

Monterey County **The Herald**

Friday, September 30, 2005

www.montereyherald.com



Richard Rutledge

he submitted his resignation papers three hours after prosecutors said they will forward the case to a state judicial oversight board.

Prosecutors clear Rutledge of fixing tickets for friends, but say he did not stay out of conflict of interest cases

Embattled traffic commissioner quits

By **GEORGE B. SANCHEZ**
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The Monterey County traffic commissioner accused of fixing tickets for friends resigned Thursday after being cleared of possible criminal wrongdoing.

Prosecutors did, however, express serious concerns about Richard Rutledge's judicial behavior, specifically that he did not recuse

himself in conflict-of-interest cases.

Rutledge sent the Monterey County Superior Court executive committee his resignation letter less than three hours after the committee announced it would forward the District Attorney Office's investigation and its own administrative review to the state Commission on Judicial Performance, an oversight body for California judges.

Rutledge's resignation arrived

after District Attorney Dean Flippo announced at a news conference that there is insufficient evidence to file criminal charges against the traffic commissioner.

"We have no evidence to show any conspiracy," Flippo said. "We have no evidence to show there was anything inappropriate. There were no bribes taken. There's nothing to show there was falsification of documents. There's nothing to show that

testimony was manufactured."

Rutledge, 48, could not be reached for comment, but his attorney, Paul Meltzer, said he was happy with the district attorney's announcement.

"There never was a criminal case. I am pleased the district attorney recognized this," said Meltzer, who had no further comment and did not address the resignation.

Rutledge's investigation was

prompted by an e-mail sent throughout the court system by his jilted ex-lover, Crystal Powser, accusing him of fixing tickets for friends and co-workers, as well as providing lurid tales of alleged courthouse trysts. Powser, a former clerk for the county, said that Rutledge called off their engagement and that she

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sent the e-mail seeking revenge. Appointed to the bench in 1995, Rutledge had been on paid administrative leave since the e-mail surfaced August 4.

Powser, who waited outside the District Attorney's Office during the news conference, was pleased to learn of the resignation but disappointed that no criminal charges would be filed.

"I think it's great. I don't think he should be on the bench. He has no morals. It's too bad the statute of limitations ran out," Powser said. "I think justice has been served."

She said she felt vindicated, however, that the district attorney's investigators had found some evidence of potential improprieties and had forwarded those findings to the Administrative Office of the Courts.

That office was conducting its own investigation into potential ethical violations by the commissioner. The standing of that investigation is unknown, though it will likely be closed.

Chief investigator Sue Stryker said her staff began their investigation with the case of ticket-fixing Powser alleged in her e-mail.

Powser suggested that the court "might want to check into (Rutledge's) trial by declarations." Such proceedings occur when a cited driver submits a written explanation challenging a citation. The citing officer also submits a declaration, and the judge or commissioner rules based on the declarations.

Powser specifically mentioned the husband of the then-traffic court manager. The allegation involved a 1999 ticket for failing to stop at a stop sign in Gonzales.

Because the case was more than 3 years old, little of the actual file remained outside of basic electronic data entries, said Stryker. However, investigators were able to contact the citing police officer.

"This particular officer vividly remembered the incident," Flippo said.

The summary of the district attorney's investigation said that when the couple was pulled over, the husband made note that his wife managed the traffic court and was good friends with Rutledge. He allegedly said not to bother writing a

ticket "because nothing would happen."

The couple later denied the officer's account but admitted to saying she worked for the court and possibly passing the officer her business card.

After the initial investigation, Stryker and investigator David Norum examined about 300 files of trials by declaration that Rutledge had ruled either not guilty or dismissed between July 2004 and July 2005. Investigators had to work within that framework because of the one-year statute of limitations.

Because there was no evidence of conspiracy, bribery or destruction of evidence, Stryker said, investigators looked for criminal obstruction of justice and were guided by a law that makes "the failure of a government official to perform a duty required by law a misdemeanor" — in this case, not recusing himself from judgment.

Seven other files were discovered in which Rutledge ruled on cases involving a traffic court employee or spouse,

acquaintance and even a Monterey County Superior Court judge, Stryker said.

While his judgment may have been legally appropriate, Flippo said, his appearance nonetheless raised "the specter of favoritism."

"We know that the commissioner knew how to recuse himself," Flippo said. "We have found three cases, two involving traffic employees and a judge pro-tem, where he actually recused himself."

"This undermines the confidence of the public in the administration of justice and our court system."

Chief Assistant District Attorney Terry Spitz said he consulted with the Santa Clara District Attorney's Office, which last year prosecuted a judge who was convicted by a jury of fixing tickets for San Jose sports figures.

Spitz said while they found evidence that Rutledge should have recused himself, California law bars them from prosecuting Rutledge.

"To preserve the principles of the separation of power, prosecutors cannot go ahead with a prosecution in such a situation," Spitz said.

Flippo reiterated that what the investigation uncovered — a judge who failed to recuse himself in apparent conflicts — is not a crime but raises serious issues about the code of judicial ethics and the civil code of procedure that governs the court system.

"In these particular cases, in my judgment and my office's judgment, the commissioner should have had nothing to do with those cases," Flippo said. "What you're hearing is the old proverbial appearance of evil. Whether it's there or not, it undermines the integrity that we need as citizens to expect from the judiciary, and this is what is extremely disturbing to us."

Staff writer Virginia Hennessey contributed to this story.

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