

Fresno Judge Petrucelli faces inquiry into possible ethical violation

By Pablo Lopez



Fresno County Superior Court Judge James Petrucelli and his wife Toby leave the state Court of Appeal building Monday in downtown Fresno during a break in his case. Petrucelli is being investigated for a possible ethical violation. PABLO LOPEZ — THE FRESNO BEE

-
-

A Fresno judge who has a reputation for being tough on criminals found himself in an awkward position Monday — defending himself against an ethical violation for getting an acquaintance facing domestic violence charges out of jail on his own recognizance.



“I made a mistake,” Judge James M. Petrucelli told a panel of three judges whose job is to determine whether he committed judicial misconduct. If the allegation is found true, the California Commission on Judicial Performance could remove him from the Fresno County Superior Court bench.



The hearing is being held at the 5th District Court of Appeal in downtown Fresno. Judge Ronni B. MacLaren of Alameda County, Judge Bradley L. Boeckman of Shasta County and Associate Justice Stuart R. Pollak of the 1st District Court of Appeal in San Francisco have been selected by the California Supreme Court to hear the evidence.

The hearing could last all week and it is open to the public.

Petrucelli, who has been a judge for nearly 17 years, is no stranger to the judicial commission: he was reprimanded in 2007 for engaging “in a pattern of making comments that are discourteous, sarcastic or demeaning to those appearing before him.”

In 2001 and 2002, Petrucelli received two private advisory letters reprimanding him for infringing on attorneys’ rights and raising his voice with county employees.

He’s in hot water again because he ordered correctional officers to release Fresno restaurant owner Jay Ghazal from jail on July 13, 2013. Ghazal was facing felony domestic violence charges, and his wife had an emergency protective order.

At the start of Monday’s hearing, to calm his nerves, Petrucelli, 65, held the hand of his wife Toby before spending most of the day on the witness stand.

In court papers, Petrucelli says he is willing to accept discipline short of the loss of his job.

On the witness stand, Petrucelli was grilled by San Diego attorney Gary Schons, a special examiner for the judicial commission. Petrucelli admitted that he helped Ghazal get out of jail after he got a text from his friend, Fresno lawyer Jonathan Netzer.

Though he said Ghazal is only an acquaintance, Petrucelli testified Ghazal had gone to Petrucelli’s home for a barbecue and that Petrucelli and his family liked to dine at Ghazal’s Brazilian steakhouse in Fig Garden Village called Samba Global Cuisine (Samba closed earlier this month).

Petrucelli said he also occasionally smokes cigars with Netzer and Ghazal at Cigars Limited at Fig Garden Village Shopping Center and that he and Netzer and Ghazal were members of the same club, called HBC, which stands for Having Big Cigars.

Petrucelli testified he didn’t think he had done anything wrong when he ordered Ghazal’s “honor release” from jail because Fresno County judges had done the same thing in the past. He told the panel he knew of four or five judges who had done it and never got in trouble. When pressed by Schons to name names, Petrucelli could only recall two retired judges having done that.

Petrucelli also told the panel he was unaware of a law that required a public hearing before a domestic violence suspect could be released on his own recognizance, or on reduced bail. In pleading ignorance, he said, “I don’t know of any judge that can keep up with all the laws.”

In hindsight, however, he admitted he had acted wrongly. .

In defending Petrucelli , San Francisco attorney Kathleen Ewins told the panel that the jail release was an isolated incident: “It was one act and only one act. He did not try to hide it.”

Case background

According to Petrucelli, a few days after Ghazal was released, Gary Hoff, the presiding judge at the time, confronted him about it. Petrucelli said he told Hoff that he thought it was fine to release Ghazal because judges had done it previously.

Hoff, however, told Petrucelli, “that was then, this is now” and told Petrucelli to report it to the judicial commission.

After an investigation, the commission wrote a complaint against Petrucelli in October that elaborated on the accusation:

Around 9 a.m. July 13, 2013, a Saturday, Petrucelli received the text message from Netzer, who told the judge that his friend, Ghazal, had been arrested on domestic violence charges.

“Do you have any suggestions for me before I head to jail? Thanks!” the text said.

Petrucelli testified that he called Netzer and learned that Ghazal had been in jail for several hours. Because Ghazal had not yet been booked, he could not be released on bail. He testified that he initially called the jail to ask about Ghazal’s booking status so Netzer could post bail and get Ghazal released.

Once jail officials verified Petrucelli was a judge, Petrucelli said he inquired to see whether he could get Ghazal an “honor release.” In fact, he said a jail official told him there was an honor release form that allowed it. Petrucelli testified that he was ready to leave his home and go to the jail and sign the form. But Petrucelli said jail officials told him over the telephone that he didn’t need to sign the form; Ghazal had to sign it.

After Ghazal’s release, Petrucelli said he attended a fundraiser that night. Ghazal and Netzer also were there. He said Ghazal asked him for advice about hiring a lawyer. Petrucelli said he would look into it. He testified that he called Fresno attorney Roger Nuttall on Ghazal’s behalf. Petrucelli then called Ghazal’s cellphone and told him to call the lawyer.

Petrucelli helps friend

Petrucelli told the panel he felt sorry for Ghazal because Netzer told him that Ghazal had been in a holding cell all night and was scared. “A citizen in our community was not treated well,” he testified. “I just wanted to help him out.”

He testified that he knew Ghazal and his wife had an “on-again, off-again relationship.” He said Netzer had told him that police arrested Ghazal after he grabbed his wife’s wrist during a verbal argument in which she told him she wanted to move to Southern California with their daughter.

As a judge, Petrucelli said he knows “good people sometimes make honest mistakes.” In the old days, he said, lawyers would often ask judges to release their clients from jail and all a judge had to do was call the jail. The practice was used to get well-known farmers and business people or their children out of jail on “honor release,” he said.

“It wasn’t done willy-nilly,” he said. “My understanding was that you had to have credibility with the judge.”

“It was a fairly common practice,” he said.

He decided to help Ghazal, he said, because he knew Ghazal was not a flight risk since he owned a restaurant. He also testified that Ghazal was not a danger to the community or his wife because he would not do anything to jeopardize custody involving his daughter. “He loves his daughter so it’s unlikely he would violate a court order,” Petrucelli told the panel.

But Petrucelli admitted that he never inquired to see if Ghazal had any prior domestic violence arrests, or what his bail would be or what prison sentence he would face if convicted. “I don’t know how to make that inquiry,” he told the panel.

Court records say Ghazal, 52, of Clovis, was initially charged with felony charges of corporal injury, false imprisonment, dissuading a witness from reporting a crime and disobeying a court order, court records say. Those charges required \$61,000 bail. He hired Nuttall to defend him.

In August, Ghazal pleaded no contest to two misdemeanor charges of false imprisonment and contempt of court. In exchange, prosecutors dismissed three felony charges. Judge Glenda Allen-Hill sentenced him to three years of probation, four hours of community service, and a 52-week batterer’s treatment program.

In defending Petrucelli, Ewins said the judge was a sheriff’s deputy for 15 years and a civil lawyer for nine years

before he was elected to the bench in 1998. She noted that Petrucelli's father was a farmer in Kerman and a constable and that Petrucelli was on the Kerman school board and a trustee of a fire district before being elected judge.

Petrucelli changed for the better after being criticized by the commission in 2007, she said, noting there hasn't been a complaint against him since then.

In helping Netzer, Petrucelli "thought this is something a judge could do," she said told the panel. "He knows now he shouldn't have done it."

Contact Pablo Lopez: plopez@fresnobee.com, (559) 441-6434 or [@beecourts](https://twitter.com/beecourts) on Twitter.

Copyright

© 2015 www.fresnobee.com and wire service sources. All Rights Reserved. <http://www.fresnobee.com>