

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

**INQUIRY CONCERNING
JUDGE JEFFREY G. BENNETT**

No. 206

**DECISION AND ORDER IMPOSING
PUBLIC CENSURE
PURSUANT TO STIPULATION
(Commission Rule 127)**

This disciplinary matter concerns Judge Jeffrey G. Bennett, a judge of the Ventura County Superior Court. On March 2, 2020, the commission filed its Notice of Formal Proceedings against Judge Bennett. Judge Bennett and his counsel, Heather L. Rosing, Esq. of Klinedinst PC, have entered into a stipulation with the examiner for the Commission on Judicial Performance, Mark A. Lizarraga, Esq., pursuant to commission rule 127, to resolve the pending formal proceedings involving Judge Bennett by imposition of a public censure. The Stipulation for Discipline by Consent (Stipulation) was approved by the commission on March 18, 2020, pursuant to the following terms and conditions and stipulated facts and legal conclusions. A copy of the Stipulation is attached.

TERMS AND CONDITIONS OF AGREEMENT

1. This agreement resolves the matters alleged in the Inquiry Concerning Judge Jeffrey G. Bennett, No. 206.
2. The commission shall issue a public censure based on the agreed Stipulated Facts and Legal Conclusions set forth therein.
3. If the commission accepts this proposed disposition, the commission's decision and order imposing public censure may articulate the reasons for its

decision and include explanatory language that the commission deems appropriate.

4. Upon acceptance by the commission, the Stipulation, the judge's affidavit of consent, and the commission's decision and order shall be made public.

5. Judge Bennett waives any further proceedings and review in this matter, including formal proceedings (rules 118, et seq.), and review by the Supreme Court (Cal. Rules of Court, rule 9.60).

6. The commission may reject this proposed disposition and resume formal proceedings. If the commission does so, nothing in this proposed disposition will be deemed to be admitted by Judge Bennett.

The parties stipulated and agreed that the commission shall issue a public censure on the above Terms and Conditions of Agreement, and based on the following Stipulated Facts and Legal Conclusions.

STIPULATED FACTS AND LEGAL CONCLUSIONS

Judge Bennett became a judge of the Ventura County Superior Court in 2009. His current term began in January 2015.

Count One

On March 11, 2015, Judge Bennett was presiding in the master calendar department. An African-American defendant appeared before him who had an outstanding warrant on a felony. In determining whether to remand the defendant into custody, Judge Bennett asked the defendant a series of questions and the defendant provided what the judge believed to be evasive answers. Judge Bennett then asked the defendant to stop "shucking and jiving."

The conduct described above violated the Code of Judicial Ethics, canons 1 (a judge should participate in establishing, maintaining, and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary is preserved), 2 (a judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities), 2A

(a judge shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary), 3B(4) (a judge shall be patient, dignified, and courteous to those with whom the judge deals in an official capacity), and 3B(5) (a judge shall not engage in speech, gestures, or other conduct that would reasonably be perceived as bias), and constitutes prejudicial misconduct.

Count Two

On May 17, 2016, Judge Bennett presided over the matter of *People v. Gilbert Regalado*, No. 2015027976. On that date, the People were represented by Deputy District Attorney (DDA) Marc Leventhal, and the defendant was represented by defense counsel Victor Salas. Judge Bennett met in chambers with the attorneys to discuss settlement. Salas entered chambers first and shook the judge's hand. Leventhal then greeted the judge and held out his hand. Judge Bennett looked at Leventhal's hand and stated, "I'm not sure I want to shake your hand," or words to that effect, but did shake his hand. Leventhal asked the judge if something was the matter. Judge Bennett replied with a statement to the effect of, "Do you know how much trouble you have caused me? Do you know how much money I have had to pay lawyers because of you?" Judge Bennett then spoke about the matter of *People v. Thomas Campi*, No. 2014032929, in which Leventhal had previously appeared before him, for about five minutes. The judge stated that someone had complained about him to the Commission on Judicial Performance, leading to a disciplinary hearing. The judge stated he had spent more than \$10,000 on lawyers and had to obtain personal references and testimonials to "clear [his] name," or words to that effect.

Judge Bennett's comments and conduct toward DDA Leventhal created, at a minimum, the appearance of retaliation based on the belief that Leventhal had complained to the commission about the *Campi* matter, or had assisted or cooperated with an investigation that the commission had performed. The judge falsely stated that his name had been "clear[ed]" in the 2015 commission matter,

and falsely stated that he had to pay lawyers \$10,000 in connection with his defense in that matter.

The conduct described above violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), 3B(5), and 3D(5) (a judge shall not retaliate, directly or indirectly, against a person known or suspected to have assisted or cooperated with an investigation of a judge), and constitutes prejudicial misconduct.

Count Three

Judge Bennett engaged in undignified, discourteous, and offensive sexualized (or otherwise crude) conduct in the workplace, as follows.

A. Judge Bennett repeatedly stated, while in chambers and in the presence of DDA Elisabeth Main, that he was the “only one in the courthouse with the balls to make a ruling,” or words to that effect. The last time the judge made such a statement in DDA Main’s presence was in 2018.

B. On January 17, 2018, while seated on the bench and wearing his judicial robe, Judge Bennett engaged in conversation with others in the courtroom about recent mudslides in the area. Present in the courtroom were the judge’s judicial assistant, a bailiff, and several attorneys. Judge Bennett told a personal story about living in a guest house in Montecito and being responsible for washing the homeowner’s Rolls Royce automobile. The judge stated that he had driven the vehicle to a coffee shop. Judge Bennett made a statement to the effect of, “They’re good cars, those Rolls Royces. They’re sturdy cars, built like a tank.” The judge further made a statement to the effect of, “Chicks really dug that car.”

There is a factual dispute as to whether the judge stated that the Rolls Royce “had a big back seat, if you know what I mean,” and then gestured “finger guns” with his bailiff. It does not appear necessary to resolve this dispute, as the inclusion of this matter would not affect the proposed discipline.

C. In 2016, while in chambers with DDA Michael Kern and a male defense attorney, Judge Bennett stated that he had installed a telescope on the roof of his

home or an outbuilding. The judge stated that he would not spend so much time with his telescope if he had “a 20-year-old smoking hot blonde wife,” or words to that effect.

There is a factual dispute as to whether the judge stated that his dental hygienist was “a smoking hot 10” and could “do whatever she wanted” to him. It does not appear necessary to resolve this dispute, as the inclusion of this matter would not affect the proposed discipline.

D. In 2014, DDA Amber Lee and Deputy Public Defender (DPD) Heather Tomka appeared before Judge Bennett for a hearing on a motion to suppress evidence. After the hearing concluded, the judge had his clerk ask the attorneys to return to his courtroom. While standing in the hallway, Judge Bennett told the attorneys that he had “the balls” to admit when he got something wrong. The judge made a statement to the effect of, “I have the biggest balls in the courthouse. I’m probably the only judge who has the balls to admit when I’ve made the wrong decision.” The last time the judge mentioned his “balls,” he gestured with his hand over his genital area.

E. On January 24, 2014, Judge Bennett presided over the matter of *People v. Jesus Rangel*, No. 2013023726. The people were represented by DDA Amber Lee, and the defendant was represented by DPD Justine Avtjoglou. While in chambers with the attorneys, the judge discussed his preferred method of receiving a flu shot. Judge Bennett said that he goes with the other judges to get a flu shot at the employee health center. He then said, “The difference between me and them is I like to take my shot in the ass,” or words to that effect. Judge Bennett laughed and then made a statement to the effect of, “I mean it, man. You should see their faces. They start to roll up their sleeves, and I just drop ‘trou’ and take my shot in the ass.” The judge then stood up and repeated the statement while pretending to unfasten [his] belt.

The conduct described above violated the Code of Judicial Ethics, canons 1, 2, 2A, and 3B(4), and constitutes prejudicial misconduct.

Count Four

Judge Bennett improperly commented about the filing of peremptory challenges, as follows.

A. On May 14, 2018, the matter of *People v. Dustin Beverford*, No. 2015038470, was before Judge Bennett for sentencing. The People were represented by DDA Amber Lee, and the defendant was represented by DPD Dusty Kawai. During the hearing, the judge heard argument from counsel concerning sentencing in case No. 2015038470, and in a separate case involving the defendant, ending in 7071, that had been tried before Commissioner Sabo. Judge Bennett determined to sentence the defendant in case No. 2015038470, and to send the other case back to Commissioner Sabo. The transcript reflects the following colloquy:

THE COURT: Another thing I can do is I can just sentence him on the case that I have and I can send this other case back to the judge who did the trial and you can argue about it there. I can do that and that's exactly what I am going to do.

MS. LEE: Fair enough.

THE COURT: You can argue about it there. I think that's -- this all got fouled up, by the way, for purposes of [the] record because people are filing papers against judges all over the place, judges are recused. You know, it's a difficult problem for the same reasons that the courthouse is, quite frankly, a mess often around here because people have personal agendas.

Judge Bennett's comments referred to, or at a minimum, gave the appearance of referring to, peremptory challenges filed by the People. The People filed peremptory challenges against the judge in *People v. Dustin Beverford*, No. 2017042581, on April 16, 2018; *People v. Santos*, No. 2018003742, on May 7, 2018; and *People v. McGuire*, No. 2018004884, on May 11, 2018.

B. On a date between approximately November 2017 and April 2018, Judge Bennett was in chambers with DDA Brandon Ross and a defense attorney. Judge Bennett made a statement to DDA Ross to the effect of, “Why are you guys papering me?” or “I know who’s papering me and I know why.” The judge stated that a female prosecutor, who had moved to Orange County, told him that the Ventura County District Attorney’s Office had a policy regarding filing peremptory challenges against him.

The conduct described above violated the Code of Judicial Ethics, canons 1, 2, and 2A, and constitutes prejudicial misconduct.

Count Five

In the summer or fall of 2018, DDA Elisabeth Main appeared in Judge Bennett’s courtroom to handle a case involving possession of controlled substances in the jail. Judge Bennett previously recused from cases involving the jail because of a family member who works there. DDA Main spoke to the bailiff and was told the case would be sent back to Department 13 (master calendar). Main told the bailiff she was hoping that that would be done while there were still courtrooms available. When the case was called, Main stated that the bailiff had said the case would probably be sent back to Department 13. Judge Bennett stated in open court and in the bailiff’s presence, “He doesn’t know what the hell he’s talking about,” or words to that effect.

The conduct described above violated the Code of Judicial Ethics, canons 1, 2, 2A, and 3B(4), and constitutes, at a minimum, improper action.

Count Six

Judge Bennett engaged in a pattern of conduct that was undignified, discourteous, and offensive, and that conveyed, at a minimum, the appearance of bias against prosecutors, as follows.

A. On September 20, 2018, Judge Bennett met in chambers with DDA Amber Lee and defense counsel Anzac Jacobs regarding an expungement

motion in case No. 2012020853. During the chambers discussion, the judge stated that he was transferring to the civil division and needed a change because he had “done 20 murder trials,” having just completed one with “special circs,” and a bunch of “big sex cases.” Judge Bennett then stated, “Honestly, I’m tired of being called names, mostly by my former office,” or words to that effect. Judge Bennett stated that he was being called “untrue names,” despite being a “fair and honest guy,” or words to that effect. Judge Bennett stated that he had eight more years to go before he could retire, and that he considered running for district attorney (DA) because he had “a shit-ton of money,” or words to that effect. Judge Bennett stated that he may still consider running for DA if the civil assignment does not work out, but that he could not stay in a criminal department when people were calling him names.

B. Judge Bennett presided over the first trial in *People v. Joseph William Allawos*, No. 2017027912, a misdemeanor elder abuse case. On June 6, 2018, during deliberations, the jury submitted a note to the court. DDA Brandon Yeaton appeared for the trial prosecutor, who was unavailable at the time. DPD Cerise Fritsch made a comment on the record about “rotating DA’s.” Judge Bennett responded, “Reaching way down the bench, huh?” After the jury was subsequently seated, the judge stated on the record, “There’s a new DA here. Apparently, the other ones were too busy.”

C. There is a factual dispute as to whether, on May 17, 2018, during a chambers conference with counsel in *People v. Carlos Lozano*, No. 2018016122, the judge stated that he wished he had three hands, including one to “wipe [his] ass.” It does not appear necessary to resolve this dispute, as the inclusion of this matter would not affect the proposed discipline.

D. On April 5, 2018, Judge Bennett presided over the jury trial in *People v. Anthony Ross*, No. 2017019548. The People were represented by DDA Brandon Ross, and the defendant was represented by DPD Monique Magar. In

the jury's presence, DDA Ross requested a recess. Judge Bennett called the attorneys to the bench, and told them he did not like to waste time. The judge gestured toward the jury and made a statement to the effect of, "I care about them. You know why I care about them? Because they're voters. I don't care about you. I care about them because they're voters, and I don't care about you, and you can quote me on that."

E. On March 2, 2018, in *People v. Antonio Herrera*, No. 2016004078, Judge Bennett presided over a hearing on the People's motion for a continuance, and on the People's motion to conduct a conditional examination of a material witness, which had both been filed on January 18, 2018. The People were represented by DDA Jillian Ewan, and the defendant was represented by DPD Jennifer Rosenthal. During the hearing, Judge Bennett ordered DDA David Barnes to appear and questioned him about a declaration he had submitted. Following Barnes's testimony, the following colloquy occurred:

THE COURT: So essentially, the People's position is that the motion for a conditional exam was timely filed. Uh, it's just that a function of the court process, uh, it looks like both sides were unable to litigate that request, that's what it looks like.

MS. EWAN: Yes, Your Honor.

THE COURT: Yeah. That would have been a better way for you to state it.

MS. EWAN: I'll note that for the future, Your Honor.

THE COURT: You can note it for right now.

F. On February 7, 2018, in *People v. Antonio Viveros*, No. 2017031420, Judge Bennett presided over a hearing on the People's motion for continuance due to the unavailability of a law enforcement officer. The People were represented by DDA Hayley Moyer, and the defendant was represented by DPD

Cerise Fritsch. During the hearing, DDA Moyer stated that a prior motion to advance had been denied by Judge Ayers, and that, at the time that motion was heard, the officer was available. The following colloquy then ensued:

THE COURT: So, it's Judge Ayers is what you're saying.

MS. MOYER: I'm, I'm -- I don't know why Judge Ayers --

THE COURT: Is that what you're saying?

MS. MOYER: I'm not saying it's her fault.

THE COURT: What are you saying then?

Later in the hearing, in discussing the People's motion, the following colloquy ensued:

THE COURT: So, in between the 22nd and the 26th, is when the People discovered, they're telling me in this declaration signed by Ms. Hayley Moyer as an officer of the Court, that they figured out that the cop wasn't going to be here, and that he was an essential witness. And that seems to be the problem to me.

MS. MOYER: That's correct, Your Honor.

THE COURT: And, I don't need a cheering section okay? So, if I need something from you, I'll ask you, all right.

MS. MOYER: Of course.

G. On February 1, 2018, Judge Bennett presided over a hearing in *People v. Jesus Lopez Cruz*, No. 2017025833. The People were represented by DDA Heather Sweatman, and the defendant was represented by DPD Cerise Fritsch. During the hearing, DDA Sweatman stated that the parties had been unable to resolve the case because the defense wanted a charge that did not include moral turpitude, which was not supported by the facts of the case. Judge Bennett asked Sweatman if the facts stated in her trial brief were true, which led

to the following colloquy:

MS. SWEATMAN: Those are true. If I -

THE COURT: Uh-huh.

MS. SWEATMAN: -- may provide a little further detail.

THE COURT: No, it's not necessary. I get it.

MS. SWEATMAN: Well, your honor, if I may, the defendant --

THE COURT: Uh, no - [Unintelligible] - you may not. I'm not finished talking yet. You interrupt me again, we're gonna have a problem. Do you understand that?

Later in the hearing, Judge Bennett told DDA Sweatman that she did not have enough evidence to "get past the [Penal Code section] 1118 motion." Sweatman responded that if that was the case, she would ask that the defense brief the issue and allow the People to respond in writing. Judge Bennett stated to Sweatman:

THE COURT: ... I'm just being honest with you, I'm not trying to give you a hard time. I don't mind wasting the public's time on something like this, but I don't think it's the right thing to do if you can't prove it. It seems to me like you need to have the person here to prove those facts. But if you don't think you do, I mean, I'm not gonna dismiss the case. You can do what you want. You can embarrass the district attorney, if you like. That's fine.

H. In October 2017, Judge Bennett presided over the matter of *People v. Julia Parker and Emilia Borcena*, No. 2016010310. The People were represented by Deputy Attorney General (DAG) Melissa Zubi, defendant Parker was represented by defense attorney Donald Marks, and defendant Borcena was represented by defense attorney Arthur Khachatourians. During a chambers

conference with Zubi and defense counsel, Judge Bennett made several comments about how bad the Attorney General was at prosecuting cases. Judge Bennett stated that he had just finished an environmental case with the Attorney General, and “that was an important case, and they messed that one up, too,” or words to that effect.

During the chambers conference, Judge Bennett discussed with counsel motions in limine the defense said it wanted to bring. The judge made preliminary rulings that excluded most of the prosecution’s evidence. DAG Zubi noted that she had no case if most of her evidence was excluded. Judge Bennett stated in response, “You can tell [Attorney General Xavier] Becerra that’s what he gets for going against my president,” or words to that effect. Judge Bennett also stated to Zubi, “It’s my job to give the government a bad time,” or words to that effect.

I. On August 9, 2017, Judge Bennett presided over a hearing on a motion to suppress evidence (Penal Code section 1538.5) in *People v. Nicolas Macias-Hernandez*, No. 2016031450. The People were represented by DDA Brandon Yeaton, and the defendant was represented by DPD Julie Taylor. On August 9, Judge Bennett granted the motion. On August 10, 2017, the judge called the attorneys back to his courtroom and told them that he had changed his mind and had determined to deny the motion. After excusing the attorneys, Judge Bennett asked DDA Yeaton to approach the bench on an unrelated matter, in which Yeaton needed the judge’s signature for an order of forfeiture. Judge Bennett signed the order and then began telling Yeaton about his time as a police officer, Chief DDA, and judge. While speaking of supervisors in the DA’s office, Judge Bennett made a statement to the effect of, “Tell [DDA Brent] Nibecker he’s an idiot. I’ve told him to his face, I don’t care.”

J. On December 9, 2016, Judge Bennett presided over a hearing in *People v. Dennis King*, No. 2016030427. The People were represented by DDA

Elisabeth Main, and the defendant was represented by DPD Damon Jenkins. The pending case, No. 2016030427, had previously been consolidated with another case involving the same defendant, No. 2016028553, which had been deconsolidated and tried separately. During the hearing, DDA Main requested the release of medical records she had subpoenaed while the cases were consolidated, but which were now contained in the file for case No. 2016028553. Judge Bennett told Main there were no records associated with the subpoena in the file for case No. 2016030427. Judge Bennett called a recess until later that afternoon, and, at Main's request, said he would have the file in case No. 2016028553 brought up at that time. Later that day, Main submitted a subpoena duces tecum to Judge Bennett for the medical records in case No. 2016028553. After the judge granted a defense motion to quash the subpoena, Main requested that the pending case be sent back to Department 13. The following colloquy occurred:

THE COURT: Well, they sent it here for trial. That's the problem. So it's here for trial. I don't make those decisions anymore. You're here for trial.

MS. MAIN: So for the People's information, where physically will those records that the Court has right now be kept so that the People can make the proper request?

THE COURT: Yeah. We have the records in case ending 553. They're here and they're still sealed. As I said before, there's probably 200 pages in here. I haven't opened them. I can open them and look at them, I suppose. [¶] Is that what you want me to do?

MS. MAIN: If the Court is able to respond to the subpoena that [the] People just served. It was my understanding 553 was going to be on calendar here at 1:30.

THE COURT: Well, hang on. [¶] You handed me a subpoena. Who's it to; to the Court?

MS. MAIN: To the Court, which is in possession of the records, and we're asking that---

THE COURT: I'm not going to respond to a subpoena. Do you know why? Because I don't have to. It's a court record.

Judge Bennett leaned into the microphone and spoke in a raised voice when he stated, "Because I don't have to."

Following the above exchange, Judge Bennett reviewed the subpoenaed documents contained in the file for case No. 2016028553, and released one page to Main, which he said was relevant and not subject to the motion to quash. When Main subsequently asked for clarification regarding the ruling, the judge walked off the bench while she was addressing the court. The transcript reflects the following colloquy:

MS. MAIN: If the Court would bear with me. I'm a bit confused. [¶] Is case ending 553 before the Court today?

THE COURT: No.

MS. MAIN: Were those records -- but is the Court saying those records were part of case ending 553?

THE COURT: They're from the documents that you subpoenaed.

MS. MAIN: Yes. Which motion to quash did the Court grant?

THE COURT: The only one that's filed.

MS. MAIN: In 427?

THE COURT: Anything else?

MS. MAIN: Yes, your Honor. I'm just trying to understand it.

THE COURT: Good luck. See you Monday morning for jury trial, 8:30.

MS. MAIN: Your Honor, it's my understanding --

THE COURT: We're off the record.

MS. MAIN: Your Honor, I thought that the Court --

(Proceedings concluded for day.)

K. On November 28, 2016, Judge Bennett presided over the preliminary hearing in *People v. Jeffrey Dupont*, No. 2016006770. The People were represented by DDA Amber Lee, and the defendant was represented by DPD Cynthia Ellington. The defendant was charged with kidnapping (Penal Code section 207(a)), criminal threats (Penal Code section 422), dissuading a witness by force or threat (Penal Code section 136.1(c)(1)), infliction of corporal injury (Penal Code section 273.5(a)), and false imprisonment (Penal Code section 236). During the hearing, while a victim of domestic violence was testifying, Judge Bennett referred to her as a "meth head." The transcript reflects the following colloquy:

Q. Okay. Well, isn't it true that you had methamphetamine in that compartment?

MS. LEE: Objection; relevance.

THE COURT: Why would that be relevant? Sustained.

MS. ELLINGTON: Your Honor, it's relevant because my ambition is to show that she was high during this entire time, that she has access to methamphetamine, and that she had it in her glove box and she had been using it. She has a pipe in her purse, and that goes to her credibility, her reliability and her ability to --

THE COURT: Well, I've allowed you to ask all those related questions. You know, sounds like she was using meth and she's a meth head. Whether there's some methamphetamine in the glove box really isn't relevant. It wasn't opened. Sustained.

The judge's reference to the victim as a "meth head" was inappropriate. There is a factual dispute, however, as to whether this remark also reflected bias against the prosecution. It does not appear necessary to resolve this dispute, as the inclusion of this matter would not affect the proposed discipline.

L. In October 2016, Judge Bennett presided over the matter of *People v. Scott Miller*, No. 2016005977, which involved misdemeanor charges of elder abuse and battery. The People were represented by DAG Melissa Zubi and DAG Stephen Tokarz, and the defendant was represented by defense attorney Eric Luce. During a chambers conference with the attorneys, before any evidence was heard, Judge Bennett stated that he only did important cases – felonies and murders – and that he did not think the case should have been prosecuted.

While discussing the *Miller* case in chambers with counsel, Judge Bennett brought up a recent Ventura County case in which a mental patient had stabbed another person multiple times. (The defendant in *Miller* worked at a psychiatric ward and was charged with assaulting a resident.) Judge Bennett told the prosecutors to keep that case in mind if they wanted to go forward on the *Miller* case.

There is a factual dispute as to whether the judge also made reference to the recent Ventura County case in the presence of the prospective jurors. It does not appear necessary to resolve this dispute, as the inclusion of this matter would not affect the proposed discipline.

M. In the summer of 2016, Judge Bennett presided over a hearing on a motion to suppress evidence in which the People were represented by DDA Taylor Carr. At the conclusion of the hearing, the judge asked Carr to approach

the bench and had an ex parte conversation with her. Judge Bennett stated to Carr, "You don't have to act like a scared little girl in my courtroom," or words to that effect. Carr responded that she was not scared of the judge, and disagreed that judicial notice had been required in the hearing. Judge Bennett then made a statement to Carr to the effect of, "You're acting like a scared little girl out there. You don't have to act like that."

N. On January 20, 2015, Judge Bennett presided over the matter of *People v. Richard Evirs*, No. 2014035733, in which the defendant was charged with disturbing the peace, in violation of Penal Code section 415(2). The People were represented by DDA Marine Dermadzhyan, and the defendant was represented by defense attorney Jarrod Wilfert. During a chambers conference with counsel, Wilfert requested an infraction disposition. Judge Bennett asked DDA Dermadzhyan for her position on the matter. Dermadzhyan objected to an infraction disposition because the case had been referred to the DA's office as a criminal threats offense (Penal Code section 422), and the People wanted a stay-away order for the victim. Judge Bennett stated that Dermadzhyan's position was a "chicken shit position to have," or words to that effect. The judge further stated that he had received emails regarding this "infamous 415," and that things like this would not be tolerated when he became the judge in Department 13, the master calendar department.

O. On March 17, 2014, Judge Bennett presided over *People v. Joshua Chase*, No. 2013014492, a misdemeanor hit-and-run case that was assigned to him for trial. The People were represented by DDA Melissa Bohl, and the defendant was represented by DPD Anita Candelaria. Judge Bennett met with the attorneys in chambers prior to trial. During the chambers conference, Judge Bennett referred to the case as a "Mickey Mouse" case, or words to that effect. Judge Bennett pointed at DDA Bohl and stated, "I should make you pay for this," or words to that effect.

P. On January 27 or 28, 2014, Judge Bennett presided over a probation violation hearing in *People v. Nella Olsen*, No. 2011028522. The People were represented at the hearing by a female DDA. During a recess, the judge asked to speak with DDA Amber Lee and DPD Heather Tomka, who were sitting in the courtroom and not involved in the *Olsen* hearing. While standing in a hallway, Judge Bennett told Lee and Tomka that the DDA handling the *Olsen* hearing was “dumb as shit,” and that he wished Lee was conducting the hearing.

Q. On January 13 through 16, 2014, Judge Bennett presided over the jury trial of *People v. Sergio Ortiz*, No. 2012040964. The People were represented by DDA Melissa Bohl, and the defendant was represented by DPD Michele Castillo. On January 16 or 17, 2014, after the trial had concluded, Judge Bennett had his clerk ask DDA Bohl to return to the courtroom in order to share feedback regarding her performance during the trial. Judge Bennett met with Bohl in chambers for 20 to 30 minutes. The judge asked Bohl where she was from, and Bohl responded that she was from Temecula. Judge Bennett then made a statement to the effect of, “So your parents are farmers and you grew up with a silver spoon in your mouth?” Bohl responded that her parents were not farmers.

R. On October 17, 2011, while presiding over a misdemeanor hit-and-run case, Judge Bennett met in chambers with DDA Andrew Sullivant and DPD Randy Tucker to discuss a possible resolution. DPD Tucker asked for a case disposition of credit for time served, restitution, fines, and no probation. Judge Bennett asked DDA Sullivant if he was “going to make a big stink about that,” or words to that effect. Sullivant stated that he was not going to make a “big stink,” but would object to that disposition. In response, Judge Bennett became angry, raised his voice, and used profanity, including the words “fucking” and “shit.” The judge stated that he had been waiting for an opportunity to address the issue of prosecutors “playing games like this,” or words to that effect. The judge

admonished Sullivant about prosecutors “agreeing to deals in chambers, then objecting on the record,” or words to that effect. Judge Bennett criticized other judges in the courthouse for “playing along with the prosecutors’ games,” or words to that effect. The judge said he was “sick” of being “bad mouthed” by attorneys in the district attorney’s office, both in the newspapers and otherwise, or words to that effect. The judge told Sullivant that, if he was going to object on the record, then he (the judge) was “going to bring up a panel and put on a jury trial,” or words to that effect. The judge stated that there appeared to be pressure in the district attorney’s office to push cases to trial that should not be going to trial. The judge stated that he got to where he was by “not going along with the program.” Judge Bennett stated that he knew all of the policies in the district attorney’s office, and he asked Sullivant if he knew how he (the judge) knew about the policies. Judge Bennett then stated, in a raised voice, “Because I wrote the fucking book,” or words to that effect, and he pointed his index finger at Sullivant.

S. On January 19, 2010, Judge Bennett presided over the trial in *People v. Ruben Cortez*, No. 2009037770. The People were represented by DDA Jessica Giguere, and the defendant was represented by DPD Josephine Banuelos. During the redirect examination of an officer, DDA Giguere asked for the legal basis for an objection made by defense counsel, which Judge Bennett had sustained, in order to rephrase a question. Judge Bennett called the attorneys to the bench for a sidebar. At the bench, the judge made a statement to Giguere, in a voice loud enough for the jury to hear, to the effect of, “Are you questioning my authority? Counselor, this is misconduct and I could hold you in contempt. Have you read my court rules? Have you read the rules of court? You know what you need to do? You need to go home tonight and you need to study the rules of court. I know you are new but the next hearing I have is going to be about you. Your questions are not relevant. Move on.”

The conduct described above violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), 3B(5), and 3B(7) (a judge shall accord to every person's lawyer the full right to be heard according to law), and constitutes prejudicial misconduct.

In signing the Stipulation, in addition to consenting to discipline on the terms set forth, Judge Bennett expressly admitted that the foregoing facts are true and that he agrees with the stated legal conclusions.

In an affidavit of consent for discipline, Judge Bennett affirmed that his consent was freely and voluntarily rendered, and that he admits the truth of the charges as modified by the Stipulation.

DISCIPLINE

Judge Bennett concedes that he committed five acts of prejudicial misconduct and one act of improper action, comprised of 28 allegations of conduct that violated the Code of Judicial Ethics. Judge Bennett's misconduct mostly involves saying things no judge should say—comments and remarks that are offensive, undignified, discourteous, dishonest, sexist, profane, and create the appearance of bias and retaliation.

Judge Bennett's remark to an African-American criminal defendant about "shucking and jiving" reflects a disregard for the racial overtones of such a remark and manifests insensitivity to individuals appearing in court before him. Judges are expected to treat everyone who appears in court, no matter who they may be, with dignity, courtesy, and respect.

Judges are also expected to display appropriate demeanor and decorum, and not to use crass or sexist words and imagery, as Judge Bennett has done. For example, Judge Bennett's references to his "balls" and his "ass" diminish the dignity of his office. His gratuitous comments about "chicks" liking a car, and to not spending so much time with his telescope if he had a "20-year-old smoking

hot wife,” are sexist and unseemly. His use of profanity, such as “fucking” and “shit,” degrades the decorum of the court and reflects negatively on the judiciary.

Judges are also expected to be honest. Judge Bennett’s statements to an attorney, based on the judge’s assumption that the attorney had complained about him to the commission, were improper because they appeared retaliatory and, even more troubling, because they were false. A judge’s failure to be truthful significantly erodes public esteem for the judiciary, as well as for the individual judge.

Judge Bennett’s comments and questions to attorneys about being the subject of peremptory challenges are improper because attorneys and litigants are entitled to file such challenges without being subjected to the judge’s influence or interference. When a peremptory challenge is properly and timely filed, a judge must accept the disqualification without inquiry. (*Inquiry Concerning Hall* (2006) 49 Cal.4th CJP Supp. 146, 165, citing *McCartney v. Commission on Judicial Qualifications* (1974) 12 Cal.3d 512, 531–532.)

Finally, Judge Bennett’s pattern of undignified, discourteous, and offensive remarks to and about prosecutors not only creates the appearance of bias against them, but also undermines public perception of the integrity and impartiality of the judiciary. Everyone appearing before Judge Bennett should feel that he will dispense justice fairly and respectfully. His remarks do not inspire confidence that he would do so.

Judge Bennett’s prior discipline for discourteous and undignified remarks was an aggravating factor. In 2015, Judge Bennett received an advisory letter for making the following remarks about a criminal defendant during a sentencing hearing: “He’s a dirtbag of the highest order . . . What’s kind of burning me up right now is the fact that he was paid more than I’m paid, to sell cars, and then he stole money on top of it. How pathetic is that? You are really a piece of work.”

The commission, nevertheless, considered Judge Bennett's acknowledgment of almost every charge in the Notice of Formal Proceedings to be a significant mitigating factor and determined to accept the Stipulation and impose this public censure, which is the strongest sanction that may be imposed on a judge short of removal from the bench, because it fulfills the commission's mandate of protecting the public, enforcing rigorous standards of judicial conduct, and maintaining public confidence in the integrity of the judicial system, while resolving this matter without the delay and expense of formal proceedings. (See *Broadman v. Commission on Judicial Performance* (1998) 18 Cal.4th 1079, 1111-1112; Cal. Const., art. VI, § 18, subd. (d).)

Commission members Nanci E. Nishimura, Esq.; Hon. Michael B. Harper; Anthony P. Capozzi, Esq.; Hon. William S. Dato; Mr. Eduardo De La Riva; Ms. Kay Cooperman Jue; Hon. Lisa B. Lench; Dr. Michael A. Moodian; Mr. Richard Simpson; and Mr. Adam N. Torres voted to accept the Stipulation and to issue this public censure. Commission member Ms. Sarah Kruer Jager did not participate.

Date: March 25, 2020

On behalf of the Commission on
Judicial Performance,



NANCI E. NISHIMURA
Chairperson

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING
JUDGE JEFFREY G. BENNETT

No. 206

STIPULATION FOR DISCIPLINE
BY CONSENT (Rule 127)

Pursuant to Rules of the Commission on Judicial Performance, rule 127, Judge Jeffrey G. Bennett of the Ventura County Superior Court, represented by counsel Heather L. Rosing, Esq. of Klinedinst PC, and the examiner (“the parties”) submit this proposed disposition of Inquiry No. 206. The parties request that the commission resolve this matter by imposition of a public censure. The parties believe that the settlement provided by this agreement is in the best interests of the commission and Judge Bennett because, among other reasons, in light of the stipulated facts and legal conclusions, a public censure adequately protects the public and will avoid the delay and expense of further proceedings.

TERMS AND CONDITIONS OF AGREEMENT

1. This agreement resolves the matters alleged in the Inquiry Concerning Judge Jeffrey G. Bennett, No. 206.
2. The commission shall issue a public censure based on the agreed Stipulated Facts and Legal Conclusions set forth therein.
3. If the commission accepts this proposed disposition, the commission’s decision and order imposing public censure may articulate

the reasons for its decision and include explanatory language that the commission deems appropriate.

4. Upon acceptance by the commission, this stipulation, the judge's affidavit of consent, and the commission's decision and order shall be made public.

5. Judge Bennett waives any further proceedings and review in this matter, including formal proceedings (rules 118, et seq.) and review by the Supreme Court (Cal. Rules of Court, rule 9.60).

6. The commission may reject this proposed disposition and resume formal proceedings. If the commission does so, nothing in this proposed disposition will be deemed to be admitted by Judge Bennett.

Accordingly, it is hereby stipulated and agreed that the commission shall issue a public censure on the above Terms and Conditions of Agreement, and based on the following Stipulated Facts and Legal Conclusions:

STIPULATED FACTS AND LEGAL CONCLUSIONS

Judge Bennett became a judge of the Ventura County Superior Court in 2009. His current term began in January 2015.

Count One

On March 11, 2015, Judge Bennett was presiding in the master calendar department. An African-American defendant appeared before him who had an outstanding warrant on a felony. In determining whether to remand the defendant into custody, Judge Bennett asked the defendant a series of questions and the defendant provided what the judge believed to be evasive answers. Judge Bennett then asked the defendant to stop "shucking and jiving."

The conduct described above violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), and 3B(5), and constitutes prejudicial misconduct.

Count Two

On May 17, 2016, Judge Bennett presided over the matter of *People v. Gilbert Regalado*, No. 2015027976. On that date, the People were represented by Deputy District Attorney (DDA) Marc Leventhal, and the defendant was represented by defense counsel Victor Salas. Judge Bennett met in chambers with the attorneys to discuss settlement. Salas entered chambers first and shook the judge's hand. Leventhal then greeted the judge and held out his hand. Judge Bennett looked at Leventhal's hand and stated, "I'm not sure I want to shake your hand," or words to that effect, but did shake his hand. Leventhal asked the judge if something was the matter. Judge Bennett replied with a statement to the effect of, "Do you know how much trouble you have caused me? Do you know how much money I have had to pay lawyers because of you?" Judge Bennett then spoke about the matter of *People v. Thomas Campi*, No. 2014032929, in which Leventhal had previously appeared before him, for about five minutes. The judge stated that someone had complained about him to the Commission on Judicial Performance, leading to a disciplinary hearing. The judge stated he had spent more than \$10,000 on lawyers and had to obtain personal references and testimonials to "clear [his] name," or words to that effect.

Judge Bennett's comments and conduct toward DDA Leventhal created, at a minimum, the appearance of retaliation based on the belief that Leventhal had complained to the commission about the *Campi* matter, or had assisted or cooperated with an investigation that the commission had performed. The judge falsely stated that his name had been "clear[ed]" in the 2015 commission matter, and falsely stated that he had to pay lawyers \$10,000 in connection with his defense in that matter.

The conduct described above violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), 3B(5), and 3D(5), and constitutes prejudicial misconduct.

Count Three

Judge Bennett engaged in undignified, discourteous, and offensive sexualized (or otherwise crude) conduct in the workplace, as follows.

A. Judge Bennett repeatedly stated, while in chambers and in the presence of DDA Elisabeth Main, that he was the “only one in the courthouse with the balls to make a ruling,” or words to that effect. The last time the judge made such a statement in DDA Main’s presence was in 2018.

B. On January 17, 2018, while seated on the bench and wearing his judicial robe, Judge Bennett engaged in conversation with others in the courtroom about recent mudslides in the area. Present in the courtroom were the judge’s judicial assistant, a bailiff, and several attorneys. Judge Bennett told a personal story about living in a guest house in Montecito and being responsible for washing the homeowner’s Rolls Royce automobile. The judge stated that he had driven the vehicle to a coffee shop. Judge Bennett made a statement to the effect of, “They’re good cars, those Rolls Royces. They’re sturdy cars, built like a tank.” The judge further made a statement to the effect of, “Chicks really dug that car.”

There is a factual dispute as to whether the judge stated that the Rolls Royce “had a big back seat, if you know what I mean,” and then gestured “finger guns” with his bailiff. It does not appear necessary to resolve this dispute, as the inclusion of this matter would not affect the proposed discipline.

C. In 2016, while in chambers with DDA Michael Kern and a male defense attorney, Judge Bennett stated that he had installed a telescope on the roof of his home or an outbuilding. The judge stated that he would not spend so much time with his telescope if he had “a 20-year-old smoking hot blonde wife,” or words to that effect.

There is a factual dispute as to whether the judge stated that his dental hygienist was “a smoking hot 10” and could “do whatever she wanted” to him. It does not appear necessary to resolve this dispute, as the inclusion of this matter would not affect the proposed discipline.

D. In 2014, DDA Amber Lee and Deputy Public Defender (DPD) Heather Tomka appeared before Judge Bennett for a hearing on a motion to suppress evidence. After the hearing concluded, the judge had his clerk ask the attorneys to return to his courtroom. While standing in the hallway, Judge Bennett told the attorneys that he had “the balls” to admit when he got something wrong. The judge made a statement to the effect of, “I have the biggest balls in the courthouse. I’m probably the only judge who has the balls to admit when I’ve made the wrong decision.” The last time the judge mentioned his “balls,” he gestured with his hand over his genital area.

E. On January 24, 2014, Judge Bennett presided over the matter of *People v. Jesus Rangel*, No. 2013023726. The people were represented by DDA Amber Lee, and the defendant was represented by DPD Justine Avtjoglou. While in chambers with the attorneys, the judge discussed his preferred method of receiving a flu shot. Judge Bennett said that he goes with the other judges to get a flu shot at the employee health center. He then said, “The difference between me and them is I like to take my shot in the ass,” or words to that effect. Judge Bennett laughed and then made a statement to the effect of, “I mean it, man. You should see their faces. They start to roll up their sleeves, and I just drop ‘trou’ and take my shot in the ass.” The judge then stood up and repeated the statement while pretending to unfasten your belt.

The conduct described above violated the Code of Judicial Ethics, canons 1, 2, 2A, and 3B(4), and constitutes prejudicial misconduct.

Count Four

Judge Bennett improperly commented about the filing of peremptory challenges, as follows.

A. On May 14, 2018, the matter of *People v. Dustin Beverford*, No. 2015038470, was before Judge Bennett for sentencing. The People were represented by DDA Amber Lee, and the defendant was represented by DPD Dusty Kawai. During the hearing, the judge heard argument from counsel concerning sentencing in case No. 2015038470, and in a separate case involving the defendant, ending in 7071, that had been tried before Commissioner Sabo. Judge Bennett determined to sentence the defendant in case No. 2015038470, and to send the other case back to Commissioner Sabo. The transcript reflects the following colloquy:

THE COURT: Another thing I can do is I can just sentence him on the case that I have and I can send this other case back to the judge who did the trial and you can argue about it there. I can do that and that's exactly what I am going to do.

MS. LEE: Fair enough.

THE COURT: You can argue about it there. I think that's -- this all got fouled up, by the way, for purposes of [the] record because people are filing papers against judges all over the place, judges are recused. You know, it's a difficult problem for the same reasons that the courthouse is, quite frankly, a mess often around here because people have personal agendas.

Judge Bennett's comments referred to, or at a minimum, gave the appearance of referring to, peremptory challenges filed by the People. The People filed peremptory challenges against the judge in *People v. Dustin Beverford*, No. 2017042581, on April 16, 2018; *People v. Santos*,

No. 2018003742, on May 7, 2018; and *People v. McGuire*, No. 2018004884, on May 11, 2018.

B. On a date between approximately November 2017 and April 2018, Judge Bennett was in chambers with DDA Brandon Ross and a defense attorney. Judge Bennett made a statement to DDA Ross to the effect of, “Why are you guys papering me?” or “I know who’s papering me and I know why.” The judge stated that a female prosecutor, who had moved to Orange County, told him that the Ventura County District Attorney’s Office had a policy regarding filing peremptory challenges against him.

The conduct described above violated the Code of Judicial Ethics, canons 1, 2, and 2A, and constitutes prejudicial misconduct.

Count Five

In the summer or fall of 2018, DDA Elisabeth Main appeared in Judge Bennett’s courtroom to handle a case involving possession of controlled substances in the jail. Judge Bennett previously recused from cases involving the jail because of a family member who works there. DDA Main spoke to the bailiff and was told the case would be sent back to department 13 (master calendar). Main told the bailiff she was hoping that that would be done while there were still courtrooms available. When the case was called, Main stated that the bailiff had said the case would probably be sent back to department 13. Judge Bennett stated in open court and in the bailiff’s presence, “He doesn’t know what the hell he’s talking about,” or words to that effect.

The conduct described above violated the Code of Judicial Ethics, canons, 1, 2, 2A, and 3B(4), and constitutes, at a minimum, improper action.

Count Six

Judge Bennett engaged in a pattern of conduct that was undignified, discourteous, and offensive, and that conveyed, at a minimum, the appearance of bias against prosecutors, as follows.

A. On September 20, 2018, Judge Bennett met in chambers with DDA Amber Lee and defense counsel Anzac Jacobs regarding an expungement motion in case No. 2012020853. During the chambers discussion, the judge stated that he was transferring to the civil division and needed a change because he had “done 20 murder trials,” having just completed one with “special circs,” and a bunch of “big sex cases.” Judge Bennett then stated, “Honestly, I’m tired of being called names, mostly by my former office,” or words to that effect. Judge Bennett stated that he was being called “untrue names,” despite being a “fair and honest guy,” or words to that effect. Judge Bennett stated that he had eight more years to go before he could retire, and that he considered running for district attorney (DA) because he had “a shit-ton of money,” or words to that effect. Judge Bennett stated that he may still consider running for DA if the civil assignment does not work out, but that he could not stay in a criminal department when people were calling him names.

B. Judge Bennett presided over the first trial in *People v. Joseph William Allawos*, No. 2017027912, a misdemeanor elder abuse case. On June 6, 2018, during deliberations, the jury submitted a note to the court. DDA Brandon Yeaton appeared for the trial prosecutor, who was unavailable at the time. DPD Cerise Fritsch made a comment on the record about “rotating DA’s.” Judge Bennett responded, “Reaching way down the bench, huh?” After the jury was subsequently seated, the judge stated on the record, “There’s a new DA here. Apparently, the other ones were too busy.”

C. There is a factual dispute as to whether, on May 17, 2018, during a chambers conference with counsel in *People v. Carlos Lozano*, No. 2018016122, the judge stated that he wished he had three hands, including one to “wipe [his] ass.” It does not appear necessary to resolve this dispute, as the inclusion of this matter would not affect the proposed discipline.

D. On April 5, 2018, Judge Bennett presided over the jury trial in *People v. Anthony Ross*, No. 2017019548. The People were represented by DDA Brandon Ross, and the defendant was represented by DPD Monique Magar. In the jury’s presence, DDA Ross requested a recess. Judge Bennett called the attorneys to the bench, and told them he did not like to waste time. The judge gestured toward the jury and made a statement to the effect of, “I care about them. You know why I care about them? Because they’re voters. I don’t care about you. I care about them because they’re voters, and I don’t care about you, and you can quote me on that.”

E. On March 2, 2018, in *People v. Antonio Herrera*, No. 2016004078, Judge Bennett presided over a hearing on the People’s motion for a continuance, and on the People’s motion to conduct a conditional examination of a material witness, which had both been filed on January 18, 2018. The People were represented by DDA Jillian Ewan, and the defendant was represented by DPD Jennifer Rosenthal. During the hearing, Judge Bennett ordered DDA David Barnes to appear and questioned him about a declaration he had submitted. Following Barnes’s testimony, the following colloquy occurred:

THE COURT: So essentially, the People’s position is that the motion for a conditional exam was timely filed. Uh, it’s just that a function of the court process, uh, it looks like both sides were unable to litigate that request, that’s what it looks like.

MS. EWAN: Yes, Your Honor.

THE COURT: Yeah. That would have been a better way for you to state it.

MS. EWAN: I'll note that for the future, Your Honor.

THE COURT: You can note it for right now.

F. On February 7, 2018, in *People v. Antonio Viveros*, No. 2017031420, Judge Bennett presided over a hearing on the People's motion for continuance due to the unavailability of a law enforcement officer. The People were represented by DDA Hayley Moyer, and the defendant was represented by DPD Cerise Fritsch. During the hearing, DDA Moyer stated that a prior motion to advance had been denied by Judge Ayers, and that, at the time that motion was heard, the officer was available. The following colloquy then ensued:

THE COURT: So, it's Judge Ayers is what you're saying.

MS. MOYER: I'm, I'm -- I don't know why Judge Ayers --

THE COURT: Is that what you're saying?

MS. MOYER: I'm not saying it's her fault.

THE COURT: What are you saying then?

Later in the hearing, in discussing the People's motion, the following colloquy ensued:

THE COURT: So, in between the 22nd and the 26th, is when the People discovered, they're telling me in this declaration signed by Ms. Hayley Moyer as an officer of the Court, that they figured out that the cop wasn't going to be here, and that he was an essential witness. And that seems to be the problem to me.

MS. MOYER: That's correct, Your Honor.

THE COURT: And, I don't need a cheering section okay? So, if I need something from you, I'll ask you, all right.

MS. MOYER: Of course.

G. On February 1, 2018, Judge Bennett presided over a hearing in *People v. Jesus Lopez Cruz*, No. 2017025833. The People were represented by DDA Heather Sweatman, and the defendant was represented by DPD Cerise Fritsch. During the hearing, DDA Sweatman stated that the parties had been unable to resolve the case because the defense wanted a charge that did not include moral turpitude, which was not supported by the facts of the case. Judge Bennett asked Sweatman if the facts stated in her trial brief were true, which led to the following colloquy:

MS. SWEATMAN: Those are true. If I –

THE COURT: Uh-huh.

MS. SWEATMAN: -- may provide a little further detail.

THE COURT: No, it's not necessary. I get it.

MS. SWEATMAN: Well, your honor, if I may, the defendant --

THE COURT: Uh, no – [Unintelligible] – you may not. I'm not finished talking yet. You interrupt me again, we're gonna have a problem. Do you understand that?

Later in the hearing, Judge Bennett told DDA Sweatman that she did not have enough evidence to “get past the [Penal Code section] 1118 motion.” Sweatman responded that if that was the case, she would ask that the defense brief the issue and allow the People to respond in writing. Judge Bennett stated to Sweatman:

THE COURT: ... I'm just being honest with you, I'm not trying to give you a hard time. I don't mind wasting the public's time on

something like this, but I don't think it's the right thing to do if you can't prove it. It seems to me like you need to have the person here to prove those facts. But if you don't think you do, I mean, I'm not gonna dismiss the case. You can do what you want. You can embarrass the district attorney, if you like. That's fine.

H. In October 2017, Judge Bennett presided over the matter of *People v. Julia Parker and Emilia Borcena*, No. 2016010310. The People were represented by Deputy Attorney General (DAG) Melissa Zubi, defendant Parker was represented by defense attorney Donald Marks, and defendant Borcena was represented by defense attorney Arthur Khachatourians. During a chambers conference with Zubi and defense counsel, Judge Bennett made several comments about how bad the Attorney General was at prosecuting cases. Judge Bennett stated that he had just finished an environmental case with the Attorney General, and "that was an important case, and they messed that one up, too," or words to that effect.

During the chambers conference, Judge Bennett discussed with counsel motions in limine the defense said it wanted to bring. The judge made preliminary rulings that excluded most of the prosecution's evidence. DAG Zubi noted that she had no case if most of her evidence was excluded. Judge Bennett stated in response, "You can tell [Attorney General Xavier] Becerra that's what he gets for going against my president," or words to that effect. Judge Bennett also stated to Zubi, "It's my job to give the government a bad time," or words to that effect.

I. On August 9, 2017, Judge Bennett presided over a hearing on a motion to suppress evidence (Penal Code section 1538.5) in *People v. Nicolas Macias-Hernandez*, No. 2016031450. The People were represented by DDA Brandon Yeaton, and the defendant was represented by DPD Julie Taylor. On August 9, Judge Bennett granted the motion. On

August 10, 2017, the judge called the attorneys back to his courtroom and told them that he had changed his mind and had determined to deny the motion. After excusing the attorneys, Judge Bennett asked DDA Yeaton to approach the bench on an unrelated matter, in which Yeaton needed the judge's signature for an order of forfeiture. Judge Bennett signed the order and then began telling Yeaton about his time as a police officer, Chief DDA, and judge. While speaking of supervisors in the DA's office, Judge Bennett made a statement to the effect of, "Tell [DDA Brent] Nibecker he's an idiot. I've told him to his face, I don't care."

J. On December 9, 2016, Judge Bennett presided over a hearing in *People v. Dennis King*, No. 2016030427. The People were represented by DDA Elisabeth Main, and the defendant was represented by DPD Damon Jenkins. The pending case, No. 2016030427, had previously been consolidated with another case involving the same defendant, No. 2016028553, which had been deconsolidated and tried separately. During the hearing, DDA Main requested the release of medical records she had subpoenaed while the cases were consolidated, but which were now contained in the file for case No. 2016028553. Judge Bennett told Main there were no records associated with the subpoena in the file for case No. 2016030427. Judge Bennett called a recess until later that afternoon, and, at Main's request, said he would have the file in case No. 2016028553 brought up at that time. Later that day, Main submitted a subpoena duces tecum to Judge Bennett for the medical records in case No. 2016028553. After the judge granted a defense motion to quash the subpoena, Main requested that the pending case be sent back to department 13. The following colloquy occurred:

THE COURT: Well, they sent it here for trial. That's the problem. So it's here for trial. I don't make those decisions anymore. You're here for trial.

MS. MAIN: So for the People's information, where physically will those records that the Court has right now be kept so that the People can make the proper request?

THE COURT: Yeah. We have the records in case ending 553. They're here and they're still sealed. As I said before, there's probably 200 pages in here. I haven't opened them. I can open them and look at them, I suppose. [¶] Is that what you want me to do?

MS. MAIN: If the Court is able to respond to the subpoena that [the] People just served. It was my understanding 553 was going to be on calendar here at 1:30.

THE COURT: Well, hang on. [¶] You handed me a subpoena. Who's it to; to the Court?

MS. MAIN: To the Court, which is in possession of the records, and we're asking that --

THE COURT: I'm not going to respond to a subpoena. Do you know why? Because I don't have to. It's a court record.

Judge Bennett leaned into the microphone and spoke in a raised voice when he stated, "Because I don't have to."

Following the above exchange, Judge Bennett reviewed the subpoenaed documents contained in the file for case No. 2016028553, and released one page to Main, which he said was relevant and not subject to the motion to quash. When Main subsequently asked for clarification regarding the ruling, the judge walked off the bench while she was addressing the court. The transcript reflects the following colloquy:

MS. MAIN: If the Court would bear with me. I'm a bit confused. [¶] Is case ending 553 before the Court today?

THE COURT: No.

MS. MAIN: Were those records -- but is the Court saying those records were part of case ending 553?

THE COURT: They're from the documents that you subpoenaed.

MS. MAIN: Yes. Which motion to quash did the Court grant?

THE COURT: The only one that's filed.

MS. MAIN: In 427?

THE COURT: Anything else?

MS. MAIN: Yes, your Honor. I'm just trying to understand it.

THE COURT: Good luck. See you Monday morning for jury trial, 8:30.

MS. MAIN: Your Honor, it's my understanding --

THE COURT: We're off the record.

MS. MAIN: Your Honor, I thought that the Court --

(Proceedings concluded for day.)

K. On November 28, 2016, Judge Bennett presided over the preliminary hearing in *People v. Jeffrey Dupont*, No. 2016006770. The People were represented by DDA Amber Lee, and the defendant was represented by DPD Cynthia Ellington. The defendant was charged with kidnapping (Penal Code section 207(a)), criminal threats (Penal Code section 422), dissuading a witness by force or threat (Penal Code section 136.1(c)(1)), infliction of corporal injury (Penal Code section 273.5(a)), and false imprisonment (Penal Code section 236). During the hearing, while a victim of domestic violence was testifying,

Judge Bennett referred to her as a “meth head.” The transcript reflects the following colloquy:

Q. Okay. Well, isn't it true that you had methamphetamine in that compartment?

MS. LEE: Objection; relevance.

THE COURT: Why would that be relevant?
Sustained.

MS. ELLINGTON: Your Honor, it's relevant because my ambition is to show that she was high during this entire time, that she has access to methamphetamine, and that she had it in her glove box and she had been using it. She has a pipe in her purse, and that goes to her credibility, her reliability and her ability to --

THE COURT: Well, I've allowed you to ask all those related questions. You know, sounds like she was using meth and she's a meth head. Whether there's some methamphetamine in the glove box really isn't relevant. It wasn't opened. Sustained.

The judge's reference to the victim as a “meth head” was inappropriate. There is a factual dispute, however, as to whether this remark also reflected bias against the prosecution. It does not appear necessary to resolve this dispute, as the inclusion of this matter would not affect the proposed discipline.

L. In October 2016, Judge Bennett presided over the matter of *People v. Scott Miller*, No. 2016005977, which involved misdemeanor charges of elder abuse and battery. The People were represented by DAG Melissa Zubi and DAG Stephen Tokarz, and the defendant was represented by defense attorney Eric Luce. During a chambers conference with the attorneys, before any evidence was heard, Judge Bennett stated that he only did important cases – felonies and murders – and that he did not think the case should have been prosecuted.

While discussing the *Miller* case in chambers with counsel, Judge Bennett brought up a recent Ventura County case in which a mental patient had stabbed another person multiple times. (The defendant in *Miller* worked at a psychiatric ward and was charged with assaulting a resident.) Judge Bennett told the prosecutors to keep that case in mind if they wanted to go forward on the *Miller* case.

There is a factual dispute as to whether the judge also made reference to the recent Ventura County case in the presence of the prospective jurors. It does not appear necessary to resolve this dispute, as the inclusion of this matter would not affect the proposed discipline.

M. In the summer of 2016, Judge Bennett presided over a hearing on a motion to suppress evidence in which the People were represented by DDA Taylor Carr. At the conclusion of the hearing, the judge asked Carr to approach the bench and had an ex parte conversation with her. Judge Bennett stated to Carr, “You don’t have to act like a scared little girl in my courtroom,” or words to that effect. Carr responded that she was not scared of the judge, and disagreed that judicial notice had been required in the hearing. Judge Bennett then made a statement to Carr to the effect of, “You’re acting like a scared little girl out there. You don’t have to act like that.”

N. On January 20, 2015, Judge Bennett presided over the matter of *People v. Richard Evirs*, No. 2014035733, in which the defendant was charged with disturbing the peace, in violation of Penal Code section 415(2). The People were represented by DDA Marine Dermadzhyan, and the defendant was represented by defense attorney Jarrod Wilfert. During a chambers conference with counsel, Wilfert requested an infraction disposition. Judge Bennett asked DDA Dermadzhyan for her position on the matter. Dermadzhyan objected to an infraction disposition because the case had been referred to the DA’s office

as a criminal threats offense (Penal Code section 422), and the People wanted a stay-away order for the victim. Judge Bennett stated that Dermadzhyan's position was a "chicken shit position to have," or words to that effect. The judge further stated that he had received emails regarding this "infamous 415," and that things like this would not be tolerated when he became the judge in department 13, the master calendar department.

O. On March 17, 2014, Judge Bennett presided over *People v. Joshua Chase*, No. 2013014492, a misdemeanor hit-and-run case that was assigned to him for trial. The People were represented by DDA Melissa Bohl, and the defendant was represented by DPD Anita Candelaria. Judge Bennett met with the attorneys in chambers prior to trial. During the chambers conference, Judge Bennett referred to the case as a "Mickey Mouse" case, or words to that effect. Judge Bennett pointed at DDA Bohl and stated, "I should make you pay for this," or words to that effect.

P. On January 27 or 28, 2014, Judge Bennett presided over a probation violation hearing in *People v. Nella Olsen*, No. 2011028522. The People were represented at the hearing by a female DDA. During a recess, the judge asked to speak with DDA Amber Lee and DPD Heather Tomka, who were sitting in the courtroom and not involved in the *Olsen* hearing. While standing in a hallway, Judge Bennett told Lee and Tomka that the DDA handling the *Olsen* hearing was "dumb as shit," and that he wished Lee was conducting the hearing.

Q. On January 13 through 16, 2014, Judge Bennett presided over the jury trial of *People v. Sergio Ortiz*, No. 2012040964. The People were represented by DDA Melissa Bohl, and the defendant was represented by DPD Michele Castillo. On January 16 or 17, 2014, after the trial had concluded, Judge Bennett had his clerk ask DDA Bohl to return to the courtroom in order to share feedback regarding her performance during the trial. Judge Bennett met with Bohl in chambers for 20 to 30 minutes. The

judge asked Bohl where she was from, and Bohl responded that she was from Temecula. Judge Bennett then made a statement to the effect of, “So your parents are farmers and you grew up with a silver spoon in your mouth?” Bohl responded that her parents were not farmers.

R. On October 17, 2011, while presiding over a misdemeanor hit-and-run case, Judge Bennett met in chambers with DDA Andrew Sullivant and DPD Randy Tucker to discuss a possible resolution. DPD Tucker asked for a case disposition of credit for time served, restitution, fines, and no probation. Judge Bennett asked DDA Sullivant if he was “going to make a big stink about that,” or words to that effect. Sullivant stated that he was not going to make a “big stink,” but would object to that disposition. In response, Judge Bennett became angry, raised his voice, and used profanity, including the words “fucking” and “shit.” The judge stated that he had been waiting for an opportunity to address the issue of prosecutors “playing games like this,” or words to that effect. The judge admonished Sullivant about prosecutors “agreeing to deals in chambers, then objecting on the record,” or words to that effect. Judge Bennett criticized other judges in the courthouse for “playing along with the prosecutors’ games,” or words to that effect. The judge said he was “sick” of being “bad mouthed” by attorneys in the district attorney’s office, both in the newspapers and otherwise, or words to that effect. The judge told Sullivant that, if he was going to object on the record, then he (the judge) was “going to bring up a panel and put on a jury trial,” or words to that effect. The judge stated that there appeared to be pressure in the district attorney’s office to push cases to trial that should not be going to trial. The judge stated that he got to where he was by “not going along with the program.” Judge Bennett stated that he knew all of the policies in the district attorney’s office, and he asked Sullivant if he knew how he (the judge) knew about the policies. Judge Bennett then stated, in a raised voice,

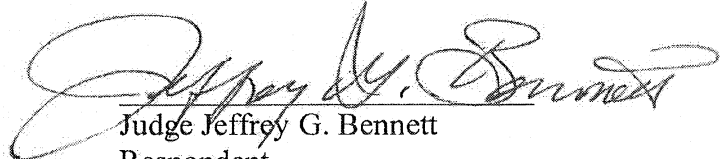
“Because I wrote the fucking book,” or words to that effect, and he pointed his index finger at Sullivan.

S. On January 19, 2010, Judge Bennett presided over the trial in *People v. Ruben Cortez*, No. 2009037770. The People were represented by DDA Jessica Giguere, and the defendant was represented by DPD Josephine Banuelos. During the redirect examination of an officer, DDA Giguere asked for the legal basis for an objection made by defense counsel, which Judge Bennett had sustained, in order to rephrase a question. Judge Bennett called the attorneys to the bench for a sidebar. At the bench, the judge made a statement to Giguere, in a voice loud enough for the jury to hear, to the effect of, “Are you questioning my authority? Counselor, this is misconduct and I could hold you in contempt. Have you read my court rules? Have you read the rules of court? You know what you need to do? You need to go home tonight and you need to study the rules of court. I know you are new but the next hearing I have is going to be about you. Your questions are not relevant. Move on.”

The conduct described above violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), 3B(5), and 3B(7), and constitutes prejudicial misconduct.


By signing this stipulation, in addition to consenting to discipline on the terms set forth, Judge Bennett expressly admits that the foregoing facts are true and that he agrees with the stated legal conclusions.

Dated: March 10, 2020.



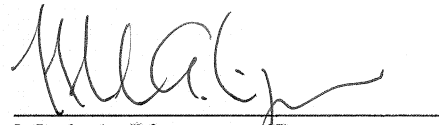
Judge Jeffrey G. Bennett
Respondent

Dated: March 10, 2020.



Heather L. Rosing, Esq.
Attorney for Respondent

Dated: March 11, 2020.



Mark A. Lizarraga, Esq.
Examiner for the Commission

STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING
JUDGE JEFFREY G. BENNETT

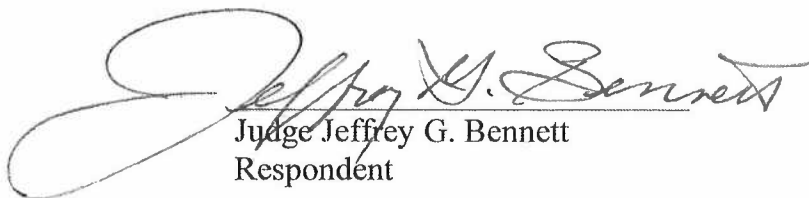
AFFIDAVIT OF CONSENT
FOR DISCIPLINE

No. 206

Pursuant to Rules of the Commission on Judicial Performance, rule 127(d), Judge Jeffrey G. Bennett submits the following affidavit of consent in Inquiry No. 206:

1. I consent to a public censure, as set forth in the Stipulation for Discipline by Consent.
2. My consent is freely and voluntarily rendered.
3. I admit the truth of the charges as modified by the Stipulation for Discipline by Consent.
4. I waive review by the Supreme Court.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 10 day of March, 2020.


Judge Jeffrey G. Bennett
Respondent