

April 23, 1997

Leslie Steen
Clerk of Arkansas Supreme Court
Justice Building
625 Marshall Street
Little Rock, Arkansas 72201

RE: Judicial Discipline and Disability Commission Complaint # 95-243

Dear Mr. Steen,

Pursuant to Rule 11 J of the Rules of Procedure of the Arkansas Judicial Discipline and Disability Commission, enclosed is a copy of the Final Decision and Order in the matter of Judge Fred D. Davis III. This Final Decision and Order was approved by the full Commission.

By direction of the Judicial Discipline and Disability Commission,

James A. Badami
Executive Director

cc: Judge Fred D. Davis III
Attorney Bill Bridgforth

BEFORE THE ARKANSAS JUDICIAL DISCIPLINE
AND DISABILITY COMMISSION

IN THE MATTER OF:)

Honorable Fred D. Davis III)

Commission Case No. 95-243

FINAL DECISION AND ORDER

Pursuant to authority granted by Amendment 66 to the Arkansas Constitution, A.C.A. 16-10-410 et seq. and the Rules of Procedure of the Arkansas Judicial Discipline and Disability Commission promulgated by the Arkansas Supreme Court, the Commission issues this Final Decision and Order.

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CLERK OF THE COMMISSION

I. FINDINGS OF FACTS

1. At all times relevant hereto, respondent Fred D. Davis III, was and continues to be Circuit/Chancery Judge in the Eleventh Judicial District in Pine Bluff.
2. On November 12, 1993 in Newby v. Newby divorce case, Judge Davis presided at a hearing on the issues of attorney's fees, permanent alimony, and division of retirement accounts. On February 26, 1994, an attorney wrote to the judge advising him that the issue of the division of the retirement account had been resolved, and the only remaining issues needing to be decided

were the request for attorney's fees, and permanent alimony.

3. The final divorce decree was approved and signed on March 7, 1994.

4. An attorney wrote to the judge on April 6, 1995, telling the judge that more than one (1) year had passed since the resolution of the division of the retirement accounts issue, and asked if he (the judge) needed assistance on the remaining issues. Subsequently, one of the staff in the judge's office requested the judge be provided with an up-dated affidavit of financial means. The information but not an affidavit was provided to the judge on July 17, 1995.

5. As of November 15, 1996, the date of the Judicial Discipline and Disability Commission's Probable Cause Hearing in this matter, Judge Davis had not decided the remaining issues in the Newby case. On December 3, 1996, Judge Davis recused from the Newby case.

6. The complaint in this case was filed against Judge Davis in November 1995, two (2) months after he was issued a letter of admonition from the Judicial Discipline and Disability Commission for a twenty-two (22) month delay in deciding the case of Stacy v. Leasei.

7. Judge Davis did not file timely quarterly reports on cases held under advisement for more than 90 days for the 2nd, 3rd, and 4th quarters of 1995. These reports are required to be filed with the Administrative Office of the Courts by Supreme Court Administrative Order 3. The Administrative Office of the Courts sent letters to Judge Davis reminding him when each report

was due and providing him with a copy of the form to be filed. After being sent a letter dated February 20, 1996 from the Chief Justice of the Supreme Court concerning his failure to file these reports, Judge Davis filed the required reports.

8. Respondent was first notified of the complaint by letter dated November 24, 1995. After appropriate notice, preliminary investigative hearings concerning this complaint were held. A Probable Cause Hearing was conducted on November 15, 1996. Respondent was not present at these hearings, but provided a written response to the Judicial Discipline and Disability Commission on the day of the Probable Cause Hearing.

9. On November 15, 1996, the Commission found that probable cause existed for believing that there had been misconduct of a nature requiring Formal Disciplinary Hearing.

10. A Formal Disciplinary Hearing was held on April 16, 1997.

11. That there was an unreasonable delay in deciding the case of Newby v. Newby by Judge Davis. Further, that Judge Davis was in violation of Supreme Court Administrative Order No. 3 by failing to comply with the reporting guidelines.

II. FINAL DECISION AND CONCLUSIONS OF LAW

The above constitutes violations of A.C.A. 16-10-410(4) and (5) by being conduct that is prejudicial to the administration of justice and in wilful violation of Canon 3B(8) of the Code of Judicial Conduct and Supreme Court Administrative Order No. 3.

ORDER

It is therefore ordered that the respondent Judge Fred D. Davis III be reprimanded.

Respondent is hereby reprimanded.

By direction of the Judicial Discipline and Disability Commission

April 23, 1997

Date

Badami

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