



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC No. 14-0820-DI & 14-0838-DI

**PUBLIC ADMONITION
AND
ORDER OF ADDITIONAL EDUCATION**

**HONORABLE MICHELLE SLAUGHTER
405TH JUDICIAL DISTRICT COURT
GALVESTON, GALVESTON COUNTY, TEXAS**

During its meeting on April 8-9, 2015, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable Michelle Slaughter, Judge of the 405th District Court, Galveston, Galveston County, Texas. Judge Slaughter was advised by letter of the Commission's concerns and provided a written response. Judge Slaughter appeared with counsel before the Commission on April 9, 2015, and gave testimony. 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 Michelle Slaughter was Judge of the 405th Judicial District Court in Galveston, Galveston County, Texas.
2. At all times relevant hereto, Judge Slaughter maintained a public Facebook page which displayed a photograph of the judge wearing her judicial robe; featured a photograph of the Galveston County Courthouse; described the judge as a "public figure" and as "Judge, 405th Judicial

District Court;” and identified the judge as “Judge Michelle M. Slaughter” on each comment the judge posted.¹

3. According to Judge Slaughter, the Facebook page was set up with the intent that it would be “the most efficient way to fulfill [her] campaign promise and [her] own goals of educating the public about our courts.”
4. Judge Slaughter’s Facebook page was publicly accessible to any person who wished to view it online.

The Wieseckel Case

5. From April 28-30, 2014, the criminal jury trial of *State v. David M. Wieseckel* was held in Judge Slaughter’s court.
6. David Wieseckel was charged with unlawful restraint of a child for allegedly keeping a 9-year-old boy in a 6 foot by 8 foot wooden enclosure, which had been used as the child’s bedroom.
7. On April 26, 2014, Judge Slaughter posted the following comment on her Facebook page:

“We have a big criminal trial starting Monday! Jury selection Monday and opening statements Tues. morning.”
8. The following day, in response to the post described above, a person named Jeff Bodie posted the following comment on Judge Slaughter’s Facebook page:

“One of my favorite Clint Eastwood movies is ‘Hang ‘Em High’, jus [sic] sayin [sic] your honor.....”²
9. In a pre-trial hearing on April 28, 2014, the defendant’s attorney argued a motion *in limine* to limit the use of the term “box” to describe the wooden enclosure at trial, contending that the term was prejudicial to the defendant and misstated the evidence.
10. Judge Slaughter denied defense counsel’s motion, stating the following:

“Calling it a wooden enclosure – certainly the press has referred to it as ‘The Boy in the Box’ case, that sort of thing. So I don’t think that there’s going to be prejudice. The jury can make up their own minds as to what they believe that is.”
11. On April 28, 2014, after the jury had been selected, Judge Slaughter provided the jurors with oral instructions regarding their use of social media, including Facebook, and their access to any news stories about the case. The judge expressly admonished the jurors as follows:

“During the trial of the case, as I mentioned before, you cannot talk to anyone. So make sure that you don’t talk to anyone. Again, this is by any means of communication. So no texting, e-mailing, talking person to person or on the phone or Facebook. Any of that is absolutely forbidden.”

¹ According to Judge Slaughter, she took down the “Judge Michelle M. Slaughter” Facebook page after receiving notice of the Commission’s inquiry, which was sent on or about September 22, 2014. The Commission confirmed that the Facebook page appears to no longer be available online.

² Judge Slaughter informed the Commission that she was “shocked” to see Bodie’s post and removed it as soon as she became aware of it through the defendant’s motion to recuse; however the post remained on the site at least through September 10, 2014.

12. In addition the judge provided written instructions to the jury that included the following admonition:

“Do not make any investigation about the facts of this case. ... All evidence must be presented in open court so that each side may question the witnesses and make proper objection. This avoids a trial based upon secret evidence. *These rules apply to jurors the same as they apply to the parties and to me* (the judge).” (emphasis added).
13. On April 28, 2014, Wieseckel elected to have Judge Slaughter determine his punishment in the event of his conviction.
14. On April 29, 2014, after the first day of testimony, Judge Slaughter posted the following comments on her Facebook page:
 - “Opening statements this morning at 9:30 am in the trial called by the press ‘the boy in the box’ case.”
 - “After we finished Day 1 of the case called the ‘Boy in the Box’ case, trustees from the jail came in and assembled the actual 6”x8’ ‘box’ inside the courtroom!”
 - “This is the case currently in the 405th!” [this post included a link to a *Reuters* article entitled: “Texas father on trial for putting son in a box as punishment.”]
15. At time of Judge Slaughter’s April 29, 2014 Facebook post, the “‘actual’ box” referenced in her comments had not yet been admitted as an exhibit or as evidence at trial.³
16. Furthermore, the *Reuters* article that was linked to the judge’s Facebook post contained extraneous offense⁴ information, which the judge had instructed the jury panel to disregard during jury selection, and which had not been admitted into evidence at trial at the time of the post.
17. On April 30, 2014, defense counsel filed a motion to recuse Judge Slaughter from the case, as well as a motion for mistrial, claiming that Judge Slaughter had improperly commented about the *Wieseckel* trial on her Facebook page and had improperly posted a link to a *Reuters* article covering the trial.
18. Judge Slaughter was removed from the *Wieseckel* case that same day after a visiting judge assigned to hear defense counsel’s recusal motion granted it.
19. Following Judge Slaughter’s recusal, the *Wieseckel* case was transferred to another court and the judge in that court granted the defendant’s motion for mistrial.
20. Judge Slaughter’s Facebook posts regarding the *Wieseckel* case, as well as her recusal and the subsequent mistrial, received widespread media attention critical of her conduct.

³ The following day, during an in-chambers hearing with prosecutors and the judge, defense counsel objected to the admission of the “box” as a demonstrative exhibit, arguing that the evidence was repetitive. Judge Slaughter overruled the objection and later admitted the “box” into evidence.

⁴ Under Rule 404b of the Texas Rules of Evidence, “Evidence of other crimes, wrongs or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, provided that upon timely request by the accused in a criminal case, reasonable notice is given in advance of trial of intent to introduce in the State’s case-in-chief such evidence other than that arising in the same transaction.” Extraneous offenses include other crimes the accused may have been arrested and/or convicted of.

21. Judge Slaughter defended her public Facebook comments about the *Wieseckel* case, arguing to the Commission that the purpose of her comments was to promote “transparency” and to “encourage individuals to come watch the proceedings.”
22. In addition, Judge Slaughter asserted that her Facebook comments did not suggest her probable decision in the *Wieseckel* case because her comments were true and based on publicly available information.
23. The judge further explained that she selected her words carefully to make it clear that it was the media who referred to the case as the “boy in the box” case, not her.
24. Judge Slaughter added that in her opinion, the *Reuters* article was “written in a very objective way – just the facts – and not slanted in any way towards either side,” and that her public comments did not serve as a basis for any suggestion of any probable decision she would make in the case.

Other Facebook Posts

25. On February 5, 2014, Judge Slaughter posted the following comment on her Facebook page regarding a matter pending in her court:

“We have a jury deliberating on punishment for two counts of possession of child pornography. It is probably one of the most difficult types of cases for jurors (and the judge and anyone else) to sit through because of the evidence they have to see. Bless the jury for their service and especially bless the poor child victims.”
26. Judge Slaughter defended this Facebook post by explaining that the jury had already heard all the evidence on punishment and was deliberating in the case.
27. Judge Slaughter further asserted that the post “merely point[ed] out an obvious fact that sitting through any child pornography case is difficult.”
28. On May 13, 2014, following her recusal from the *Wieseckel* case, Judge Slaughter posted the following comment on her Facebook page:

“We finished up sentencing today with a very challenging defendant.”
29. Judge Slaughter defended this post by arguing that “[u]sing the phrase ‘very challenging’ does not give rise to any indication that [she] treated [the defendant] unfairly;” and that the post “referred to a case that was no longer pending or impending” in her court and, as such, “there was nothing to suggest [her] probable decision in that case.”

RELEVANT STANDARDS

1. Canon 3B(10) of the Texas Code of Judicial Conduct states, in pertinent part: “A judge shall abstain from public comment about a pending or impending proceeding which may come before the judge’s court in a manner which suggests to a reasonable person the judge’s probable decision on any particular case...This section does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court.”
2. Canon 4A the Texas Code of Judicial Conduct states: “A judge shall conduct all of the judge’s extrajudicial activities so that they do not: (1) cast reasonable doubt on the judge’s capacity to act impartially as a judge; or (2) interfere with the proper performance of judicial duties.”

3. Article V, §1-a(6)A of the Texas Constitution provides that a judge may be disciplined for “willful or persistent violation of rules promulgated by the Supreme Court of Texas, incompetence in performing the duties of the office, willful violation of the Code of Judicial Conduct, or willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice.”

CONCLUSION

The Commission concludes from the facts and evidence presented that Judge Slaughter’s decision to post comments and a link to a media story on her Facebook page regarding the *Wieseckel* case and other matters pending before her court was inconsistent with the proper performance of her duties as a judge. Judges have a duty to decide every case fairly and impartially. Judicial independence, impartiality and integrity must be seen in order for the public to have confidence in the legal system. Despite her contention that the information she provided was public information, Judge Slaughter cast reasonable doubt upon her own impartiality and violated her own admonition to jurors by turning to social media to publicly discuss cases pending in her court, giving rise to a legitimate concern that she would not be fair or impartial in the *Wieseckel* case or in other high-profile cases. The comments went beyond providing an explanation of the procedures of the court and highlighted evidence that had yet to be introduced at trial. Judge Slaughter’s Facebook activities interfered with her judicial duties in that, as a direct result of her conduct, a motion to recuse was filed and granted requiring the judge to be removed from the *Wieseckel* case. The judge’s recusal then led to the granting of a motion for mistrial so that the case could be retried in its entirety before another judge. Judge Slaughter’s conduct in the case was clearly inconsistent with the proper performance of her duties and cast public discredit upon the judiciary or administration of justice in light of the considerable negative media attention given the case and her posting. The Commission therefore concludes that Judge Slaughter’s conduct constituted a willful and persistent violations of Canons 3B(10) and 4A of the Texas Code of Judicial Conduct, and Article V, Section 1-a(6) of the Texas Constitution.

In condemnation of the conduct described above that violated Canons 3B(10) and 4A 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 ADMONITION AND ORDER OF ADDITIONAL EDUCATION** to the Honorable Michelle Slaughter, Judge of the 405th District Court, Galveston, Galveston County, Texas.

Pursuant to this Order, Judge Slaughter must obtain **four (4) hours** of instruction with a mentor, in addition to her required judicial education. In particular, the Commission desires that Judge Slaughter receive this additional education in the area of the proper and ethical use of social media by judges.

Judge Slaughter shall complete the additional **four (4) hours** of instruction received above within **sixty (60) days** from the date of written notification of the assignment of a mentor. It is Judge Slaughter’s responsibility to contact the assigned mentor and schedule the additional education.

Upon the completion of the **four (4) hours** of instruction described herein, Judge Slaughter 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 ADMONITION AND ORDER OF ADDITIONAL EDUCATION** by the Commission.

The Commission has taken this action 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 20th day of April, 2015.

ORIGINAL SIGNED BY

Honorable Steven L. Seider, Chair
State Commission on Judicial Conduct