

CALIFORNIA SUPREME COURT

Inquiry Concerning Saucedo

62 Cal. 4th CJP Supp. 1 (2015) · Decided December 1, 2015

SUMMARY

The California Commission on Judicial Performance considered disciplinary charges against Tulare County Superior Court Judge Valeriano Saucedo. The commission adopted findings that he created and used an anonymous sexually explicit letter to manipulate a courtroom clerk, engaged in improper communications and gifts, acted dishonestly, and committed willful and prejudicial misconduct. The commission ordered his removal from office.

CASE DETAILS

COURT	California Supreme Court
WRITING FOR THE COURT	Yew, Chairperson
JURISDICTION	California
DECIDED	December 1, 2015
DISPOSITION	other
PROCEDURAL POSTURE	Judicial disciplinary proceeding before the California Commission on Judicial Performance following an evidentiary hearing before three special masters appointed by the California Supreme Court.
STANDARD OF REVIEW	The commission independently reviewed the record while giving special weight to the special masters' credibility determinations and factual findings because the masters observed the witnesses' demeanor. Charges had to be proved by clear and convincing evidence.
PRECEDENTIAL VALUE	Published disciplinary opinion; precedential California Supreme Court decision concerning judicial misconduct and discipline.

TOPICS

agency adjudication administrative law judicial review of agency action

PRACTICE AREAS

judicial discipline professional responsibility administrative law judicial ethics

QUESTIONS PRESENTED

1. Whether the evidence established by clear and convincing evidence that Judge Saucedo committed the charged misconduct and violated the specified canons of the California Code of Judicial Ethics.
2. Whether Judge Saucedo's conduct constituted willful misconduct when performed in a judicial capacity and prejudicial misconduct when performed outside that capacity.
3. Whether the investigation and evidentiary proceedings violated Judge Saucedo's due process rights because of alleged failures to preserve electronic evidence, access witnesses, or conduct a broader forensic investigation.
4. Whether evidence concerning incidents not charged in the formal notice could support disciplinary findings or prejudiced the proceeding.
5. What sanction was appropriate for the established misconduct.

HOLDINGS

1. The charges were proven by clear and convincing evidence. Judge Saucedo violated California Code of Judicial Ethics canons 1, 2, 2A, 2B(1), 3C(5), and 4G through the anonymous letter, failure to report it, manipulation of a subordinate, substantial gifts and financial benefits, intimidation through an extortion accusation, and provision of legal advice.
2. Judge Saucedo committed willful misconduct when acting in a judicial capacity and prejudicial misconduct in his other improper conduct.
3. The investigation and hearing did not violate Judge Saucedo's due process rights, and the introduction of evidence concerning uncharged incidents did not prejudice him.
4. Removal from judicial office was warranted.

KEY QUOTATIONS

“Mentoring is not accomplished by providing a subordinate with thousands of dollars in gifts, including a BMW car and vacation, an offer to pay for body sculpting or expecting a ‘special’ friendship in exchange.” (39-40)

“Each of Judge Saucedo’s canon violations constitutes, at minimum, prejudicial misconduct.” (44)

“Thus, we conclude that Judge Saucedo engaged in a course of highly improper conduct toward Tovar over a two-month period that constitutes willful misconduct in those instances when he was acting in a judicial capacity and prejudicial misconduct in all other instances.” (46)

FACTUAL BACKGROUND

Judge Valeriano Saucedo, a Tulare County Superior Court judge, created and sent an anonymous sexually explicit letter to his own home address concerning his courtroom clerk, Priscilla Tovar, and used the letter to cultivate a secretive and dependent relationship with her. Over approximately two months, he falsely claimed to have intercepted the letter, pressured Tovar to keep it secret, sent hundreds of personal text messages, provided more than \$25,000 in gifts and financial assistance, offered legal advice to her son, and sought a closer emotional or romantic relationship. He later handed Tovar an accusation of extortion while presiding over court proceedings and deposited \$8,000 into her account to induce her silence.

PROCEDURAL HISTORY

The Commission on Judicial Performance filed formal disciplinary proceedings against Judge Valeriano Saucedo in December 2014. Three special masters conducted an evidentiary hearing in April 2015 and found the charges proven by clear and convincing evidence. The masters submitted their report to the commission, which heard oral argument on October 7, 2015. The commission adopted the masters' factual findings, rejected the judge's due process and evidentiary objections, found multiple violations of the California Code of Judicial Ethics, and ordered removal from office.

DISPOSITION

other

CASES CITED

- Broadman v. Commission on Judicial Performance, 18 Cal. 4th 1079, 1090-1093, 1104, 1108 (1998)
- Inquiry Concerning Freedman, 49 Cal. 4th CJP Supp. 223, 232 (2007)
- Adams v. Commission on Judicial Performance, 8 Cal. 4th 630, 662 (1994)
- Adams v. Commission on Judicial Performance, 10 Cal. 4th 866, 899, 912, 914 (1995)
- Dodds v. Commission on Judicial Performance, 12 Cal. 4th 163, 172, 175 (1995)
- Ryan v. Commission on Judicial Performance, 45 Cal. 3d 518, 526-529 (1988)
- Cannon v. Commission on Judicial Qualifications, 14 Cal. 3d 678, 695-696 (1975)
- McBrien, No. 185, Decision and Order Imposing Public Censure, 49 Cal. 4th CJP Supp. 315, 342-345 (2010)
- Kloepfer v. Commission on Judicial Performance, 49 Cal. 3d 826, 865 (1989)
- Fletcher v. Commission on Judicial Performance, 19 Cal. 4th 865, 918 (1998)