



Judicial Discipline & Disability Commission

JUDGE WILLIAM STOREY
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DAVID A. STEWART
EXECUTIVE DIRECTOR

P R E S S R E L E A S E

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FOR IMMEDIATE RELEASE

APRIL 27, 2012

Today the Judicial Discipline & Disability Commission issued agreed public sanctions against two Arkansas judges. The letters of sanction follow this press release and resolve a total of five (5) case files that were pending before the Commission.

Judge Brad Karren, Rogers Division, Benton County District Court, has been issued an agreed Letter of Reprimand in Commission cases 11-236 and 11-239.

Judge Edwin Keaton, 3rd Division Circuit Court, 13th Judicial District, has been issued an agreed Letter of Censure in Commission cases 11-201, 11-206 and 11-265.

A copy of the formal disciplinary letters against Judge Karren and Judge Keaton follow this press release.



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DAVID A. STEWART
EXECUTIVE DIRECTOR

April 27, 2012

Honorable Brad Karren
Benton County District Court, Rogers Division
1901 South Dixieland Road
Rogers, AR 72758

Re: Letter of Reprimand in cases #11-236 and #11-239

Dear Judge Karren:

You are alleged to have committed violations of the Code of Judicial Conduct in the above referenced cases. These comprise the following facts which you have agreed are true:

- A. On March 24, 2011 Judge Brad Karren sat as a Special Circuit Court Judge and handled the Juvenile Court docket. Judge Karren is the full-time District Court Judge for Benton County, Rogers Division.
- B. On that day, Sandra Tedford, who was not scheduled to be in court, appeared in open court to ask the Judge to help her with an issue concerning the detention of her juvenile child. After communicating with Ms. Tedford, Judge Karren ordered the detention facility to give access to the family of the juvenile. This order is also noted to have a handwritten addendum, written by the Judge, which says "immediately!" and is underlined three times.
- C. Ms. Tedford is one of the Judge's employees in Rogers District Court.
- D. The Judge agrees that he had *ex parte* communication with Ms. Tedford and the juvenile's father (i.e. without a prosecutor present and without notification to the prosecutor's office). Judge Karren agrees that he permitted the parents to discuss issues with him about gaining access to visit their child in the detention center. They told Judge Karren that they were concerned that the juvenile may be at risk of suffering an anxiety attack, and that they desired immediate access to the detention center to visit the juvenile.

- E. Jail employees previously had contact with Ms. Tedford, the mother of the detained juvenile. She had requested a visit with her child. The standard visitation policy was explained to her. Due to the general policy they would not be able to visit on the first afternoon that the juvenile was detained. Ms. Tedford left the detention center and returned shortly with a short, simple order signed by Judge Karren referenced in paragraph "B" (above).
- F. This was unusual and gave the appearance of affording special privileges to one family that is not afforded to others. Judge Karren agrees that his visitation order did not follow the standard juvenile detention policy.
- G. The Juvenile Detention Center Director then went to talk with Judge Karren wherein the judge confirmed that he had, in fact, written "immediately!" on the order. Judge Karren confirms that he apologized to the Director when they emerged from a private conversation in chambers for any inconvenience his order may have caused.
- H. Judge Karren told one of the witnesses that all he was trying to do was "help the mother out." The juvenile refused to meet with his family and the visitation was not conducted that day.
- I. On May 4, 2010, C. Michael Trudo ("Michael") was arrested after confessing to rapes of his half-sister and step-sister. Later that evening Judge Karren received a phone call from Michael's father, Christopher R. Trudo ("Chris") informing the Judge that Michael had been arrested. Chris asked the Judge to represent his son Michael, the defendant. Judge Karren had previously represented Chris in a custody matter in 2004 and in a quiet title action in 2007. The previous custody matter was concerning one of the victims in the rape allegations against Michael.
- J. The Judge declined to represent the son and described his current situation to Chris as being a full-time Judge who could not take cases.
- K. The normal rotation schedule for bond hearings provided that another judge was already scheduled to handle Michael's bond hearing the next morning, and Judge Karren informed Chris of this fact. Judge Karren agreed to follow up with the jail and "remind them" to have the paperwork ready for the next morning in order to accommodate a timely determination of bond in the matter. The Judge did, in fact, call the jail and was "assured" by the officer on duty that the paperwork would be done in the morning for the bond hearing.
- L. Judge Karren was contacted the next morning by Chris who was "expressing an even greater sense of urgency". Judge Karren was informed, *ex parte* (i.e.

without a prosecutor present) that the jail had not provided the paperwork and a bond had not been set. Judge Karren also heard Chris explain some of the facts and circumstances about Michael's case.

- M. Judge Karren contacted the detective in charge of Michael's case. The Judge went to the jail, later in the day, to determine what was in the file and to see if the case was one of "exclusive juvenile court jurisdiction". After reviewing the file and based on his own investigation, the Judge was satisfied that the case was not exclusively a juvenile case.
- N. Judge Karren had the jailer bring Michael over for a bond hearing even though there was no imminent need to have such a hearing. Judge Karren was not the assigned judge for bond hearings that day and did not handle any other bond hearings.
- O. Judge Karren set a bond of \$7,500 in the case. The prosecutors had recommended a \$100,000 bond based on the severity of the allegations. The Circuit Court Judge subsequently set the bond at \$35,000 with the prosecutor still requesting \$100,000. The defendant was released after securing a bond of \$35,000.
- P. The mother of one of the alleged rape victims was upset that Michael was released on such a low bond. She was especially concerned about the fact that Judge Karren, before taking the bench, had represented Chris in a custody dispute involving the other alleged rape victim.
- Q. Judge Karren accepts and agrees that his involvement caused the victims' mother to have an unnecessary distrust of the judicial system. Subsequently a local newspaper quoted the Judge as saying no one "would have given a crap" if he had followed the prosecutor's recommendation on the bond. Michael subsequently pled guilty to rape and received a 13 year prison sentence.

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 (the "Code"):

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.

RULE 1.3 Avoiding Abuse of the Prestige of Judicial Office

A judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so.

RULE 2.4 External Influences on Judicial Conduct

...

(B) A judge shall not permit family, social, political, financial, or other interests or relationships to influence the judge's judicial conduct or judgment.

RULE 2.9 Ex Parte Communications

(A) A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending or impending matter, except as follows:

...

(C) A judge shall not investigate facts in a matter independently, and shall consider only the evidence presented and any facts that may properly be judicially noticed.

RULE 2.11 Disqualification

(A) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to the following circumstances:

(1) The judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of facts that are in dispute in the proceeding.

You have agreed that a reprimand is the appropriate sanction. Your willingness to accept that your actions were in violation of the Code and your commitment to be more aware of the appearance of impropriety in the future, have led the JDDC to refrain from recommending public charges or a public disciplinary hearing in these two cases.

If you violate the terms below or have additional violations of the Code, the JDDC may initiate a new investigation under the Rules of Procedure of the Judicial Discipline & Disability Commission and take into consideration the fact that you have had these two cases in which the allegations have been substantiated and agreed as Code violations.

The Reprimand includes the following agreed conditions:

You shall review your docket for any possible conflicts and follow Rule 2.11 as far as notification and disqualification, if necessary.

You shall refrain from issuing orders in cases in which your employees, or their immediate family, are parties.


You shall not entertain *ex parte* communications.

You shall not interfere in cases not assigned to you or otherwise engage in conduct that interferes with the orderly administration of justice by law enforcement offices.

In view of these circumstances, it is the judgment of the JDDC that you are hereby reprimanded. This public reprimand constitutes adequate discipline, and no further action, other than the remedial measures and conditions described above, is warranted. Further discipline may occur if the JDDC finds you committed additional violations of the Code.

This Commission action is public information.

Sincerely,

A handwritten signature in cursive script that reads "David A. Stewart". The signature is written in black ink and is positioned above the printed name.

David A. Stewart
Executive Director



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DAVID A. STEWART
EXECUTIVE DIRECTOR

April 27, 2012

Honorable Edwin Keaton
3rd Division Circuit Court, 13th Judicial District
145 Jefferson Street SW
Camden, AR 71701

Letter of Censure #11-201, #11-206, #11-265

Dear Judge Keaton:

You are alleged to have committed violations of the Code of Judicial Conduct in the above referenced cases. These comprise the following facts which you have agreed are true:

- A. In *Arkansas DHS v. Draper* (a juvenile court case). Judge Keaton admitted to a delay in making the final ruling on this case. The order was entered on June 7, 2011 after a specific request by the JDDC to send a final order. The case was submitted fully in the spring of 2011 and appears to have been ripe for decision on March 9, 2011, if not earlier. The judge provided mitigating information concerning the unavailability of staff members during the time this order was pending. The judge also presides in several counties on a regular basis, which produces some logistical challenges.

- B. *Pesnell v Pesnell* (a divorce case) was fully submitted to Judge Keaton on March 16, 2011 (according to the Judge's calculations). The case was listed on the July 2011, Administrative Order #3 Report to the Arkansas Supreme Court as pending for more than 90 days without a final disposition. It was listed as being under submission due to a heavy case load and also listed "research retirement and disability issues". Judge Keaton listed a "Probable Date of Decision" as "7-11-11". The decision was not rendered in the case

until December 22, 2011. The judge has admitted this was an unjustified delay.

- C. In *Goodwin v. Keaton*, (a criminal post-trial relief case) the Arkansas Supreme Court asked Judge Keaton for information to support a lengthy delay of approximately three and one-half years in ruling on a petition. The judge stated that the case was inadvertently set aside with another motion in the case that did not require a response. The Court has asked the judge and the judicial district to make sure that every judge is aware of all cases that are pending on his or her docket. The Court reiterated that the "prompt resolution of all matters before the court is vital to the administration of justice". Although not specifically part of the complaints above, this case was brought to Judge Keaton's attention and he has promised to rectify any deficiency that could cause a similar delay in the future.
- D. Prior public sanctions or relevant public letters of dismissal have been rendered by the Commission against Judge Keaton in the following cases:
 - 1. In case #98-112, Judge Keaton was issued a public admonishment.
 - 2. In cases #08-124, 08-154, 08-155, 08-263 & 08-268, Judge Keaton was issued a public reprimand.
- E. Judge Keaton has had a record of service on the bench that is viewed as positive and beneficial to the State of Arkansas by his peers and attorneys who appear in front of him on a regular basis. His general reputation and forthright attitude with the Commission were taken into consideration when agreeing to this resolution.

The above described behavior in paragraphs A through D violates the following sections of the Code of Judicial Conduct:

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.

RULE 2.5 Competence, Diligence, and Cooperation

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

Comments to the Rule

[2] A judge should seek the necessary docket time, court staff, expertise, and resources to discharge all adjudicative and administrative responsibilities.

[3] Prompt disposition of the court's business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under submission, and to take reasonable measures to ensure that court officials, litigants, and their lawyers cooperate with the judge to that end.

[4] In disposing of matters promptly and efficiently, a judge must demonstrate due regard for the rights of parties to be heard and to have issues resolved without unnecessary cost or delay. A judge should monitor and supervise cases in ways that reduce or eliminate dilatory practices, avoidable delays, and unnecessary costs.

For your actions set out in the paragraphs above, you are hereby issued a letter of Censure. You have agreed that this sanction is appropriate and that more serious sanctions could have been imposed. Your honesty with the JDDC Staff, willingness to take steps to maintain a more efficient docket and promise to attend an appropriate judicial time management class all factored into the Commission's decision. It is also understood that Circuit wide changes that have already been made to the Administrative Order #14 plan will give you some changes in your docket that you believe will help you be more efficient in rendering decisions.

The JDDC may consider this Censure to be vacated and may send you notice of intent to pursue a more serious sanction if you violate the terms below or have additional violations of the Code of Judicial Conduct. If you violate the terms below, you agree that the facts listed in paragraphs A through E shall be deemed admitted by you in any future proceedings before the Commission and the Arkansas Supreme Court. The period of time for your compliance shall be from this date until June 30, 2013.

Your Censure will include the following agreed conditions:

Proof of attendance at a NJC or similar organization class on time management.

Full compliance with Administrative Order #3.

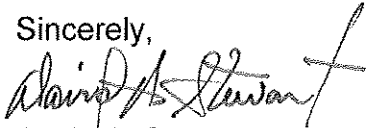
If there are cases that are pending decisions for longer than 90 days, you will seek the advice and assistance of the Administrative Circuit Judge of the 13th Judicial District. The administrative judge may help accommodate the parties awaiting a decision by the authority in Supreme Court Administrative Order #14.

You promise to review your docket as of this date and clear any cases pending more than 60 days before May 31, 2012.

In view of these circumstances, it is the judgment of the Judicial Discipline and Disability Commission that you are hereby censured. This Censure serves also serves as a warning to other judges in the state. This public censure constitutes adequate discipline and no further action, other than the remedial measures described above, is warranted. Further discipline may occur if the Judicial Discipline & Disability Commission finds you committed additional violations of the Code of Judicial Conduct in the future.

This Commission action is public information.

Sincerely,

A handwritten signature in cursive script, appearing to read "David A. Stewart". The signature is written in black ink and is positioned above the printed name and title.

David A. Stewart
Executive Director

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