



---

Posted on Sun, May. 28, 2006

## Velasquez's style 'blunt' on bench

By VIRGINIA HENNESSEY  
Herald Salinas Bureau

Monterey County Superior Court Judge Jose Velasquez says his behavior in court may be "overly blunt," but it doesn't constitute a violation of judicial canons or justify disciplinary action.

Velasquez on Thursday filed his formal response to misconduct charges that were filed against him on April 27 by the Commission on Judicial Performance.

His attorney, James Murphy of San Francisco, said the judge concedes that the conduct outlined in lengthy transcripts in the commission's charges is true.

"What we are denying are the charges that Judge Velasquez's conduct constitutes a violation of the Canons of Judicial Ethics," he said. "We deny the allegation that his conduct justifies some form of discipline."

The state Supreme Court will now appoint a three-member panel of "special masters" to hear evidence and arguments against Velasquez in a public hearing. The panel will issue recommendations to the commission, which could publicly admonish or censure Velasquez, or remove him from the bench.

It will be the second time Velasquez faces such a hearing. In 1996, the commission charged the judge with misconduct for displaying a crucifix in his courtroom, allowing his name to be used in a pro-choice newspaper advertisement, and announcing from the bench that he would issue tough, automatic sentences for drunken driving.

He was also charged with accusing fellow judges of racism. The case went to a formal hearing but was settled before testimony began, with the commission issuing a public censure, the most serious discipline short of removal from the bench.

The commission has filed seven counts against Velasquez. Among them, he is accused of finding defendants in violation of probation without affording them a formal hearing; increasing defendants' jail time for speaking out in court; failing to tell defendants they have the right to plead not guilty; conditioning a defendant's sentence on his answers to specific questions; and having his children in court and in his chambers during discussion of cases.

In his response to the allegation regarding probation violations, Velasquez said he increased sentences after defendants came to court seeking a modification of their original sentences and willingly admitted they had failed to comply with the prior court orders.

Velasquez apologized for his tenor in one case cited by the commission. According to the transcript, Velasquez gave a young man a choice of jail or attending 30 Alcoholics Anonymous meetings for being a minor in possession of alcohol. When the defendant asked if Velasquez could reduce the number of meetings, the judge threatened to take away his license away or give him jail time.

Velasquez said he was trying to explain to someone who was unfamiliar with the court system that his case would be dismissed and his arrest record erased if he completed the meetings.

"If Judge Velasquez was overly blunt, then he apologizes, but the commission must understand the circumstances and the individual with whom he was dealing," the response states.

The case was one of several cited that involved the alternative sentencing program, in which defendants are given a choice of attending Alcoholics Anonymous meetings or conducting work alternatives to get their cases dismissed.

The commission faulted Velasquez for not making it clear that if the defendants didn't complete the programs, they would receive jail time, and for not informing them that they have the right to plead not guilty.

Velasquez responded that he advises defendants of their rights as a group at the beginning of a court session, but he conceded he failed to make clear in the cited cases the ramifications for failing to complete programs.

Velasquez was accused of establishing sentences in exhibition-of-speed cases based on the defendant's answers to questions about how it felt to "peel out." If the judge felt the defendants were being dishonest, he gave them harsher sentences.

The commission alleged Velasquez "apparently based the 'truth' of the answers on your personal experience engaging in similar conduct."

Velasquez's response said the questions were aimed at determining the defendant's demeanor and whether he was remorseful for his actions.

Murphy said special masters would soon be appointed in the case.

The public hearing has been tentatively scheduled for Aug. 21.

"If he mistakenly failed to advise these particular defendants that failure to complete the conditions would result in their return to the criminal justice system, then he was in error," the response reads.

Murphy said there are numerous examples of defendants who went through the alternative sentencing program who were advised that failure to complete the prescribed program would result in jail time.

"Judge Velasquez is not working from a script," he said. "People make linguistic errors all the time."