rodriguez, Justice of the Peace, Precinct 2, Place 1, of Encinal, LaSalle County, Texas, is not in compliance with Rule 3a(2) of the Rules of Judicial Education for fiscal year 2001.

Judge Rodriguez completed 0 hours out of the 20 required hours of education for fiscal year 2001.

Judge Rodriguez was not granted a waiver or other permission to relieve her of her educational requirements for fiscal year 2001."

FURTHER AFFIANT SAYETH NOT.

[Signature]
Roger Rountree
Executive Director, Texas Justice Court Training Center

SWORN AND SUBSCRIBED TO BEFORE ME, on this the 21 day of February, 2002.

[Signature]
Notary Public, State of Texas

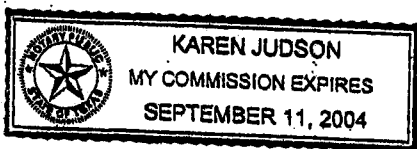


EXHIBIT B

ATTACHMENT
A

4. Please provide any other relevant information regarding your attendance at judicial education seminars during fiscal year 2000.

(Judge's signature)

(Date)

(Printed Name)

VERIFICATION
CJC # 02-0342-JP

State of Texas

§
§
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County of _____

BEFORE ME, the undersigned authority, on this day personally appeared _____, who by me being first duly sworn, on his oath deposed and said that the above responses to the Commission's inquiries are based on personal knowledge, and are true and correct.

SUBSCRIBED AND SWORN TO BEFORE ME, on this the _____ day of _____, 2002.

NOTARY PUBLIC, IN AND FOR THE STATE
OF TEXAS

EXHIBIT B

Ken Owen & Associates
Certified Shorthand Reporters

BEFORE THE STATE COMMISSION
ON JUDICIAL CONDUCT

CJC NO 02-0340-DI | RE: JUDGE DIANA RODRIGUEZ
| JUSTICE OF THE PEACE, PRECINCT 2
| ENCINAL, LASALLE COUNTY, TEXAS

TRANSCRIPT OF PROCEEDINGS

HELD ON WEDNESDAY, APRIL 10, 2002

REPORTED BY: HOLLY SCHULZ
TEXAS CSR NO. 6097
AUSTIN, TRAVIS COUNTY, TEXAS

BE IT REMEMBERED THAT ON the 10th day of April,
2002, the following proceedings came on to be heard in
the above-entitled matter and numbered cause before the
State Commission on Judicial Conduct,
Chairman Michael O'Neal presiding, held at the State
Commission on Judicial Conduct, 300 West 14th Street,
Austin, Texas, between the hours of 2:42 p.m. and
2:55 p.m.

801 West Avenue
Austin, Texas 78701-2169
(512) 472-0880 • Fax 472-6030
email: kenowen@swbell.net • website: www.kenowen.com

COPY

"Service **EXHIBIT** *rs* **C** over 40 years"

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APPEARANCES

COMMISSION MEMBERS:

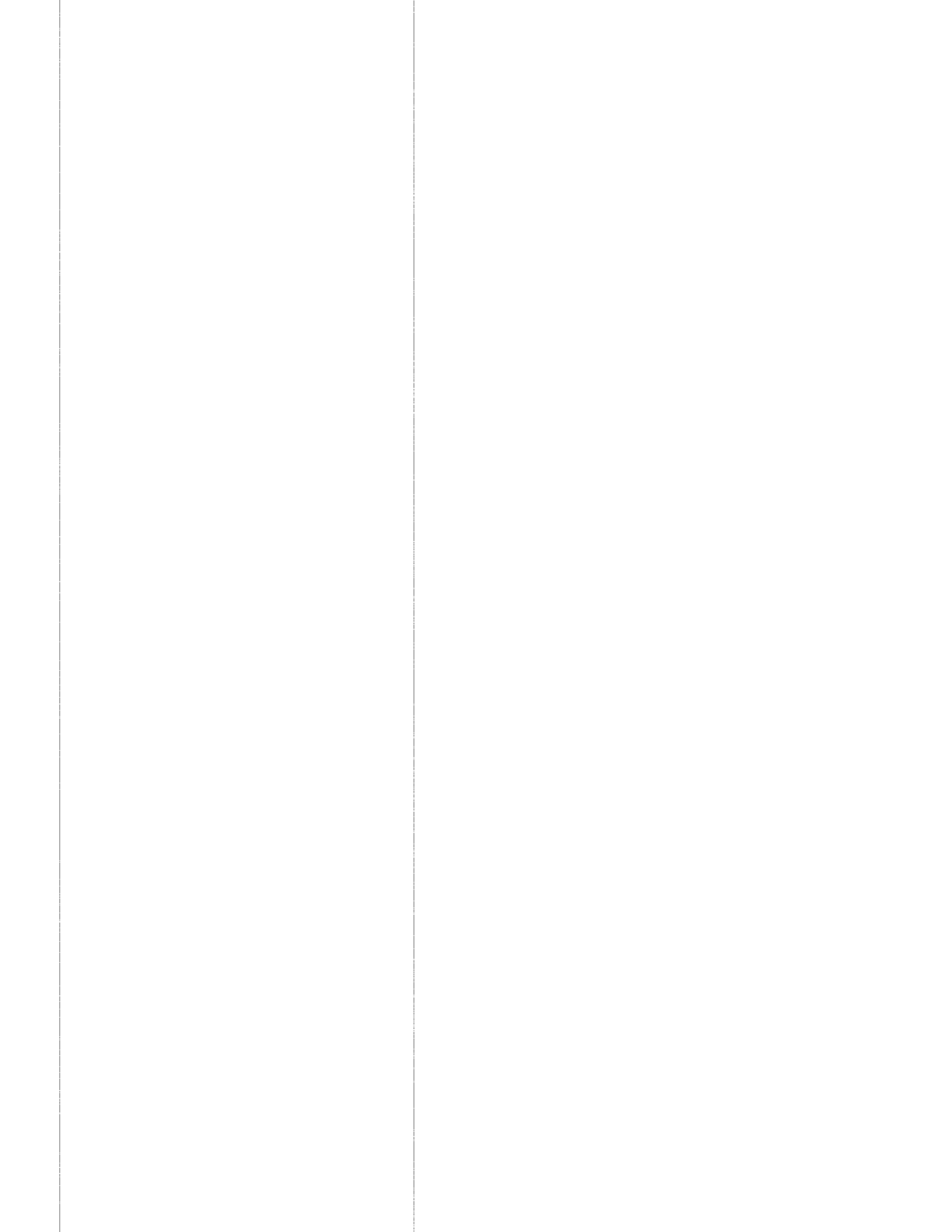
The Honorable Michael O'Neal, Chairman
The Honorable Kathleen Olivares, Vice-Chair
Ms Elizabeth (Dee) Coats, Secretary
Mr. James A. Hall
Mr. L. Scott Mann

FOR THE COMMISSION:

BY: Ms. Lisa Mogil
COMMISSION COUNSEL
STATE COMMISSION ON JUDICIAL CONDUCT
P.O. Box 12265
Austin, Texas 78711
Telephone: (512) 463-5533
Fax: (512) 463-0511

JUDGE DIANA RODRIGUEZ

EXHIBIT C



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EXHIBIT C

1 hearing at your invitation?

2 JUDGE RODRIGUEZ: No.

3 HON. O'NEAL: Judge Rodriguez, you are
4 aware that the Commission is inquiring into a report
5 submitted by the Texas Court of Criminal Appeals that
6 you failed to complete your required 20 hours of
7 judicial instruction during fiscal year 2001.

8 Additionally, based on information gathered in
9 investigation of the complaint, the Commission is
10 considering whether to suspend you from further
11 judicial service pursuant to its authority under
12 Rule 15(b) of the Procedural Rules for the Removal or
13 Retirement of Judges.

14 You were notified by letter of March 12
15 of our concerns and you furnished a written response on
16 March 29, 2002.

17 You have chosen to keep this proceeding
18 confidential. Only the Commission panel, its staff,
19 and any individuals you have invited are present.

20 The proceeding is being recorded, and
21 your testimony will be under oath. The recording of
22 this proceeding and all documents, statements, and
23 evidence considered by the Commission will be become
24 public in any public sanction is issued. You are
25 entitled to a copy of the reporter's record of this

EXHIBIT C

1 hearing at your own expense.

2 Judge Rodriguez, you have the right to
3 submit any written documentation, witness statements,
4 affidavits, or other relevant information for the
5 Commission's consideration. This panel will report to
6 the full Commission and they will vote on the
7 disposition of your case. You will be advised in
8 writing of the Commission's decision.

9 A staff attorney assigned to this matter
10 will ask questions. After your response, members of
11 the panel may ask additional questions. You will then
12 be given an opportunity to respond. You may also make
13 a brief closing statement.

14 Do you have any questions?

15 JUDGE RODRIGUEZ: No.

16 HON. O'NEAL: Would you please stand and
17 raise your right hand to be sworn.

18 JUDGE DIANA RODRIGUEZ,
19 having been first duly sworn, testified as follows:

20 EXAMINATION

21 BY MS. MOGIL:

22 Q. Judge Rodriguez, thank you for being here
23 today. We have spoken on the phone before, but we
24 haven't met in person. For the record, I'm Lisa Mogil,
25 Commission Counsel for this matter.

EXHIBIT C

1 Judge, you've just heard Chairman O'Neal
2 refer to the questions that the Commission sent to you
3 and your written response. Have you had a chance to
4 review those questions prior to today's hearing?

5 A. I remember them. I didn't make a copy, but I
6 remember what I wrote.

7 Q. Okay. And unless you have any changes or
8 corrections that you'd liked to make to your answers at
9 this time, I'm going to have them included as part of
10 your sworn testimony here today.

11 A. (Nodded head.)

12 Q. Thank you. To provide some background, could
13 you please tell us how long you've been serving as a
14 justice of the peace.

15 A. On the paper that I sent, I think I wrote
16 '99; and it was not '99, it was '95.

17 Q. Okay. We'll make sure to make that
18 correction then.

19 And is it correct that you attended none
20 of the required 20 hours of judicial education for
21 fiscal year 2001?

22 A. No, I didn't.

23 Q. Okay. And did you apply for a waiver from
24 the Education Committee at the Texas Justice Court
25 Training Center?

EXHIBIT C

1 A. No, I didn't.

2 Q. And did the Texas Justice Court Training
3 Center notify you about not having completed your
4 hours?

5 A. Yes, they did.

6 Q. Did you respond to that letter?

7 A. No, I didn't.

8 Q. And could you please explain to the
9 Commission why you didn't complete your hours.

10 A. I didn't -- I -- my husband didn't think that
11 I was capable of driving for a very long distance, so I
12 told him that I would go to San Antonio. And by the
13 time I realized it, the date had already passed, and I
14 couldn't attend. And that's the last one, I think, at
15 that time.

16 Q. You told your husband that you were going to
17 attend in San Antonio or had you told the school that
18 you were going to?

19 A. No, I told my husband. I didn't tell the
20 school. I had not registered.

21 MS. MOGIL: Thank you Commissioners.
22 That concludes my questions.

23 HON. O'NEAL: Does any member of the
24 panel have questions? Ms. Coats?

25 HON. COATS: Could you give us any

EXHIBIT C

1 evidence that you take your position seriously?

2 JUDGE RODRIGUEZ: No. I don't know what
3 evidence I could give you to show you that I take it
4 seriously.

5 HON. COATS: You've been here before.

6 JUDGE RODRIGUEZ: Yes.

7 HON. COATS: And we didn't think you did
8 then and it doesn't look like you do now.

9 That's all.

10 HON. OLIVARES: No questions.

11 HON. O'NEAL: Mr. Mann?

12 EXAMINATION

13 BY HON. MANN:

14 Q. Judge, just tell us, if you would, are you
15 asking us to not suspend you; is that what you're doing
16 here today?

17 A. I had already thought about it. I was
18 going -- I was going to resign. I was just waiting to
19 fulfill the hours for this year and then resign.

20 Q. Okay. I'll ask you again, are you asking us
21 to not suspend you; is that what you're here doing?
22 What are you asking us?

23 A. Yes, yes.

24 Q. Okay. Then would you explain to us why it is
25 in our duty to the citizens, why we should say to the

EXHIBIT C

1 citizens, it's okay that the Judge is not in compliance
2 with her education. Tell us why they don't deserve a
3 judge who is in compliance.

4 A. Why they don't?

5 Q. Yeah.

6 A. Why don't they deserve --

7 Q. Yeah. Why don't we owe to the citizens to
8 insist that the Judge be compliant with the education.

9 That's what I'm asking you.

10 A. Well, I can't.

11 Q. Okay. Well, that's fine. I just, that's --
12 because that's the question we're today to decide, and
13 I wanted you to have a chance to speak to that.

14 HON. MANN: That's my only question,
15 Mr. Chairman.

16 HON. HALL: None, thank you.

17 HON. O'NEAL: You do understand that
18 this is a legal requirement of all judges.

19 JUDGE RODRIGUEZ: Yes.

20 HON. O'NEAL: Any further questions?

21 Ms. Rodrigues, it's your opportunity now
22 to state to the panel anything that you feel that we
23 should know further about your situation.

24 JUDGE RODRIGUEZ: Well, I had written
25 something, because I know that -- as I was coming in

EXHIBIT C

1 I've been very nervous all day, and I knew that I was
2 going to blow everything. So I wrote something last
3 night knowing this, and can I read it?

4 HON. O'NEAL: You may.

5 JUDGE RODRIGUEZ: It says: I tend to
6 blank out and my hearing fails me when I am nervous. I
7 do not try to seem incompetent, but I cannot function
8 when I feel pressured. I don't believe that you are
9 pressuring me, but if it was up to me, I would not be
10 here today; I would wait for the decision.

11 I realize that this is a hearing and not
12 an imposition, and I also know that this is not your
13 intention.

14 Normally I am a simple-minded person. I
15 rarely have much to say. I know that sometimes people
16 become irritated when others cannot answer as they
17 would like. Because of this, and knowing I myself, I
18 chose to come here with this statement.

19 First of all, I came to be a JP when I
20 was approached by a number of persons that had some
21 faith in me that they believed that I could make a
22 difference in our community.

23 When I took the position, I
24 wholeheartedly believed in making a difference. I
25 believe that I have. As the years have gone by, many

EXHIBIT C

1 things have changed in my life.

2 When I first began I was also a
3 first-year teacher. I had never had a job in my life.
4 I know now that being an adult is not as easy as young
5 people tend to want to believe. I thought I could do
6 it all.

7 Secondly, I wear many hats throughout
8 the day. I am 10 feet tall with these hats. I am
9 first a wife and a mother, then the others.

10 Taking the position of JP has added more
11 hats than I maybe can wear. My intentions were real.
12 The hat as JP that I wear has affected my life in many
13 ways. I know the responsibility of making sure we are
14 model citizens. I know I am and have been. I also
15 know the importance that this position has and how it
16 affects people's lives. I understand the importance of
17 keeping up-to-date on the changes that occur within the
18 laws that exist or that are introduced.

19 I know and understand the importance of
20 the JP schools, because every time that I have gone I
21 have learned so much. The schools have offered and
22 provided a wealth of knowledge that no one can get by
23 oneself. Most importantly because you learn from your
24 peers.

25 Thirdly, I was going to finish my term

EXHIBIT C

1 at the end of the year. Even though I had never really
2 given up on anything, I had already made up my mind
3 that this was it. I had no intention of seeking
4 another term.

5 In the last couple of days towards the
6 deadline to sign for another term, the county judge
7 approached me to inform me that no one had signed up.
8 He asked what the matter was and I did not answer. I

9 reluctantly agreed to sign my name again feeling that
10 it was a duty and an obligation to sign my name. The
11 only reason I did was because I did not know how not
12 signing up would affect the community and myself.

13 I waited until the last day to turn in
14 signatures, because I was hoping someone would like to
15 take the position, and no one did. I did not intend to
16 wear that hat again, but here I found myself.

17 Finally, the reason I am here, I am not
18 an incompetent, bad person. I believe I am capable,
19 honest, God-loving, fair, and a good person. I don't
20 always have an answer to many questions, but I try to
21 do the best I can. I have but one flaw, and that has
22 become apparent to me in the last couple of years and
23 even more so right now.

24 I'm a chronic procrastinator. I never
25 understood the term until I reflected on the way things

EXHIBIT C

1 have been affected in my life. One of them was not
2 attending the JP school. I have a short-term memory
3 and when I put things off, it takes a while before I
4 remember. I understand the importance of keeping up to
5 date, and I know and understand why the school exists.

6 I have learned so much from the schools
7 and in just a few weeks. I believe that 40 hours per
8 year are needed, because the first time I went I

9 learned so much. On my way home I always felt
10 empowered by the wealth of knowledge that the schools
11 pass on to those who leave.

12 You might also have asked me how I work
13 as a teacher. Well, when things need to get done, I am
14 constantly reminded.

15 When I received your letter I realized
16 that maybe I am not the person for this position. I
17 have gone through sleepless nights seeking an answer to
18 why I am the way I am. I may never change, and then
19 again maybe there is hope. I might find the time to do
20 the things I need to get done. I know I was wrong, and
21 nothing I say will help to explain why I didn't go.

22 All I remember is waiting to go to
23 San Antonio to school, then realizing it was too late.
24 I am embarrassed and ashamed. I feel like I am the
25 only one who has failed to meet the requirements. If I

EXHIBIT **C**

1 had to do it over again, I certainly would try my best
2 not to let it go by.

3 Wearing too many hats does not help, and
4 I know I have to choose or you will choose the right
5 hats that I need to wear.

6 If I have to leave my position, I
7 appreciate the chance I was given to be a part of the
8 justice system.

9 HON. O'NEAL: Thank you, Judge. Thank
10 you for coming in.

11 (Proceedings recessed at 2:55 p.m.)

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EXHIBIT C

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STATE OF TEXAS |
COUNTY OF TRAVIS |

I, HOLLY SCHULZ, Certified Shorthand Reporter in and for the State of Texas, do hereby certify that the above-captioned matter came on for hearing before the STATE COMMISSION ON JUDICIAL CONDUCT, The Honorable Michael O'Neal, Commission Chairman, on the 10th day of April, 2002, as hereinbefore set out.

I FURTHER CERTIFY THAT the proceedings of said hearing were reported by me, accurately reduced to typewriting under my supervision and control and that the foregoing pages are a full, true, and correct transcription of said proceedings.

I further certify that I am neither attorney or counsel for, related to, nor employed by any parties to the action in which this testimony was taken and, further, I am not a relative or employee of any counsel employed by the parties hereto or financially interested in the action.

Certified to by me this, the 23rd day of April, 2002.

Holly Schulz

Holly Schulz, CSR, RPR
Texas CSR #6097
Expiration Date: 12/31/03
Ken Owen & Associates
801 West Avenue
Austin, Texas 78701
(512) 472-0880
(512) 472-6030 Fax

EXHIBIT C



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

**Inquiry Concerning
CJC No. 02-0342-JP**

COMMISSION'S RECOMMENDATION OF SUSPENSION

On the 10th day of April, 2002, came on to be heard the Sworn Complaint of Roger Rountree requesting that the State Commission on Judicial Conduct ("Commission") recommend the immediate suspension of Judge Diana R. Rodriguez, Justice of the Peace for Precinct 2, Place 1, Encinal, LaSalle County, Texas ("Respondent").

After considering the Sworn Complaint, Respondent's written response to the Commission, and the argument of counsel, the Commission concluded that Respondent has engaged in willful and persistent conduct that is clearly inconsistent with the proper performance of her duties and which casts public discredit on the judiciary and on the administration of justice in violation of Article 5, §1-a(6)A of the Texas Constitution.

WHEREFORE, pursuant to Article 5, §1-a(6)A of the Texas Constitution and Rule 15(b) of the Procedural Rules for the Removal or Retirement of Judges, the Commission recommends that the Texas Supreme Court order the immediate suspension, without pay, of Judge Diana R. Rodriguez from her office as Justice of the Peace for Precinct 2, Place 1, Encinal, LaSalle County, Texas, pending final disposition by the Commission of the charge pending against Respondent.

SIGNED: April 19, 2002.

A handwritten signature in black ink, appearing to read "Michael L. O'Neal", written over a horizontal line.

Honorable Michael L. O'Neal, Chair
State Commission on Judicial Conduct

EXHIBIT D