



**BEFORE THE STATE COMMISSION  
ON JUDICIAL CONDUCT**

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**CJC Nos. 17-0320-CO, 17-0325-CO, 17-0326-CO, 17-0327-CO, 17-0328-CO, 17-0329-CO, 17-0337-CO, 17-0346-CO, 17-0347-CO, 17-0348-CO, 17-0364-CO, 17-0382-CO, 17-0390-CO, 17-0400-CO, 17-0413-CO, 17-0425-CO, 17-0440-CO & 17-0590-CO**

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**AMENDED PUBLIC REPRIMAND  
AND  
ORDER OF ADDITIONAL EDUCATION**

**HONORABLE JAMES OAKLEY  
COUNTY JUDGE  
BURNET, BURNET COUNTY, TEXAS**

During its meeting on April 5-6, 2017, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable James Oakley, County Judge for Burnet County, Texas. Judge Oakley was advised by letter of the Commission's concerns, provided a written response to same, and appeared before the Commission to refute the allegations against him. After considering the evidence before it, the Commission entered the following Findings and Conclusion:

**FINDINGS OF FACT**

1. At all times relevant hereto, the Honorable James Oakley was the County Judge for Burnet County, Texas.
2. On November 21, 2016, the San Antonio Police Department ("SAPD") posted to its Facebook page a mugshot of Otis Tyrone McKane, an African-American man arrested and charged with capital murder in the killing of a San Antonio police officer, with the following statement:

Today at 1545 hrs. Otis Tyrone McKane was taken in custody for the capital murder of SAPD Det. Benjamin Marconi. The arrest was made by SAPD in a joint effort with multiple law enforcement agencies. The arrest

was made without incident. The San Antonio Police Department would like to thank everyone who assisted in locating the suspect.

3. In response, Judge Oakley posted to the SAPD Facebook page the comment, “Time for a tree and a rope . . .” His comment, along with the post, appeared on his own Facebook page (the “Facebook Post”).
4. The former editor of a local newspaper took a screen shot of the Facebook Post and disseminated it to the news media.
5. Judge Oakley removed the Facebook Post and issued a public apology, describing his comment as “harsh,” “off-the-cuff” and “curt,” but denying it had anything to do with race.
6. Judge Oakley and the Facebook Post became the subject of local, national and international negative media attention.
7. To date, the Commission has received eighteen written complaints in response to the Facebook Post. These Complainants have expressed numerous concerns about the Facebook Post including, without limitation:
  - the call for vigilante justice;
  - the apparent disregard for due process of law;
  - the influence the comment could have on the potential jury pool; and
  - the racial insensitivity of the Facebook Post.
8. Multiple Complainants also questioned Judge Oakley’s suitability for judicial office, and expressed doubts that he could perform his judicial duties impartially.
9. Asked by the Commission to explain the intent and context of the Facebook Post, Judge Oakley responded, “My comment was intended to reflect my personal feelings that this senseless murder of a police officer should qualify for the death penalty. In my mind the race/gender of the admitted cop killer was not relevant.”
10. Judge Oakley explained that a “tree and a rope” was a reference to the humorous advertising campaign for Pace Picante Sauce salsa from the 1980s.
11. Judge Oakley does not believe his conduct cast discredit on the judiciary because the “media stories were promoted as a political attack,” and his words were twisted into “phrases [and] headlines that were not accurate.”
12. At his appearance before the Commission on April 5, 2017, Judge Oakley testified that while he handled uncontested probate and guardianship matters as a judicial officer, he had not attended the training offered by the Texas Association of Counties for new judges.
13. During the appearance, Judge Oakley made certain statements that indicated to the Commission that he could benefit from racial sensitivity training with a mentoring judge.

### **RELEVANT STANDARDS**

1. Canon 4A(1) of the Texas Code of Judicial Conduct provides in relevant part that a judge “shall conduct all of the judge’s extracurricular activities so that they do not cast reasonable doubt on the judge’s capacity to act impartially as a judge.”

2. Article V, §1-a(6)A of the Texas Constitution provides, in relevant part, that a judge shall not engage in “willful or persistent conduct” that “casts public discredit upon the judiciary or administration of justice.”

### CONCLUSION

The Commission concludes from the facts and evidence presented that by posting the Facebook Post, Judge Oakley cast reasonable doubt on his capacity to act impartially in the performance of his duties, in violation of Canon 4A(1), and engaged in willful conduct that cast public discredit on the judiciary and the administration of justice, in violation of Article V, §1-a(6)A of the Texas Constitution.

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In condemnation of the conduct described above that violated Canon 4A(1) of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution, it is the Commission’s decision to issue a **PUBLIC REPRIMAND AND ORDER OF ADDITIONAL EDUCATION** to the Honorable James Oakley, County Judge, Burnet County, Texas.

Pursuant to this order, Judge Oakley, in addition to completing his annual required judicial education, must attend and complete the next available 30-hour educational training program for new judges presented by the Texas Association of Counties (“TAC”). In addition, Judge Oakley must participate in four (4) hours of instruction in the area of racial sensitivity with a mentor to be chosen by the Commission.

Upon completion of TAC’s training program for new judges and the four hours of mentoring, described above, Judge Oakley shall sign and return the Respondent Judge Survey indicating compliance with this Order. Failure to complete, or report the completion, of the required additional education in a timely manner may result in further Commission action.

Pursuant to the authority contained in Article V, §1-a(8) of the Texas Constitution, it is ordered that the actions described above be made the subject of a **PUBLIC REPRIMAND AND ORDER OF ADDITIONAL EDUCATION** by the Commission.

The Commission has taken this action in a continuing effort to protect the public confidence in the judicial system and to assist the state’s judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this the 8<sup>th</sup> day of May, 2017.

ORIGINAL SIGNED BY

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Honorable Valerie E. Ertz, Chair  
State Commission on Judicial Conduct