

February 22, 1996

Honorable Thomas Brown
Circuit/Chancery Judge
P. O. Box 9260
Pine Bluff, AR 71611

RE: Case # 94-144

Dear Judge Brown:

At a hearing on January 19, 1996 the Judicial Discipline & Disability Commission reviewed a sworn complaint, a Statement of Allegations, your responses, the results of its investigation and other material concerning this complaint. The Commission decided that some of your actions did violate the Code of Judicial Conduct and that you be issued a letter of admonition.

The Commission found that on February 8, 1994 a juvenile appearing before you was placed on home detention, which was monitored electronically. The juvenile violated the detention twice that day and was brought before you the next day. After your telling the juvenile that he was being sent to a youth services facility, he was instructed to sit in the rear of the courtroom until transportation arrangements could be made.

As the juvenile walked off, he began cursing you, making threats and using profanity. You instructed him to come to the bench. The juvenile was agitated and continued using obscenities directed towards you. When the juvenile was in front of your bench, you stood up, reached over the bench and grabbed or latched onto the juvenile's jacket and pulled him towards you. A scuffle ensued with the juvenile grabbing you by the throat. You had to be physically separated. A few minutes later, you publicly apologized for the outburst.

The Commission determined that your calling the juvenile to your bench while he was in such an agitated state, and your reaching over and grabbing or latching onto him was improper. Your actions caused a loss of order and decorum during judicial proceedings. They also showed a failure to maintain the requisite dignity needed in the courtroom. This

constitutes a violation of Canons 1, 2A, 3B(3) and 3B(4) of the Code of Judicial Conduct.

Subsequently the juvenile's legal guardian, Ms. Nellie Moore Jacobs, met with you in chambers to discuss the incident. On the morning of the meeting, you learned that Ms. Jacobs was represented by an attorney in the matter pending before you. You also learned that her attorney was filing a motion for you to recuse in the case. You, nevertheless, met with Ms. Jacobs without her attorney nor the other parties being present. You discussed matters concerning the juvenile and if Ms. Jacobs personally wanted you to recuse and step-down from the juvenile's case.

The Commission found that your discussing these matters, including whether Ms. Jacobs wanted you to recuse in this case as requested by her attorney, was improper under the circumstances and constituted an impermissible ex-parte communication. Such discussions are in violation of Canons 2A and 3B(7) of the Code of Judicial Conduct.

In another case, a juvenile appeared before you and plead not guilty to theft by receiving. During a recess in the court proceedings, and while the juvenile's attorney was not present, you discussed the incident giving rise to the theft by receiving charge with the juvenile. When the court reconvened, you announced that the juvenile had changed his plea to guilty, and you were accepting the plea. The juvenile's attorney noted that the plea was without the advice of counsel.

The Commission noted that in this case, after the juvenile requested a trial and indicated a desire to plea not guilty, it was inappropriate for you to enter into an ex-parte discussion with the juvenile during a court recess concerning that incident, especially in the absence of his attorney. Such conduct is in violation of Canons 1, 2A, and 3B(7) of the Code of Judicial Conduct.

In still another case, a juvenile plead guilty to fleeing the scene and repeatedly plead not guilty to theft by receiving. After the juvenile's attorney requested a trial, a spectator shouted that the juvenile did not want a trial. After the request for trial was made, you continued to discuss the matter with the juvenile. The Commission noted the apparent limited participation by the prosecutor and the defense counsel during this hearing.

The Commission found that under the circumstances of this specific case, after a request for trial was made it was inappropriate to continue discussing with the juvenile the facts of the underlying incident and if he was pleading guilty. Such action, was inappropriate and in violation of Canon 2A of the Code of Judicial Conduct.

The Commission found that under the circumstances of the incidences described above, your actions denigrated the public confidence of the judiciary and was inconsistent with maintaining the high standards of conduct essential in preserving the integrity and impartiality of the judiciary. As noted, your conduct violated Canons 1, 2A, 3B(3), 3B(4), and 3B(7) of the Code of Judicial Conduct. The Commission suggests you make every effort to become more cognizant of your obligations under the Code of Judicial Conduct and to adhere to those

provisions.

It is the judgement of the Commission that you be admonished. This public admonition constitutes adequate discipline and no further action is warranted. The Commission indulges the expectation that this conduct will not be repeated.

This Commission action is public information.

BY DIRECTION OF THE COMMISSION:

James A. Badami
Executive Director

Copy furnished
Nellie Moore Jacobs