

**JUDICIAL BRANCH CERTIFICATION COMMISSION
MINUTES OF THE MEETING**

Third Court of Appeals
Price Daniel Sr. Building
209 W. 14th Street, Room 101
Austin, Texas 78701
Friday, February 5, 2016
(10:00 a.m. Until Adjournment)

The meeting of the Judicial Branch Certification Commission (JBCC or Commission) was called to order by Judge Lee Hamilton, Chair, at 10:02 a.m., Friday, February 5, 2016. Members present were Judge Lee Hamilton, Chair; Judge Migdalia Lopez; Judge Polly Spencer; Velma Arellano; Mark Blenden; Don Ford; Judge Sid Harle; and Judge Ben Woodward. Ann Murray Moore was not present.

Staff members present were Jeff Rinard, Certification Division Director; Scott Gibson, JBCC General Counsel; Michele Henricks, Compliance Manager; Lesley Ondrechen, Licensing Manager; Tyees Holcombe, Judicial Regulatory Assistant; Jilian Stengle, Investigator; Chris Nelson, Licensing Specialist; and Veena Mohan, Assistant Attorney General.

Complaint review committee members present and appearing by telephone conference call were Molly Pela, Chair of the Complaint Review Committee of the Court Reporters Certification Advisory Board and Pat Dyer, Chair of the Complaint Review Committee of the Process Server Certification Advisory Board. Jamie MacLean, Chair of the Complaint Review Committee of the Guardianship Certification Advisory Board, attended in person.

Agenda Item III, Opening Remarks.

Jeff Rinard, Certification Division Director gave a status update on the JBCC and the Certification Division, including a compliance audit of annual report filing by certified guardians. He also updated the Commission on the guardianship compliance project.

Agenda Item IV, Approval of Prior Meeting Minutes.

October 30, 2015 minutes were approved.

To accommodate those who appeared in person and by telephone, Agenda Item VI was taken up out of order.

Agenda Item VI, Approval of Determination for Disciplinary Action by JBCC and Issuance of Final Order - complaints considered by JBCC on October 30, 2015.
Items A, B, C and D were issued as default orders.

Court Reporters Certification:

A. In the Matter of Jonette Jackson, Cause No. CSR-15-07126-054

Ms. Jackson filed a written response accepting the recommended sanction. After discussion, a motion was made and seconded to suspend Ms. Jackson's certification as a court reporter for 12 months, fully probated, under the following terms and conditions:

- Ms. Jackson must complete 10 hours of continuing education in Rules and Ethics by December 1, 2016. The 10 hours are in addition to the 10 hours of continuing education required for renewal of certification; and
- Ms. Jackson cannot incur any substantiated violations during the 12 month probated suspension period.

After discussion, the motion carried. Upon proper motion and second, the Commission found that Ms. Jackson had violated the rules as stated and adopted the recommended disciplinary action.

B. In the Matter of Evelyn Coder, Cause No. CSR-15-02845-060

Upon proper motion and second, the Commission voted to impose a public reprimand, with the following terms and conditions:

- Five of the ten hours of continuing education required to renew Ms. Coder's certification, expiring December 31, 2015, must be in Rules and Ethics.

After discussion, and upon proper motion and second, the Commission found that Ms. Coder had violated the rules as stated and adopted the recommended disciplinary action.

Process Servers Certification:

C. In the Matter of James Hilow, Cause No. CPS-15-00623-070

Veena Mohan, Assistant Attorney General, advised the Commission that Mr. Hilow had filed a written response accepting the recommended sanction. Upon proper motion and second, the Commission voted to issue a letter of reprimand with the following comment:

Process servers must ensure that the information in an affidavit of service or return of service accurately reflects the date and time of service.

After discussion, and upon proper motion and second, the Commission found that Mr. Hilow had violated the rules as stated and adopted the recommended sanction.

D. In the Matter of Denise La Fleur, Cause No. CPS-15-10483-072

A motion was made and seconded to suspend Ms. La Fleur's certification to serve process statewide for 12 months, fully probated, under the following terms and conditions:

- Ms. La Fleur must complete a training course (civil process service educational course) within three months of the date of the final order; and
- Ms. La Fleur cannot incur any substantiated violations during the 12 month probated suspension period.

After discussion, and upon proper motion and second, the Commission found that Ms. La Fleur had violated the rules as stated and adopted the recommended sanction.

Agenda Item V, Disciplinary Hearing

Court Reporters Certification

A. In the Matter of Sondra Humphrey, Cause No. CSR-15-06160-021

Respondent Sondra Humphrey, her attorney, Lott Brooks, and complainant Abbie Miles appeared in person. Witness Heather Hudson joined the meeting by telephone conference call.

The Chair questioned Mr. Rinard about a proposed settlement agreement received on February 4, 2016. Mr. Gibson outlined the Commission's options and Ms. Mohan commented on the proposed settlement agreement. Upon proper motion and second, the Commission voted to hold the settlement agreement in abeyance and proceed with the hearing.

Ms. Mohan presented the case against Ms. Humphrey, noting that six of the seven cases referenced in the complaints were remanded for new trial because of Respondent's failure to produce records. Violations alleged are failure to file complete records timely, failure to obey court orders and attend court hearings, and failure to obey court orders and produce raw notes and complete trial recordings despite the judge's directive.

After being duly sworn, Ms. Hudson was questioned by Ms. Mohan and cross-examined by Mr. Brooks. Her testimony related to the events and consequences of Ms. Humphrey's failure to produce complete, timely records. At the conclusion of Ms. Hudson's testimony, Ms. Miles was sworn in. She was questioned by Ms. Mohan and cross-examined by Mr. Brooks on her testimony related to the effect on the courts of Ms. Humphrey's late, incomplete records.

The Commission recessed at 11:25 a.m. and reconvened at 11:35 a.m.

Ms. Mohan stated she had no further evidence or witnesses. Mr. Brooks addressed the Commission regarding the proposed settlement agreement. Upon proper motion and second, the Commission voted to continue the hearing and hear all evidence before making a decision.

Mr. Brooks gave his opening statement, then called Ms. Humphrey to testify. After being duly sworn, Ms. Humphrey was questioned by Mr. Brooks and cross-examined by Ms. Mohan. She testified regarding her work duties and problems in her personal life leading to the events that cause her to be unable to produce complete, timely records.

At the conclusion of Ms. Humphrey's testimony, Ms. Mohan gave her closing statement, urging the Commission to find the stated violations and refuse to renew her certification as a court reporter. (Ms. Humphrey's certification expired on December 31, 2015.) In his closing statement, Mr. Brooks reiterated the difficulties Ms. Humphrey had, and spoke of her twenty years as a court reporter without any problems or violations. He asked the Commission to consider a probated suspension.

A motion was made and seconded to find violations of the Commission's Rules as set forth in the notice of hearing dated January 6, 2016 and as recited by Ms. Mohan in her opening statement. The motion carried.

After discussion, and upon proper motion and second, the Commission voted to refuse to renew Ms. Humphrey's expired certification for a period of one year effective the date of the Final Order. It further voted that, should she choose to re-apply for certification, to require Ms. Humphrey to fulfill all prerequisites for initial certification, including successful completion of the certification examination, both the written and oral skills portions.

The Commission recessed at 12:30 p.m. and reconvened at 1:10 p.m.

Agenda Item VII, Advisory Board Complaint Review Committee
Recommendations to Dismiss Complaints

Process Servers Complaint Review Committee – January 13, 2016

A. In the Matter of Danny Hinkle, Cause No. CPS-15-05692-036

Complainant Jean Smoot participated in the meeting by telephone conference call. Mr. Dyer reminded the Commission that the matter was referred back to the Committee by the Commission for further review. Following further investigation, the Committee recommends dismissal.

Ms. Smoot addressed the Commission regarding her complaint. Following discussion, upon proper motion and second, the Commission adopted the

recommendation to dismiss the complaint.

B. In the Matter of Stan Sikorski, Cause No. CPS-15-02482-044
Respondent Stan Sikorski participated in the meeting by telephone conference call. Ms. Mohan advised the Commission that the matter had been referred back to the Committee to give Mr. Sikorski the opportunity to respond. After further review, the Committee determined that subservice is allowed in the state in which the lawsuit was filed, so no violation occurred.

There being no discussion, and upon proper motion and second, the Commission adopted the recommendation to dismiss.

D. In the Matter of Kenneth Picazio, Cause No. CPS-15-00986-083
Mr. Dyer stated that the Committee recommends dismissal with the comment that the process server confirm the identity of the person to be served and describe the actual manner in which service was performed.

There being no discussion, and upon proper motion and vote, the Commission adopted the recommendation to dismiss with comment.

C. In the Matter of Renee Lovelace, Cause No. CPS-15-00799-082
E. In the Matter of Catherine Perez, Cause No. CPS-15-10491-086
F. In the Matter of Kathleen Miller, Cause No. CPS-15-01898-087

These three matters were taken up together. There was no discussion. Upon proper motion and second, the above referenced complaints were dismissed.

Guardianship Certification Complaint Review Committee - January 12, 2016
G. In the Matter of Ginger Lott, Cause No. CG-15-00409-050

Complainant Sherry Johnston and two witnesses, Sharon Shepard and Betty Jo Luckey, appeared in person. Respondent Ginger Lott and Candice Schwager, attorney for Ms. Johnston, participated in the meeting by telephone conference call.

Ms. Mohan reminded the Commission that it had considered a recommendation to dismiss the complaint at its October 30, 2015 meeting. The complaint was remanded to the Committee to consider the extent to which the guardian (Respondent Ginger Lott) encouraged family visits and the extent to which the guardian met with the family regarding the ward's medical history.

Ms. Mohan summarized the Committee's findings after further review of these two issues. The Committee found no violations of the Minimum Standards for Guardianship Services, and recommended the complaint be dismissed.

Ms. Schwager and Ms. Johnston addressed the Commission regarding the complaint. The Chair allowed comment from Ms. Shepard and Ms. Luckey. Chairman Hamilton reminded those present that the Commission's role is to consider and decide whether to adopt the recommendation to dismiss the complaint. Mr. MacLean answered questions from the Commissioners regarding the Committee's review of the complaint, particularly the issues raised at the October 2015 Commission meeting.

After discussion, and upon proper motion and second, the Commission adopted the Committee's recommendation. The complaint was dismissed.

Court Reporters Certification Complaint Review Committee - January 12, 2016
H. In the Matter of Karen Woolsey, Cause No. CSR-15-01828-076

Ms. Mohan summarized the complaint. There being no discussion, and upon proper motion and second, the complaint was dismissed with the comment that Ms. Woolsey reply to all requests for information concerning transcripts in a timely manner.

Agenda Item VIII. Advisory Board Complaint Review Committee
Recommendations for Disciplinary Action

Court Reporter Certification Complaint Review Committee - January 12, 2016
A. In the Matter of Helen Wooten, Cause No. CSR-15-05447-052
B. In the Matter of Helen Wooten, Cause No. CSR-15-05447-053

Two complaints filed against Ms. Wooten were taken up together. Ms. Mohan summarized the complaints. She advised that in reaching its decision, the Committee considered disciplinary action imposed by the Commission at its May 1, 2015 meeting for non-compliance with a final order. Ms. Wooten's certification was suspended, subject to terms and conditions, for twelve months or until Respondent completes all records assigned to her.

After discussion, a motion was made and seconded to table the matter until the next Commission meeting scheduled for May 6, 2016. The motion carried.

C. In the Matter of Gay Richey, Cause No. CSR-15-07260-064
D. In the Matter of Gay Richey, Cause No. 01-CSR-2016

Two complaints filed against Ms. Richey were taken up together. Ms. Richey appeared in person, and addressed the Commission regarding her failure to file a response to the complaints, despite several extensions of the deadlines. Ms. Mohan noted that the Committee had considered a previous sanction imposed by the Commission at its May 1, 2015 meeting for failure to communicate with

complainant's attorney on hearing transcripts.

After discussion, and upon proper motion and second, the Commission found violations as stated. A motion was made and seconded to adopt the Committee's recommendation to impose an administrative penalty of \$500.00 and to suspend Ms. Richey's court reporter certification for twelve months, fully probated, under the following terms and conditions:

- Complete five hours of continuing education in Rules and Ethics within six months of the date of the final order. This continuing education requirement is in addition to the ten hours of continuing education required for renewal of certification.
- Payment of administrative penalty of \$500.00 is due within six months of the date of the final order.

The motion carried.

E. In the Matter of Bonnie Rodriguez, Cause No. CSR-15-05495-080
Ms. Mohan summarized the complaint. Upon proper motion and second, the Commission found violations as stated. A motion was made and seconded to adopt the Committee's recommendation to issue a public reprimand and to impose an administrative penalty of \$500.00 with the following terms and conditions:

- Complete five hours of continuing education in Rules and Ethics within six months of the date of the final order. This continuing education requirement is in addition to the ten hours of continuing education required for renewal of certification.
- Payment of administrative penalty of \$500.00 is due within six months of the date of the final order.

The motion carried.

Agenda Item IX, Administrative Dismissal of Complaints

Upon proper motion and second, the Commission ratified administrative dismissal of the following matters:

Court Reporter Certification

- A. In the Matter of Cause No. 04-CSR-2016
- B. In the Matter of Cause No. 08-CSR-2016

Guardianship Certification

- C. In the Matter of Cause No. CG-15-00374-090

Agenda Item X, Request for Reconsideration - Administrative Dismissal of Complaints

Court Reporter Certification

A. In the Matter of Cause No. CSR-15-03658-075

The basis for the complaint concerns inaccuracies in the record. The complainant believes there was a miscarriage of justice because the court reporter's audio files were not reviewed and compared to the transcript. Inaccuracies in the record are not within the Commission's jurisdiction; the remedy lies with the courts.

After discussion, and upon proper motion and second, the Commission affirmed its decision to ratify the administrative dismissal.

B. In the Matter of Cause No. CSR-15-05548-048

This complaint concerns allegations of a transcript being altered, and the transcript being withheld from the requestor but provided to his attorney. The complainant argues that the administrative dismissal policy is not valid because it is not "in law."

Upon proper motion and second, the Commission affirmed its decision to ratify the administrative dismissal.

The Commission recessed at 2:45 p.m. and reconvened at 2:59 p.m.

Agenda Item XI, Request for Reconsideration on Denial of Licensed Court Interpreter License

The Commission went into closed session at 3:00 p.m. Applicant Enrique Rodriguez participated by telephone. The closed session concluded at 3:18 p.m., and the Commission reconvened in open session at 3:20 p.m.

Upon proper motion and second, the Commission voted to uphold the denial of licensure to Enrique Rodriguez.

Agenda Item XII, Administrative Matters Relating to the JBCC

Mr. Rinard addressed the Commission on the following administrative matters:

A. Recommendations from the Guardianship Certification Advisory Board

Mr. Rinard reported on matters that were referred to the Advisory Board by the Commission at its October 30, 2015 meeting:

1. Requirement for a guardian to obtain a signature to verify a visit with a ward is under advisement.
2. Notification to all counties when a guardian's certification has been revoked or suspended. Certification Division staff is already giving notice to all counties when a guardian's certification is revoked or suspended. The Advisory Board recommends an enhanced notification to counties in which the guardian does business, specifying the basis for revoking or suspending the guardian's

certification.

3. Notification to Adult Protective Services or law enforcement upon revocation of a guardian's certification when criminal conduct is suspected. The Advisory Board recommends a Rule change, if necessary, or the adoption of an agency policy to require this notification.
4. Notification to Social Security Administration (SSA) and Veterans Administration (VA) upon revocation of a guardian's certification. The Advisory Board recommends notification to the SSA if a guardian was a representative payee and to the VA if the guardian was a fiduciary for VA benefit payments.

After discussion, and upon proper motion and second, the Commission adopted the Advisory Board's recommendations.

B. Recommendations for Endorsement for California Court Reporter Applicants Cynthia Guzman and Candyce Bradbury Fisher

Applicant Guzman participated in the meeting by telephone conference call. Mr. Rinard reported that the Court Reporter Certification Advisory Board had discussed two applications for licensure by endorsement at its January 8, 2016 meeting. Although the Advisory Board determined the California oral skills test was substantially equivalent to the Texas test, it decided it would review each application on a case-by-case basis. The Advisory Board recommended denial of one application and approval of the other; the latter applicant would still have to take the Texas written test because it is specific to Texas laws and rules.

Chairman Hamilton permitted Karen Morris of the Texas Court Reporters Association to address the Commission on this matter. Ms. Pela, appearing on behalf of the Advisory Board, summarized the discussion and the factors the Advisory Board considered in making its recommendations. Advisory Board members Kim Tindall and Janice Eidd-Meadows also commented.

Upon proper motion and second, the Commission adopted the Advisory Board's recommendation that applicant Fisher be required to take both the written and oral skills test.

A motion was made to reject the recommendation of the Advisory Board regarding approval for applicant Guzman; there was no second. After further discussion, and upon proper motion and second, the Commission approved Ms. Guzman's application for licensure by endorsement, contingent upon her taking and passing the Texas written exam.

C. Recommendation on Revisions to the Guardianship Certification Code of Ethics

Mr. Rinard reported that the Guardianship Advisory Board had made further

changes to the proposed Code of Ethics due to new legislation, and recommended the Commission publish the revised proposed Code for a thirty-day public comment period. Upon proper motion and second, the Commission adopted the recommendation.

D. Update on the Licensed Court Interpreter and Process Server Code of Ethics
Mr. Rinard told the Commission that these two Codes will be considered by the Supreme Court this month.

E. Update on Licensed Court Interpreter and Guardianship Examinations
Mr. Rinard updated the Commission on the exams given since its last meeting, noting it takes three days to administer 25 oral skills exams for court interpreters. He commended the Certification Division staff for its efforts in administering the exams.

F. The next JBCC meeting date is May 6, 2016.

Agenda Item XIII, Public Comments.

Public comment was received from Debby Valdez and Tod Pendergrass. Mr. Pendergrass provided a document for the Commission's review.

Agenda Item XIV, Report from Chair.

The Chair did not make a report. He invited David Slayton, Administrative Director of the Office of Court Administration, to comment. Mr. Slayton expressed his appreciation for the work done by the Commission and its staff.

Agenda Item XV, Adjournment.

The meeting was adjourned at 4:15 p.m.



Judge Lee Hamilton, Chair



Date