

**BEFORE THE ARKANSAS JUDICIAL DISCIPLINE
AND DISABILITY COMMISSION**

IN THE MATTER OF:)
)
Honorable Stephen S. Thomas,)
respondent

No. 95-255

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.

I. FINDINGS OF FACTS

1. *At all times relevant hereto, respondent Stephen S. Thomas was and continues to be the part-time Municipal Court Judge of Siloam Springs, Arkansas.*

2. *In the fall of 1995, Judge Stephen S. Thomas told his secretary he was interested in dating Kimberly Waggoner, a girl friend of the secretary. Later the secretary told Judge Thomas that her friend, Waggoner, did not want to date him, as she was a prostitute and charged \$200 per hour. The judge was given Waggoner's business card which he saved in his desk. The judge never utilized this card to contact Waggoner.*

3. Later Waggoner was arrested for possession of drugs by members of the 19th Judicial District Drug Task Force. Waggoner then became a confidential informant for this drug task force and was being used to attempt to make drug purchases from Judge Thomas' secretary. The members of the drug task force became aware that the judge wanted to meet with Waggoner.

4. During a few weeks period of time in November and December 1995, there were a number of telephone calls between Judge Thomas and Waggoner which were recorded by the drug task force. ~~The first of these calls was arranged by the judge's secretary.~~ During these phone calls, it is agreed that the judge would have sex with Waggoner for \$150 per hour. They also discussed the type of sex acts which would or would not be performed. During the investigation, there was no evidence to indicate that the judge was involved in illegal drug use.

5. On December 8, 1995, Waggoner left a message with Judge Thomas' secretary, along with a telephone number and a room number at the Holiday Inn Express in Bentonville. Judge Thomas returned the call, spoke to Waggoner, and agreed to meet her at 6:30 p.m. in room 108 of the Holiday Inn Express.

6. At approximately 6:30 p.m. on December 8, 1995, Judge Thomas entered room 108 at the Holiday Inn Express. After a short discussion with Waggoner, Judge Thomas paid her \$300 in cash for her sexual services with him and for her services with another attorney at a later time. Judge Thomas was giving this other attorney a "Christmas present". Shortly thereafter a state police officer entered the room and arrested Judge Thomas.

7. Judge Stephen S. Thomas was charged with the offense of solicitation of a prostitute in violation of A.C.A. 5-70-103, which is a class "C" misdemeanor. On October 8 and 9, 1996, Judge Thomas was tried in the Benton County Circuit Court on this charge and asserted the defense of entrapment. A mistrial was declared when the jury was dead-locked. This defense was not asserted before the Judicial Discipline & Disability Commission. The Commission also found that the defense of entrapment did not apply under the facts of this pending complaint against Judge Thomas.

8. On January 16, 1996, the Supreme Court granted the Judicial Discipline and Disability Commission's petition that Judge Thomas be suspended from office with pay pending the outcome of any disciplinary determination resulting from the criminal charge against him.

II. FINAL DECISION AND CONCLUSIONS OF LAW

The above action by the respondent, Judge Stephen Thomas, constitutes a violation of A.C.A. 16-10-410 (4) and (5) by being conduct that is prejudicial to the administration of justice and is in willful violation of Canons 1 and 2A of the Code of Judicial Conduct. These actions with the resulting publicity detrimentally affected the integrity of the judiciary, undermined public confidence in the administration of justice, and constituted unacceptable behavior.

III. ORDER

It is ordered that Judge Stephen S. Thomas be suspended without pay for six (6) months effective November 15, 1996. Further, he is directed to issue a public apology for his actions.

By direction of the Judicial Discipline and Disability Commission

Date

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

The respondent, Judge Stephen S. Thomas, waives his right to a Formal Disciplinary Hearing and accepts the six (6) months suspension without pay effective November 15, 1996. He further agrees to issue a public apology.

Date

*Eddie Christian
Attorney for the Respondent*