



Judicial Discipline & Disability Commission

JUDGE WILLIAM STOREY
CHAIRMAN

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DAVID A. STEWART
EXECUTIVE DIRECTOR

PRESS RELEASE

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FOR IMMEDIATE RELEASE

November 18, 2011

The Arkansas Judicial Discipline & Disability Commission today announced that an agreed Letter of Reprimand in Commission case #11-207 and an agreed Letter of Censure in Commission case #11-204 have been issued to Judge Ken Harper of the Drew County District Court. Both Parties wish to thank the Arkansas JLAP (Judges and Lawyers Assistance Program) for providing kind and efficient help and services to the legal profession in Arkansas. www.arjlap.org

A copy of the formal disciplinary letters against Judge Harper follows.



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DAVID A. STEWART
EXECUTIVE DIRECTOR

November 18, 2011

Honorable Ken Harper
Monticello District court
PO Box 505
Monticello, AR 71657

LETTER OF PUBLIC REPRIMAND #11-207

Dear Judge Harper:

It was alleged that at approximately 6:15 pm on July 12, 2011, you were stopped by a Deputy Sheriff on Highway 425 North, in Lincoln County, Arkansas. You were arrested and subsequently charged with Driving While Intoxicated (A.C.A. § 5-65-103). You failed field sobriety tests and refused to take a BAC test. You were also charged with Drinking on the Highway (A.C.A. § 5-71-212) and Refusal to Submit to a Chemical Test (A.C.A. § 5-65-205). The arrest report is public record (*Arrest #11-A00059, Incident #00-71126, Lincoln County Sheriff's Office*) as is the record of your guilty plea to D.W.I. (*District Court of Lincoln County, Nos. DWI-11-19, CR11-293, TR-560 and TR-561*). You were ordered to pay a fine and court costs of \$830.00 and to serve one day in jail, for which you received one day credit from the day of your arrest.

On November 18, 2011, the Judicial Discipline & Disability Commission found the above described actions to be a willful violation of Canons 1.1 and 1.2 of the Arkansas Code of Judicial Conduct. You have agreed with that finding and have candidly admitted to having a problem with alcohol abuse. You are actively involved in a rehabilitation program to help you avoid issues with substance abuse in the future.

In view of these circumstances, it is the judgment of the Judicial Discipline and Disability Commission that you are hereby reprimanded. This public reprimand constitutes adequate discipline and no further action 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,

Handwritten signature of David A. Stewart in black ink.

David A. Stewart
Executive Director



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November 18, 2011

Honorable Ken Harper
Monticello District Court
PO Box 505
Monticello, AR 71657

Letter of Censure #11-204

Dear Judge Harper:

It is alleged that your alcoholism has led to multiple violations of the Code of Judicial Conduct. These include the following facts which you have agreed are true:

- A. Specifically on May 18, 2011 (as well as other dates earlier this year) you took the bench while under the influence of alcohol according to staff and others present. Staff and others present in the court room could smell the odor of alcohol from your consumption of liquor.
- B. In June of 2011, you came to the jail to conduct bond hearings. You were observed by law enforcement officials to be confused and physically and mentally impaired.
- C. July 5, 2011 you appeared in court with slurred speech and other indications of impairment. Attorneys present were concerned about your ability to render judgment and you were guided through your own docket. You were not impaired by alcohol consumption but rather from prescription drugs that you had taken that day.
- D. On April 28, 2011 you appeared at a public meeting concerning the MEDC. You were scheduled to address public officials at the meeting but left before your scheduled time to speak. You were reported to have attended this public meeting

under the influence of alcohol and several of those present were able to smell the odor of alcohol from your consumption of liquor.

- E. On April 28, 2011 around 4:00 pm you entered the offices of the MEDC, which are housed in the same building as your court room. You were concerned about doors and signs that, in your opinion, interfered with people attempting to attend court. You were observed by several witnesses to smell like alcohol. There was a reported confrontation with the director of the MEDC. The extent of this confrontation is still under investigation. Any findings concerning possible criminal violations are held in abeyance. However, the mere fact of being involved in a public argument, while under the influence of alcohol, is a sufficient action on your part to bring disrepute to the judiciary and violate the Code of Judicial Conduct.

The above described behavior violates the following sections of the 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.

RULE 2.8 Decorum, Demeanor, and Communication with Jurors

...

(B) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge's direction and control.

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 combat your alcohol and substance abuse and promise to adhere to the conditions below have led the JDDC to refrain from recommending a suspension or removal from the bench.

If you violate the terms below or have additional violations of the Code of Judicial Conduct 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, 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 January 1, 2013.

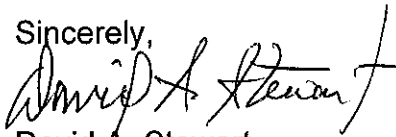
Your Censure will include the following agreed conditions:

- Proof of (at least) weekly attendance at AA meetings.
- Being subject to alcohol testing performed as part of the JLAP Program.
- No positive tests for alcohol from the testing listed above.
- No consumption of alcoholic beverages.
- Use of prescription medication only as directed by a licensed doctor in Arkansas.
- Compliance with any other requirements from your voluntary arrangement with the JLAP program.
- No D.W.I. or criminal offenses committed during the compliance period.

In view of these circumstances, it is the judgment of the Judicial Discipline and Disability Commission that you are hereby censured. 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,



David A. Stewart
Executive Director