



**BEFORE THE STATE COMMISSION
ON JUDICIAL CONDUCT**

CJC No. 18-1239

**PUBLIC WARNING
AND
ORDER OF ADDITIONAL EDUCATION**

**HONORABLE KIM BAGGETT
CITY OF BRECKENRIDGE MUNICIPAL COURT
BRECKENRIDGE, STEPHENS COUNTY, TEXAS**

During its meeting on April 3-5, 2019, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable Kim Baggett, City of Breckenridge Municipal Court Judge, Breckenridge, Stephens County, Texas. Judge Baggett was advised by letter of the Commission's concerns and provided a written response. 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 Kim Baggett was the Municipal Court Judge for the City of Breckenridge, Stephens County, Texas.
2. The Commission received a complaint against Judge Baggett from Jay Marcom, who was charged with municipal code violations in three separate cases in June of 2017. He alleged that on August 4, 2017, he went to the Breckenridge Municipal Court to review and obtain copies of the court's files in his cases, but Judge Baggett refused his request. Marcom asserted that Judge Baggett told him he would need to submit an open records request with the City of Breckenridge in order to review the contents of the files.
3. Mr. Marcom further alleged that Judge Baggett would not allow him to review and copy the charging documents in the cases against him before he entered a plea. He said the judge became "irritated" with him when he refused to enter a plea before seeing the charges against him, so he pled "not guilty" in order to obtain copies of the charging documents.

4. In her responses to the Commission, Judge Baggett generally confirmed Mr. Marcom’s version of events. Judge Baggett described her process as follows: people seeking access to files in cases in which they are not personally involved are required to submit an open records request to the City of Breckenridge. She stated that a person seeking access to a court file in his or her own case must present identification, and once she is satisfied the person has “a right to see the file,” the person is allowed to review some (but not all) of the information in the file, namely those materials “generated by the court software.”
5. Judge Baggett stated that in order to obtain access to “data or evidence” contained in the files, such as “police reports, pictures of evidence, videos, driving report, arrest reports, [or] documents that are completed by police, code enforcement or animal control officers,” a party must submit an open records request to the City of Breckenridge.
6. Judge Baggett confirmed that she would not allow Mr. Marcom to review and copy the charging documents in the cases against him unless and until he entered a plea. She indicated this is her regular practice with respect to defendants who appear in her court.

RELEVANT STANDARDS

1. Canon 2A of the Texas Code of Judicial Conduct states, in pertinent part: “A judge shall comply with the law...”
2. Canon 3B(2) of the Texas Code of Judicial Conduct states: “A judge should be faithful to the law and shall maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor, or fear of criticism.”
3. Canon 3B(4) of the Texas Code of Judicial Conduct states: “A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, and should require similar conduct of lawyers, and of staff, court officials and others subject to the judge’s direction and control.”
4. Section 552.003(1)(B) of the Government Code excludes the judiciary from the Public Information Act. Section 552.0035 of the Government Code specifically provides that access to judicial records is governed by rules adopted by the Supreme Court of Texas or by other applicable laws and rules.
5. In *Ashpole v. Millard*, 778 S.W.2d 169, 170 (Tex.App.—Houston [1st Dist.] 1989, no writ), the court held that the public has right to inspect and copy judicial records subject to the court’s inherent power to control public access to its records.

CONCLUSION

The Commission concludes from the facts and evidence presented that Judge Baggett’s policy and practice with respect to requests for access to the court’s files demonstrates a failure on the Judge’s part to comply with and maintain competence in the law, in violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct. The Commission further concludes that Judge Baggett failed to comply with and maintain competence in the law, in violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct, when she refused to allow Mr. Marcom to review and copy the charging documents in the cases against him unless and until he entered a plea, and that she failed to treat Mr. Marcom with patience, dignity, and courtesy, in violation of Canon 3B(4) of the Texas Code of Judicial Conduct, when he asked to see the documents in the court’s file before entering a plea of guilty or not guilty.

In view of the conduct described above that violated Canons 2A, 3B(2), and 3B(4) of the Texas Code of Judicial Conduct, it is the Commission's decision to issue a **PUBLIC WARNING AND ORDER OF ADDITIONAL EDUCATION** to the Honorable Kim Baggett, Municipal Court Judge for the City of Breckenridge, Stephens County, Texas.

Pursuant to this Order, Judge Baggett must obtain **two hours** of instruction with a mentor, in addition to her required judicial education for Fiscal Year 2019. In particular, the Commission desires that Judge Baggett receive this additional education in the area of public access to court records and responding to requests for same.

Pursuant to the authority contained in §33.036 of the Texas Government Code, the Commission authorizes the disclosure of certain information relating to this matter to the Texas Municipal Courts Education Training Center to the extent necessary to enable that entity to assign the appropriate mentor for Judge Baggett.

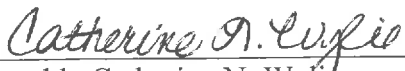
Judge Baggett shall complete the additional **two hours** of instruction recited above within **60 days** from the date of written notification from the Commission of the assignment of a mentor. Upon receiving such notice, it is Judge Baggett's responsibility to contact the assigned mentor and schedule the additional education.

Upon the completion of the **two hours** of instruction described herein, Judge Baggett 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 WARNING AND ORDER OF ADDITIONAL EDUCATION**.

The Commission has taken this action with the intent of assisting Judge Baggett in her continued judicial service, as well as in a continuing effort to protect 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 day of August, 2019.



Honorable Catherine N. Wylie
State Commission on Judicial Conduct