

REQUEST FOR INVESTIGATION – COMPLAINT AGAINST A JUDGE

TO THE COMMISSION ON JUDICIAL FITNESS AND DISABILITY:

I, the undersigned complainant, believe that Judge Monica M. Herranz
of the (check one) justice court; small claims court; circuit court; court of appeals; or
supreme court, located in the city of Portland and county of __
Multnomah, Oregon, has committed misconduct.

GENERAL ALLEGATIONS

I also allege that the judge's misconduct involved one or more of the following
(check all that apply):

- The judge's plea of guilty or no contest or a finding of guilty to a crime punishable as a felony under Oregon or federal law or of any other crime that involves moral turpitude under such law.
- A disability that seriously interferes with the performance of judicial duties that is, or is likely to become, permanent.
- Willful misconduct in office or persistent failure to perform judicial duties.
- Habitual intemperance (addiction to alcohol or drugs).
- Conduct prejudicial to the administration of justice that brings the judicial office into disrepute.
- A violation of the Oregon Code of Judicial Conduct (see attached code).
- Other.

In support of these allegations, I submit the attached statement of facts and request that the commission take appropriate action to investigate the judge's conduct.

Complainant's name: William Currier Telephone: () _____

Street Address: 25375 SW Parkway Ave, Suite 200

City: Wilsonville State Oregon Zip Code 97070

Complainant's Signature: *William E Currier* Date: 04/11/2017

STATEMENT OF FACTS

1. When and where did this happen?

Date(s): 1/27/2017 Time: 2:53pm-3:15pm Location: 1021 SW 4th Ave, Portland, OR 97204

2. If your information arises out of a court case, please answer these questions:

What is the name and number of the case?

Case name: OR v. Diddier Pacheco-Salazar Case no.: 17CR00067

What kind of case is it?

- criminal
- domestic relations
- small claims
- probate
- civil
- landlord/tenant
- juvenile
- other _____

What is your relationship to the case?

- plaintiff/petitioner
- defendant/respondent
- attorney for _____
- witness for _____
- other (specify) Resident of the State of Oregon

If you were represented by an attorney in this matter at the time of the conduct of the judge, please identify the attorney:

Name: _____

Address: _____

Phone:() _____

Identify any other attorney(s) who represented you or any other person involved in the case:

Name: John Edward Schlosser
Address: 522 SW 5th Ave, Ste. 705
Portland, OR 97209
Phone:() 503-808-9008
Represented: Diddier Pacheco-Salazar

3. List documents that help support your information that the judge has engaged in misconduct or has a disability, noting which ones you have attached:

See attached letter with appendices...

4. Identify, if you can, any other witnesses to the conduct of the judge:

Name: See attached letter with appendices...
Address: _____

Phone:() _____ () _____

5. Specify below the details of what the judge did that you think constitutes misconduct or indicates disability (please type or print legibly; attach additional paper if necessary).

See attached letter with appendices...

**INSTRUCTIONS FOR FILING A COMPLAINT WITH
THE COMMISSION ON JUDICIAL FITNESS AND DISABILITY**

These instructions explain how to file a complaint with the Commission on Judicial Fitness and Disability using the attached form. If additional forms are needed, you can copy this form or obtain more from the Commission office.

1. Before filing a complaint against a judge, you should read the Code of Judicial Conduct carefully. The Code will give you a good idea of the Commission's jurisdiction and authority. Please note that the Commission does not have the authority to review a judge's decision and cannot take action against a judge who acts in good faith in making findings of fact or applying the law. The Commission does not have jurisdiction over arbitrators, mediators, federal court judges, municipal court judges, or administrative law judges.
2. If your complaint falls within the Commission's jurisdiction, you may use the attached form to file an official complaint against a judge. Complete the form by typing or printing all of the information requested on both pages. Use separate forms if you wish to file a complaint against more than one judge.
3. Make sure that the information in the general allegations section is complete and accurate. Explain the circumstances that led to your complaint in the statement of facts section. Be as specific as possible in describing dates, places, and witnesses to the actions of the judge. List all of the relevant events in chronological order. You may use additional sheets, if necessary. Please attach evidence supporting your statements, including, for example, a tape recording or transcript of the hearing or trial involved in your complaint.
4. Sign the complaint in the space provided and make a copy of the complaint for your records.
5. Send the original complaint, including a tape recording or transcript, to the Commission at the address shown below. Please call or e-mail if you have any questions about these procedures.

**NOTE: PLEASE DO NOT SEND YOUR COMPLAINT BY
REGISTERED OR CERTIFIED MAIL.**

Commission on Judicial Fitness and Disability
P.O. Box 1130
Beaverton, OR 97075-1130
503.626.6776

ARE COMMISSION RECORDS CONFIDENTIAL?

Yes. Oregon Revised Statutes 1.440 provides for the confidentiality of Commission files except when formal charges are filed against a judge. The Commission may request a waiver of confidentiality from you in order to question the judge concerning the complaint.

April 11, 2017

TO: Commission on Judicial Fitness and Disability
ATTN: Judicial Complaints
P.O. Box 1130
Beaverton, OR 97075-1130

RE: Judicial Complaint against Judge Monica Herranz

Dear: Complaint Administrator,

I ask you to investigate the following actions of Judge Monica Herranz which appear to violate State and Federal Law, the Code of Judicial Conduct, local court rules, and the Oregon Rules of Professional Conduct. Based upon news reports, interviews and information from people familiar with the courthouse, court processes, review of the laws, and the facts as best I can determine, it appears that a number of violations occurred.

On January 27th, 2017 Mr. Diddier Pacheco Salazar appeared before Judge Monica M. Herranz at the Multnomah County Courthouse in Portland, Oregon.

Judge Herranz is listed as a "Criminal and Civil Referee", on the OJD Website, and has an Oregon State Bar number of "873471". She also is a member of the Board of Directors for the Oregon Hispanic Bar Association.

Mr. Salazar is an illegal alien, 22 years of age, a national of Mexico, convicted of a crime (and now under due-process deportation proceedings). Due to the acts of this Judge and her Staff, Mr. Salazar was free to roam the streets without arrest for two more weeks (sic: until he was captured, subsequent to his next scheduled hearing). Judge Herranz appears to have intentionally aided and assisted Mr. Salazar in escaping law enforcement personnel. A judge shall not commit a criminal act. OCJC Rule 2.1(B).

At the January 27th appearance, Mr. Salazar pleaded guilty to Driving Under the Influence - a serious public-safety offense. After his court appearance was completed, Mr. Salazar [and his attorney] was allowed by Judge Herranz [and her staff] to exit through her chambers, and out of the Courthouse building.

It was reported, by U.S. Attorney Billy Williams, that Judge Herranz willfully and knowingly let Mr. Salazar leave through her private entrance. That she did so after her staff informed her that Federal Agents, from the US Department of Immigration

and Customs Enforcement (ICE), were waiting to arrest Mr. Salazar. Mr. Williams noted that this planned arrest was in relation to a due-process deportation action. Judge Herranz used her position as a Judge to give special access to a criminal defendant to advance her private interests in helping the criminal defendant to evade and escape the ICE agents who had been said to be waiting to arrest Mr. Salazar. A judge shall not use the judicial position to gain personal advantage for any other person. OCJC Rule 2.2.

This story has made national news, and has been well investigated and documented - that said, evidence of the crime is public, and further details are easily available upon proper investigation. A judge shall uphold the law and perform all duties of the judicial office... without bias or prejudice. OCJC Rule 3.3(A).

Bar members and Judicial Officials in Oregon are held to certain standards, including misconduct. The rules governing such standards are codified under the "Oregon Rules of Judicial Conduct" (as well as other areas of law).

As such, Judges are barred from committing crimes while both on and off-duty, and can be sanctioned (up to and including suspension, disbarment, and defrocking).

While a Judge is typically immune from civil monetary liability for "official actions of the bench" [e.g. the "Bivens" standard] this immunity does not extend to acts that willfully violate the Law (local, state, or federal). It also does not negate or exempt them from following the Code of Judicial Conduct or the Rules of Professional Responsibility.

Further, no criminal charge or (related conviction) is required to administer sanctions, up to and including disbarment, against a Judge for misconduct. [ORS 9.527 (7)]. At issue, here, is the open and purposeful commission of a felony crime by Judge Herranz, while on duty, which constitutes gross misconduct under the Code of Judicial Conduct, and likely a crime.

Federal Law [8 USC § 1324] - harboring, aiding and abetting, concealment, conspiracy, transportation; and obstruction of justice - by a sitting Judge, and OSB member.

Whether on (or off) duty, commission of a felony crime is an issue that warrants both a bar complaint and a criminal investigation. Her actions were clearly on-duty in the courtroom. I will be reaching out to the US Attorney's Office regarding the criminal portion of this complaint.

I have included citations from the US Department of Justice, Office of the US Attorneys, Criminal Resource Manual (CRM), 2017 - "Appendix A". I have further included a copy of the relevant section of 8 USC § 1324 - "Appendix B".

This is a heinous abuse of Judicial powers, and far exceeds the scope of 'official duties', and extends to the commission of a felony crime (and conspiracy with others to commit such a crime) under the color of authorities.

The facts herein are clear - Judge Herranz purposely allowed Mr. Salazar to exit through this area for the specific purpose of avoiding detection and arrest, and conspired with staff in like kind to do so.

Now, of course the excuse will probably be that a public official in Oregon may not *assist* with Immigration *Enforcement*. However, it must be clearly noted that this was not *assisting*, this was the exact opposite -- facilitating the escape of an illegal alien (as noted above). The circuit court's do not fall under the jurisdiction and control of the executive branch, thus no proclamation of sanctuary status can exempt Judges from following State or Federal law, nor rules of professional conduct. A judge may not permit social, political or other interests to improperly influence the judge's conduct. OCJC Rule 3.4(B).

I urgently request that you investigate and hold a hearing on the merits for sanctions, and consider sanctions up to and including disbarment and removal. By failing to do this, you simply set an example that Oregon Judge's may act scofflaw and need not abide by any reasonable standards of ethics, morals, or impunity; and in stark contrast to public safety.

In short, the criminal actions of this Judge are gross contraries to fitness and general conduct of a judicial official.

Cordially,

William Currier

Full Name

25375 SW Parkway Ave

Address 1

Suite 200

Address 2

Wilsonville, OR 97070

City, State, Zip

(503) 595-8881

Phone Number



Signature

Appendix A: US Department of Justice, US Office of Attorneys: “Criminal Resource Manual”, § 1907.

1907. Title 8, U.S.C. 1324(a) Offenses

Title 8, U.S.C. § 1324(a) defines several distinct offenses related to aliens. Subsection 1324(a)(1)(i)-(v) prohibits alien smuggling, domestic transportation of unauthorized aliens, concealing or harboring unauthorized aliens, encouraging or inducing unauthorized aliens to enter the United States, and engaging in a conspiracy or aiding and abetting any of the preceding acts. Subsection 1324(a)(2) prohibits bringing or attempting to bring unauthorized aliens to the United States in any manner whatsoever, even at a designated port of entry. Subsection 1324(a)(3).

Alien Smuggling -- Subsection 1324(a)(1)(A)(i) makes it an offense for any person who -- knowing that a person is an alien, to bring to or attempts to bring to the United States in any manner whatsoever such person at a place other than a designated port of entry or place other than as designated by the Commissioner, regardless of whether such alien has received prior official authorization to come to, enter, or reside in the United States and regardless of any future official action which may be taken with respect to such alien.

Domestic Transporting -- Subsection 1324(a)(1)(A)(ii) makes it an offense for any person who -- knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, transports, or moves or attempts to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law.

Harboring -- Subsection 1324(a)(1)(A)(iii) makes it an offense for any person who -- knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceals harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation.

Encouraging/Inducing -- Subsection 1324(a)(1)(A)(iv) makes it an offense for any person who -- encourages or induces an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law.

Conspiracy/Aiding or Abetting -- Subsection 1324(a)(1)(A)(v) expressly makes it an offense to engage in a conspiracy to commit or aid or abet the commission of the foregoing offenses.

Bringing Aliens to the United States -- Subsection 1324(a)(2) makes it an offense for any person who -- knowing or in reckless disregard of the fact that an alien has not received prior authorization to come to, enter, or reside in the United States, to bring to or attempts to bring to the United States in any manner whatsoever, such alien, regardless of any official action which may later be taken with respect to such alien.

The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), enacted on September 30, 1996, added a new 8 U.S.C. § 1324(a)(3)(A) which makes it an offense for any person, during any 12-month period, to knowingly hire at least 10 individuals with actual knowledge that these individuals are unauthorized aliens. *See* this [Manual at 1908](#) (unlawful employment of aliens).

Unit of Prosecution -- With regard to offenses defined in subsections 1324(a)(1)(A)(i)-(v), (alien smuggling, domestic transporting, harboring, encouraging/inducing, or conspiracy/aiding or abetting) each alien with respect to whom a violation occurs constitutes a unit of prosecution. Prior to enactment of the IIRIRA, the unit of prosecution for violations of 8 U.S.C. § 1324(a)(2) was each transaction, regardless of the number of aliens involved. However, the unit of prosecution is now based on each alien in respect to whom a violation occurs.

Knowledge -- Prosecutions for alien smuggling, 8 U.S.C. § 1324(a)(1)(A)(i) require proof that defendant knew that the person brought to the United States was an alien. With regard to the other violations in 8 U.S.C. § 1324(a), proof of knowledge or reckless disregard of alienage is sufficient.

Penalties -- The basic statutory maximum penalty for violating 8 U.S.C. § 1324(a)(1)(i) and (v)(I) (alien smuggling and conspiracy) is a fine under title 18, imprisonment for not more than 10 years, or both. With regard to violations of 8 U.S.C. § 1324(a)(1)(ii)-(iv) and (v)(ii), domestic transportation, harboring, encouraging/inducing, or aiding/abetting, the basic statutory maximum term of imprisonment is 5 years, unless the offense was committed for commercial advantage or private financial gain, in which case the maximum term of imprisonment is 10 years. In addition, significant enhanced penalties are provided for in violations of 8 U.S.C. § 1324(a)(1) involving serious bodily injury or placing life in jeopardy. Moreover, if the violation results in the death of any person, the defendant may be punished by death or by imprisonment for any term of years. The basic penalty for a violation of subsection 1324(a)(2) is a fine under title 18, imprisonment for not more than one year, or both, 8 U.S.C. § 1324(a)(2)(A). Enhanced penalties are provided for violations involving bringing in criminal aliens, 8 U.S.C. § 1324(a)(2)(B)(i), offenses done for commercial advantage or private financial gain, 8 U.S.C. § 1324(a)(2)(B)(ii), and violations where the alien is not presented to an immigration officer immediately upon arrival, 8 U.S.C. § 1324(a)(2)(B)(iii). A mandatory minimum three year term of imprisonment applies to first or second violations of § 1324(a)(2)(B)(i) or (B)(ii). Further enhanced punishment is provided for third or subsequent offenses.

COMMENT: Further discussion of offenses defined in 8 U.S.C. § 1324(a) is set forth in Chapter 3 of *Immigration Law*, published as part of the Office of Legal Education's Litigation Series, and as part of the USABook computer library.

Appendix B: United States Code, Title 18, Section 1324 (8 USC 1324): “Bringing in and harboring certain aliens.”

(a) Criminal penalties

(1)

(A) Any person who—

- (i) knowing that a person is an alien, brings to or attempts to bring to the United States in any manner whatsoever such person at a place other than a designated port of entry or place other than as designated by the Commissioner, regardless of whether such alien has received prior official authorization to come to, enter, or reside in the United States and regardless of any future official action which may be taken with respect to such alien;
- (ii) knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, transports, or moves or attempts to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law;
- (iii) knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation;
- (iv) encourages or induces an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law; or

(v)

(I) engages in any conspiracy to commit any of the preceding acts, or

(II) aids or abets the commission of any of the preceding acts, shall be punished as provided in subparagraph (B).

(B) A person who violates subparagraph (A) shall, for each alien in respect to whom such a violation occurs—

- (i) in the case of a violation of subparagraph (A)(i) or (v)(I) or in the case of a violation of subparagraph (A)(ii), (iii), or (iv) in which the offense was done for the purpose of commercial advantage or private financial gain, be fined under title 18, imprisoned not more than 10 years, or both;

- (ii) in the case of a violation of subparagraph (A)(ii), (iii), (iv), or (v)(II), be fined under title 18, imprisoned not more than 5 years, or both;
- (iii) in the case of a violation of subparagraph (A)(i), (ii), (iii), (iv), or (v) during and in relation to which the person causes serious bodily injury (as defined in [section 1365 of title 18](#)) to, or places in jeopardy the life of, any person, be fined under title 18, imprisoned not more than 20 years, or both; and
- (iv) in the case of a violation of subparagraph (A)(i), (ii), (iii), (iv), or (v) resulting in the death of any person, be punished by death or imprisoned for any term of years or for life, fined under title 18, or both.

Additional witnesses to this potential crime by the judge

(answers to item #4 under Statement of Facts in the complaint):

1. Diddier Pacheco-Salazar, the defendant in the court hearing
2. Courtney Acosta-Graves, translator assisting Diddier Pacheco-Salazar
3. An courtroom stenographer (not named on the recording)
4. An unknown court staffer who told the defendant that his ride was there (could be the same staffer who was originally going to show him through the public entrance to take him to his contact/driver).
5. An unknown staff member(s) who is reported by KPTV to have called the ICE agents "evil" at the time. It would seem that this staff member(s) may have conspired with the judge to help Pacheco-Salazar evade law enforcement.

Media reports of possible misconduct

NY Daily News:

- U.S. Attorney for Oregon, Billy Williams, was quoted saying "I was troubled because, on the face of it, what I heard sounded like potential criminal law violations and/or ethical violations" and "Generally, we're talking about obstruction of justice."
- Pacheco-Salazar had previously been deported, according to CNN
 - "Every courtroom in the facility has three doors, according to CNN: the public entrance, the one the judge uses, and one that is used to ship inmates to jail."
 - "There are common practices, but no official rules regarding who should use which door", according to local Court Administrator Barbara Marcille.
- "The top federal prosecutor in the state finds it troubling that Judge Herranz allowed this to happen. Herranz is on the **Oregon Hispanic Bar Association** board of directors, according to Willamette Week."

It is a matter of public record (according to the media) that Diddier Pacheco-Salazar did *not* use the public or jail doors, leading to the conclusion that he had to have used the judge's door, which he could only do with help from her or staff.

Source: <http://www.nydailynews.com/news/crime/ore-judge-probed-undocumented-immigrant-eludes-ice-agents-article-1.2987800>

PJ Media:

- "Salazar was arrested January 1 [I guess not December 31st, as I said over the phone, but he was clearly pulled over & arrested on either the night of Dec. 31st or early morning of Jan. 1] and faced his first trial on January 3, at which he pleaded not guilty. At a follow-up hearing on January 27, he and his court-appointed attorney, John Schlosser, changed his plea to guilty in exchange for entry into the state alcohol diversion program."
- The incident came to light when U.S. Attorney Billy Williams was told by the ICE agents how Salazar had escaped. In interviews with local media (Source: <http://www.dailymail.co.uk/news/article-4277332/Judge-accused-helping-illegal-immigrant-escape-court.html>), Williams insists that the only logical explanation is that "Herranz or a member of her staff helped Salazar to leave through another door."
- "By process of elimination, if Salazar did not leave through the public door, and was presumably unable to use the door dedicated to inmates and law enforcement, the only other option is that he left via the private judge entrance."

Source: <https://pjmedia.com/trending/2017/03/07/portland-judge-helped-illegal-alien-escape-ice-through-her-courtroom-door-witnesses-say>

Willamette Week:

<http://www.wweek.com/news/2017/02/27/a-multnomah-county-judge-allegedly-helped-an-undocumented-immigrant-escape-ice-through-her-chambers>

<http://www.wweek.com/news/2017/02/28/u-s-attorney-and-ice-agreed-not-to-pursue-case-against-multnomah-county-court-officer/#comment-3190006858>

KPTV (Follow-up by):

- In the linked video below at mark 1:15. An unnamed court staffer noticed ICE agents in the hall and informed the judge of their presence, calling the ICE agent "evil". The courtroom doors were then closed and the DUI suspect never came out.

<http://www.kptv.com/story/34630538/local-judge-being-investigated-for-possibly-helping-illegal-immigrant-escape-ice-agents>

Oregonian editorial against the actions of Judge Herranz:

http://www.oregonlive.com/opinion/index.ssf/2017/03/amid_political_turmoil_justice.html