

Judicial panel: Fresno judge committed misconduct

By Pablo Lopez



Judge James Petrucelli

FRESNO COUNTY SUPERIOR COURT — Courtesy photo

A Fresno County judge committed judicial misconduct when he ordered correctional officers to release from jail a friend facing spousal abuse charges, a panel of three judges has ruled.

The panel concluded that Judge James Petrucelli violated several of the Canons of Judicial Conduct and the California Penal Code.

But his “misconduct was not committed in bad faith and does not constitute willful misconduct in office within the meaning of the Constitution,” the panel said in a [16-page report](#) to the California Commission on Judicial Performance.

The ruling was a relief to Petrucelli, 65, and his attorney, Kathleen Ewins of San Francisco.

If the panel had ruled it was willful misconduct, the commission could have removed Petrucelli from the Fresno

County Superior Court bench — a job he has held for 17 years.

“Our hope is that the commission will issue a ‘censure’ as its chosen discipline, thereby permitting Judge Petrucelli to continue to serve Fresno County residents,” Ewins said this week.

The commission still has to accept the panel’s findings. It has scheduled July 8 public hearing at the U.S. Court of Appeals for the Ninth Circuit in San Francisco.

The 16-page “Findings of Fact and Conclusions of Law” came two months after Petrucelli and a nearly two dozen witnesses testified in Fresno before a panel of three judges — called “special masters” who are appointed by the California Supreme Court.

During the hearing in February, Petrucelli admitted he made a mistake when he ordered correctional officers to release Fresno restaurant owner Jay Ghazal from jail on July 13, 2013. At the time, Ghazal, 52, of Clovis, was facing several felony domestic violence charges, and his wife had an emergency protective order.

Typically, those type of charges carry \$61,000 bail.

Petrucelli testified he didn’t think he had done anything wrong when he ordered Ghazal’s “honor release” 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 gotten in trouble.

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, Petrucelli admitted he had acted wrongly.

In defending Petrucelli, 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.”

But this wasn’t the first time Petrucelli has been in trouble with the 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.

Court records say Ghazal was initially charged with corporal injury, false imprisonment, dissuading a witness from reporting a crime and disobeying a court order. In August last year, 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 their report, the special masters said Ghazal’s release from jail was not in dispute since Petrucelli “self-reported the incident.” Petrucelli also acknowledged that his actions were “unjudicial conduct” since Ghazal’s criminal case was not assigned to him.

“After listening to Petrucelli’s testimony and observing the judge’s demeanor, we accept the truth of his testimony that he believed he was acting properly when he authorized the OR release and at that time had no doubts or questions in his mind about the propriety of that action,” the report says.

In making that finding, the special masters said “we further find that there is no basis for the suggestion that Petrucelli ordered the OR release simply as a favor for a friend.”

Instead, the panel found that Petrucelli “was genuinely concerned that an individual was being held in jail for some 12 hours (and) unable to obtain release either on bail or on his own recognizance.”

The panel also noted that Petrucelli truly believed “honor releases” were acceptable since judges had done it previously without trouble. “Although the practice was utilized only occasionally in the past, and less frequently in recent years, the existence of this past practice was corroborated” by the testimony of local judges, sheriff officials, prosecutors and defense lawyers, the report says.

The corroborators included Judge Gary Hoff, former Judge Lenore Schreiber, retired Judges Robert Oliver and Ralph Nunez, retired Justice James Ardaiz, sheriff Capt. Robert Kandarian and defense lawyers Roger Nuttall and Daniel Bacon.

Ewin said she and Petrucelli “are grateful that the Supreme Court appointed special masters who took the time to objectively consider and analyze the evidence.”

She noted that one of the special masters, Judge Ronni B. MacLaren of Alameda County, “is a top judicial ethics guru in this state.” Another special master, Justice Stuart R. Pollak “is a respected jurist who spent 20 years on the San Francisco Superior Court bench before being appointed to the First District Court of Appeal,” Ewins said. The third special master, Judge Bradley L. Boeckman of Shasta County “added to the dynamic the perspective of a judge from a smaller county, who no doubt understands the unique challenges and issues that can arise,” she said.

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