



**BEFORE THE STATE COMMISSION
ON JUDICIAL CONDUCT**

CJC No. 19-1770

PUBLIC WARNING

**HONORABLE JONATHAN BAILEY
FORMER JUDGE OF THE 431ST JUDICIAL DISTRICT COURT
DENTON, DENTON COUNTY, TEXAS**

During its meeting on August 11-13, 2021, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable Jonathan Bailey, Former Judge of the 431st Judicial District Court, Denton, Denton County, Texas. Judge Bailey was advised by letter of the Commission's concerns and provided a written response. Judge Bailey appeared before the Commission on October 26, 2021, and gave testimony. After considering the evidence before it, the Commission enters the following findings of fact and conclusions:

BACKGROUND

Judge Bailey presided over Cause No. 18-3538-431, *In the Matter of the Marriage of Misty Ann Simone and Michael Anthony Simone and in the Interest of M.S.S. and M.A.S.*, a divorce. While the divorce was pending, Michael Simone ("Simone") was indicted in Cause No. 18-3334-431, *State v. Michael Simone* (the "criminal case") on a charge of continuous family violence against his wife for acts alleged to have occurred shortly before the divorce was filed in April 2018. There was no protective order issued against Simone under Title 4 of the Texas Family Code and there was no restraining order or injunction prohibiting his possession of a firearm. Simone was, however, subject to a bond condition in the criminal case which prohibited his possession of any firearm and required him to sell his firearms or to surrender his firearm to designated law enforcement agencies or individuals.

FINDINGS OF FACT

1. At all times relevant hereto, the Honorable Jonathan Bailey was the Judge of the 431st Judicial District Court in Denton, Denton County, Texas.

2. On August 5, 2019, Judge Bailey presided over a final divorce hearing in Cause No. 18-3538-431, *In the Matter of the Marriage of Misty Ann Simone and Michael Anthony Simone and in the Interest of M.S.S. and M.A.S.* (the “divorce case”).
3. While the divorce case was pending, Michael Simone (“Simone”) was indicted in Cause No. 18-3334-431, *State v. Michael Simone* (the “criminal case”) on a charge of continuous family violence against his wife for acts alleged to have occurred shortly before the divorce was filed in April 2018
4. At the conclusion of the final divorce hearing on August 5, 2019, and based on evidence presented in that hearing, Judge Bailey signed and filed an “Order to Search for Firearms” in the criminal case.
5. The Order authorized “any peace officer, member of law enforcement, or Denton County Adult Probation Officer” to search for and seize any firearm in Simone’s possession, in his vehicle, and in his residence in Flower Mound, Texas, and further, to “use any reasonable force necessary to discharge the duties” described. There was no “Officer’s Return” attached to or incorporated in the Order.
6. Judge Bailey ordered Simone to remain in the courtroom until a probation officer and police officer escorted to Simone to his vehicle and his home and searched both for firearms.
7. Law enforcement officers conducted the searches, and no firearms were found.

RELEVANT STANDARDS

1. Canon 2A of the Texas Code of Judicial Conduct states, “A judge shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.”
2. Canon 3B(2) of the Texas Code of Judicial Conduct provides in part, “A judge should be faithful to the law and shall maintain professional competence in it.”
3. Canon 3B(4) of the Texas Code of Judicial Conduct states, in pertinent part, “A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity.”
4. Canon 3B(5) of the Texas Code of Judicial Conduct provides, “A judge shall perform judicial duties without bias or prejudice.”
5. Tex. Code Crim. Proc. Art. 18.01(b) states in part, “No search warrant shall issue for any purpose in this state unless sufficient facts are first presented to satisfy the issuing magistrate that probable cause does in fact exist for its issuance. A sworn affidavit setting forth substantial facts establishing probable cause shall be filed in every instance in which a search warrant is requested.”

CONCLUSION

Based on the record before it and the factual findings recited above, the Texas State Commission on Judicial Conduct has determined that the Honorable Jonathan Bailey, Former Judge 431st District Court, Denton, Denton County, Texas should be publicly warned, as his conduct during the August 5, 2019, hearing in the Simone divorce case and in connection with the Simone criminal case demonstrated; (i) a failure to comply with the law and a maintain competence in it; (ii) a failure to be patient, dignified and courteous to Mr. Simone; and, (iii) bias and prejudice against Mr. Simone.

The Commission has taken this action pursuant to the authority conferred it in Article V, §1-a of the Texas Constitution in a continuing effort to protect the public and promote public confidence in the judicial system.

Issued this the 29th day of October, 2021.



David Hall
Chair, State Commission on Judicial Conduct