

Respondent states that he was walking around the store, spoke with and shook hands with another shopper. However, he claims to not specifically recall putting these items in his pockets.

3. The respondent went through the check out counter of the store and paid for the brass door sleeve. Before leaving the store he failed to pay for the miniature drill bits and the two pencil sharpeners. As the respondent exited the store a sensor alarm went off. Respondent does not recall hearing the alarm being sounded although store employees stated that when the sensor went off, the alarm was loud and there was a flashing light. Respondent was requested to return to the store by management. A member of management passed the bag containing the brass door sleeve through the sensor alarm. The alarm did not go off. Respondent then placed the two pencil sharpeners on the register desk. After being informed of the charge for the pencil sharpeners, respondent declined to purchase these items.

4. Respondent exited the store a second time, and again caused the sensor alarm to go off due to the miniature drill bits being in his front coat pocket. Another member of the store's management went into the parking lot and asked respondent to return to the store. In the store respondent removed his jacket and identified the miniature drill bits in his coat pocket. The respondent does not remember hearing the sensor alarms of the store sounding, nor seeing the flashing lights as he exited the store, although store employees of McCoy's Lumber Company confirmed the sound was very loud throughout the store.

5. The total value of the unpaid for items found on respondent was approximately \$10.76. Respondent was arrested, taken to the Pine Bluff city jail and issued a citation for shoplifting.

6. Subsequently the Jefferson County Municipal Court found the respondent guilty of theft of property by shoplifting. The respondent appealed to the circuit court. The special prosecuting attorney's motion to nolle prosequi the shoplifting charges was granted. The special prosecuting attorney's brief in support of the motion to nolle prosequi argued there was insufficient evidence to convict respondent at trial.

7. On December 21, 1999, pursuant to an agreement with the Judicial Discipline & Disability Commission, respondent recused himself from presiding over all criminal cases pending resolution of the disciplinary matters before the Judicial Discipline and Disability Commission. Respondent will resume presiding over criminal cases during the week of September 25, 2000.

8. Respondent was notified of this complaint by letter in December 1999. After appropriate notice, respondent and his counsel attended a probable cause hearing before the Commission on September 15, 2000. Respondent and his counsel waived respondent's right to a Formal Disciplinary Hearing.

II. FINAL DECISION AND CONCLUSIONS OF LAW

9. A judge is required to not only avoid impropriety but also the appearance of impropriety in all activities. A judge is required to respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity of the judiciary. Public confidence in the judiciary is eroded by irresponsible or improper conduct by a judge. A judge must expect to be the subject of constant public scrutiny. The test for appearance of impropriety is whether a judge's conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired.

10. Respondent is aware that his conduct fell below that required of a judge. His actions, as found in this incident, created the appearance of an impropriety, and also impaired public confidence in the integrity of the judiciary.

11. The above constitutes violation of A.C.A. 16-10-410 (b)(4) by the commission of conduct that is prejudicial to the administration of justice; and violation A.C.A. 16-10-410 (b)(5), willful violation of the Code of Judicial Conduct, specifically Canons 1 and 2A of the Code of Judicial Conduct.

ORDER

It is therefore ordered that the respondent Judge Berlin Jones be reprimanded for the foregoing conduct.

Respondent is hereby so reprimanded. It is expected that this type of conduct will not be repeated.

By direction of the Judicial Discipline and Disability Commission

September 21, 2000 _____

Date

James A. Badami
Executive Director and Attorney
for the Judicial Discipline & Disability Commission

Certificate of Service

The undersigned attorney states that he has on this 21st day of September 2000, served a copy of the foregoing Final Decision and Order by depositing a copy of the same in the United States mail properly addressed and with sufficient postage prepaid to insure delivery addressed as follows:

R.S. McCullough
McCullough Law Firm
P.O. Box 251963
Little Rock, AR 72225

James A. Badami, #93099

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