Judicial Discipline & Disability Commission

JUDGE JOYCE WILLIAMS WARREN
CHAIRMAN

323 Center Street • Suite 1060
Little Rock, AR 72201
(501) 682-1050 • Fax: (501) 682-1049
E-Mail: jddc@arkansas.gov

DAVID J. SACHAR
EXECUTIVE DIRECTOR

PRESS RELEASE

POINT OF CONTACT: EMILY WHITE

PHONE: 501-682-1050

FOR IMMEDIATE RELEASE

November 18, 2016

The Arkansas Judicial Discipline and Disability Commission today announced that an agreed Letter of Informal Adjustment has been issued to Sixth Judicial District Circuit Judge Mary McGowan, of Pulaski County, in Commission case #15-258. A copy of the Letter of Informal Adjustment against Judge McGowan follows this press release.

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November 18, 2016

Honorable Mary Spencer McGowan
Pulaski County Circuit Court – Ninth Division
401 West Markham, Suite 240
Little Rock, AR 72201

RE: JDDC Case No. 15-258

LETTER OF INFORMAL ADJUSTMENT

Dear Judge McGowan:

You were alleged to have committed violations of the Code of Judicial Conduct in the above referenced case. The following facts comprise the violations which you agree are no longer alleged but proven:

UNDISPUTED FACTS:

1) Judge Mary Spencer McGowan (*hereinafter referred to as "McGowan"*) is a full time Circuit Court Judge for the Sixth Judicial District of Pulaski and Perry Counties in Arkansas.
2) Samuel Perroni (*hereinafter referred to as "Perroni"*) is an attorney, licensed to practice law in Arkansas and was a party to the action of *Samuel A. Perroni v. David Stewart, Executive Director of the Arkansas Judicial Discipline and Disability Commission and The Arkansas Judicial Discipline and Disability Commission,* Pulaski County Circuit Court Case No. 60CV2012-2715.
3) The above referenced case was fully submitted to the Court on December 8, 2014.
4) McGowan made her ruling on the matter on January 26, 2016.
5) Perroni filed a Notice of Appeal on February 22, 2016.
6) McGowan admits the delayed ruling on the matter.
7) McGowan consistently listed the case on her Administrative Order No. 3 filings since the December 2014 hearing.
8) McGowan's delay as outlined in paragraphs one (1) through seven (7) above violated Canons 1 and 2, Rules 1.1, 1.2, 2.1, 2.5 and 2.7.
9) McGowan receives an informal adjustment for this conduct.

RELEVANT AUTHORITY:

The Judicial Discipline and Disability Commission ("JDDC") determined, and you agree, that the above described behavior violates the following sections of the Code of Judicial Conduct (*hereinafter referred to as the "Code"*):

CANON 1
A JUDGE SHALL UPHOLD AND PROMOTE THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY OF THE JUDICIARY, AND SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY.

RULE 1.1 Compliance with the Law

A judge shall comply with the law, including the Arkansas Code of Judicial Conduct.

RULE 1.2 Promoting Confidence in the Judiciary

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

CANON 2
A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY, COMPETENTLY, AND DILIGENTLY.

Rule 2.1 Giving Precedence to the Duties of Judicial Office

The duties of judicial office, as prescribed by law, shall take precedence over all of a judge's personal and extrajudicial activities.

Rule 2.5 Competence, Diligence, and Cooperation

A judge shall perform judicial and administrative duties, competently, and diligently.

> Comment to Rule 2.5: [1] Competence in the performance of judicial duties requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary to perform a judge's responsibility to judicial office.
>
> [2] A judge should seek the necessary docket time, court staff, expertise and resources to discharge all adjudicative and administrative responsibilities.

Rule 2.7 Responsibility to Decide

A judge shall hear and decide matters assigned to the judge, except when disqualification is required by Rule 2.11 or other law.

CONCLUSION:

You have agreed that an informal adjustment is the appropriate sanction for your actions in JDDC Case #15-258. Your willingness to accept that your actions were in violation of the Code and your commitment to be more aware of these issues in the future, have led the JDDC to refrain from recommending a more serious sanction, public charges or a public disciplinary hearing in this case. An informal adjustment is a sanction for conduct that is cause for discipline but falls short of conduct that is cause for formal discipline. The purpose is to inform the respondent judge of an issue of concern, remind a justice or judge of ethical obligations, recommend changes in behavior or procedures or suggest an appearance of impropriety that could be avoided.

Your role as a judge takes precedence over all other roles. The JDDC considered the nature of the underlying litigation and found it to be worthy of careful judicial deliberation. However, the JDDC also

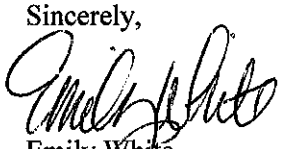
considered JDDC #08-290, which resulted in a Reprimand for seven instances of delay. Your willingness to make admissions and your promise to avoid such behavior in the future resolved this matter without further proceedings.

If you have additional alleged violations of the Code, the JDDC may initiate a new investigation under the Rules of Procedure of the Judicial Discipline & Disability Commission and this case may be considered.

In view of these circumstances, it is the judgment of the JDDC that your conduct is hereby informally adjusted, for Case #15-258. This public sanction constitutes adequate discipline and no further action is warranted.

This Commission action is public information.

Sincerely,



Emily White
Deputy Executive Director