

Huntsville District Court

Court Clerk

*Melissa Ojden**Cherisy Johnson**Michelle Bohannon*

P. O. Box 549

Huntsville, Arkansas 72740

Prosecutor

*Bill Alvest**Judge WQ Hall*

November 17, 2003

Hon. Mike Huckabee
Governor of Arkansas
250 State Capitol
Woodlane Drive and Capitol Avenue
Little Rock, Arkansas 72201

Re: Huntsville District Court

Dear Governor:

Due to my physical health and failing hearing which causes me to be unable to hear the defendants and witnesses in the Courtroom, I feel that I cannot properly serve as judge and am taking moneys I do not earn. Please accept this as my letter of resignation as District Court Judge of Huntsville to be effective December 15, 2003.

I hereby agree to abide by the terms of Act 5 of 2001 General Assembly (Ark. Code Ann. §16-10-410(d). (Michie Repl. 2002).

Respectfully submitted,



WQ Hall

FORMAL DISCIPLINARY HEARING

BEFORE THE ARKANSAS JUDICIAL DISCIPLINE AND DISABILITY COMMISSION

In the matter of:

Honorable W.Q. Hall)	No. 03-147
District Court Judge, Huntsville)	
)	FORMAL STATEMENT OF CHARGES

Pursuant to authority granted in Amendment 66 to the Arkansas Constitution, ACA 16-10-401 thru 411 and the Rules of Procedure of the Arkansas Judicial Discipline and Disability Commission promulgated by the Arkansas Supreme Court on May 8, 1989, as amended, and at the direction of the Judicial Discipline and Disability Commission (hereafter referred to as Commission), this formal statement of charges is filed alleging the willful violation by Honorable W.Q. Hall (hereafter referred to as respondent) of the Code of Judicial Conduct, and the commission of conduct that is prejudicial to the administration of justice. The background and facts of the formal statement of charges are set forth in the following paragraphs.

Background

1. Respondent is now and has been a district court judge since January 1, 1977, in Huntsville, Arkansas.
2. In complaint # 03-147, respondent was first notified of the complaint by letter dated February 20, 2003. A Sworn Complaint was served on the respondent on April 3, 2003. Respondent appeared at a Probable Cause Hearing that was held on July 18, 2003.
3. At the July 18, 2003 Probable Cause Hearing, the Judicial Discipline & Disability Commission by unanimous vote found there was probable cause to believe that respondent's conduct as shown in the investigation of complaint #03-147 was of a nature requiring proceeding to a formal disciplinary hearing.
4. On November 22, 1999, respondent was issued an admonishment by the Judicial Discipline and Disability Commission for a number of actions including an improper ex-parte communication. While a small claims matter was pending involving a local bank as plaintiff, the respondent went to the bank and meet with bank officials, without the other party being present. He reviewed the bank's evidence in the pending case. Respondent later presided in this matter and entered a judgment in favor of the bank even though neither party appeared. Respondent was also issued an admonition by the Judicial Discipline and Disability Commission on March 15, 1999 for violation of Canon 2A and 3E of the Code of Judicial Conduct.

Supporting Facts and Charges

FACTS

1. Respondent, W.Q. Hall, is an attorney who has been licensed in Arkansas since 1957 and is the district judge in Huntsville, Arkansas, a position he has held since January 1, 1977.
2. Respondent presided in the Huntsville District Court on January 9, 2003. Respondent was told that a defendant, Jack Gates would be pleading guilty to one count of unlawful dumping of raw sewage. Neither the prosecutor, the defendant nor defendant's attorney appeared in court that day for the case of State vs. Gates. Respondent was told that three prosecution witnesses were present to testify in case of State v. Gates.
3. Respondent introduced himself to these witnesses. After telling them that there would not be any trial that day as the defendant had entered a guilty plea, respondent then met privately with these three witnesses. Respondent asked them what evidence they planned to present as it might be considered for purposes of sentencing. A witness told respondent he would rather see the defendant Gates come before the court rather than plead guilty over the phone. The witnesses, outside of the presence of and without the knowledge of the prosecutor, the defendant, and the defendant's attorney then explained the facts of the case to respondent and showed him the evidence in the case. The evidence included a video tape of the defendant Gates in his septic truck strewing the raw sewage in a meadow. The respondent reviewed this evidence without the knowledge of either counsel or the defendant.
4. After reviewing the evidence and talking to the witnesses, respondent decided not to accept the offered guilty plea and had the Gates matter set for trial.
5. On February 12, 2003, respondent presided in the case of State vs. Gates. After hearing from witnesses from the Health Department and the defendant, respondent stood up and leaning over the bench shouting at the defendant, "I think you're guilty as hell.....You're nothing but scum bringing shit....." He also called the defendant a liar. This berating of defendant Gates was in a vitriolic and demeaning manner. The respondent was so angry his spit was flying, his face was flushed and he was screaming at the defendant. At this time the respondent also said, "If you had dump that shit on my land I would have killed you."
6. Later, when defendant Gates was no longer in the courtroom, and referring to Gates, the respondent said in a loud voice so everyone in the courtroom could hear, "If I ever see him or see him again in my county I'm going to get a gun and shoot him", or words to that effect. He also said, "I'm going to kill him." At this time, the respondent was not screaming nor did he appear angry. He appeared as if he was just making a statement.

Conclusions:

The members of the Judicial Discipline & Disability Commission by unanimous vote found there is probable cause to believe that the respondent's conduct in the above noted matters is of a nature requiring a formal disciplinary hearing.

Basis for Commission Action

On July 18, 2003, the Commission found that probable cause existed for believing that there has been misconduct of a nature requiring a formal disciplinary proceeding. Respondent is charged with violating; violating ACA 16-10-410 (b) (4) by the commission of conduct that is prejudicial to the administration of justice; and violating ACA 16-10-410 (b) (5), willful violation of the Code of Judicial Conduct, specifically Canons 1 and 2A, 3B(4) and 3B(7) of the Code of Judicial Conduct.

WHEREFORE, Respondent is advised that an answer to this formal statements of charges should be filed by the Respondent with the Commission, located at 323 Center Street, Suite 1060, Little Rock, AR 72201 within twenty (20) days after service upon Respondent of this formal statement of charges; and that the Commission shall thereafter set a time and place of hearing of this formal statement of charges and shall give notice thereof to Respondent. Respondent is hereby advised of his right to counsel and to file an answer in his own behalf or through counsel, and that all of the proceedings in connection with the formal statement of charges shall be in accordance with the said procedural rules of this Commission. The offenses and violations contained in the formal statement of charges constitute willful violation of the Code of Judicial Conduct, and the commission of conduct that is prejudicial to the administration of justice.

This formal Statement of Charges and respondent's answer are the only pleadings required.

Dated this 22nd day of August, 2003

BY ORDER OF THE
ARKANSAS JUDICIAL DISCIPLINE AND DISABILITY COMMISSION

By: _____
James A. Badami
Executive Director

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BEFORE THE ARKANSAS JUDICIAL DISCIPLINE AND
DISABILITY COMMISSION

JUDICIAL DISCIPLINE
AND
DISABILITY COMMISSION

In the matter of:

Honorable W Q Hall
District Court Judge, Huntsville

)
)
)

No. 03-147

RESPONSE

TO

FORMAL STATEMENT OF CHARGES

Comes W Q Hall, respondent herein, and responds to the FORMAL STATEMENT OF CHARGES in this matter, served on him on August 24, 2003, and states:

The facts set out in Paragraphs of Background 1, 2, 3, and 4 are basically correct, but at the end of Paragraph 4 it should be added that the defendant's husband appeared for her and attempted to act as her attorney but he presented no defense and called the Judge a "one armed bandit" to which the judge responded and told the defendant's husband that he would not be allowed to call the judge such a name.

As to the FACTS set out on Sheet 2 of the FORMAL STATEMENT:

1. The facts set out in Paragraph 1 are correct, and W Q Hall is an attorney who has been licensed in Arkansas since 1957, and is presently the District Judge in Huntsville, Arkansas, a position he has held since the District Court was created by Amendment 80; prior to which the Respondent served as Municipal Judge.

2. Respondent presided over the Huntsville District Court on January 9, 2003, which was a regular court day, and at which time the Respondent was told that the defendant Jack Gates had pleaded guilty to one count of unlawful dumping of raw sewage. The case was called for sentencing

and neither the defendant nor the defendant's attorney appeared in the case of State vs. Gates. The Respondent was told by the Court Clerk that three witnesses were present to testify in the case, and the prosecutor who filed the criminal case was present. The case had been set for that date, January 9, and the defendant's attorney had been notified.

3. Respondent called the witnesses forward and asked their names and informed them that there would not be a trial as the defendant had entered a guilty plea and the Respondent asked what evidence they planned to present that might be relevant for purposes of sentencing. The witnesses proceeded to stand at the bench and were asked to submit their evidence and they then went to a room adjacent to the courtroom to view a videotape of the defendant Gates in his septic truck strewing the raw sewage in a meadow. Like most small District Courtrooms in this part of the state, there is no television or VCR in the courtroom. Although the Respondent reviewed this evidence outside the presence of the defendant's counsel and the defendant, both of whom live in Benton County and had chosen not to make the trip to Court that day, the Respondent was under the impression that the videotape had already been viewed in the normal course of discovery that would have been conducted by the defendant's counsel. The Respondent did not learn until after the filing of this complaint that the defendant's counsel had not conducted discovery in the matter. The only other relevant evidence offered by the witnesses for purposes of sentencing was their testimony that the defendant had been guilty of similar misconduct in the past, on several occasions, which formed the basis of their conducting surveillance of the defendant and videotaping his actions, which was the basis for the prosecutor to go forward with the criminal case against Mr. Gates.

4. After viewing the videotape evidence and hearing the witnesses, the Respondent decided not to sentence the defendant, in absentia, in accordance with the plea offer made by the prosecutor

to the defendant's counsel, but to set the matter for the next month's court date to allow the defendant and his counsel to appear to present evidence of any mitigating factors that should be considered in sentencing. The matter was set for formal sentencing on February 12, 2003, and the witnesses present were advised of that date and Mr. Gates' counsel was notified by the District Court Clerk to appear with her client on that date, which was February 12.

5. On February 12, 2003, the Respondent presided at Mr. Gates' sentencing. Mr. Gates appeared with his attorney, Ms. Norwood. The witnesses also appeared. The Respondent sentenced defendant to pay a Five Hundred Dollar (\$500.00) fine and serve ten (10) days in jail, and then reconsidered the punishment and due to the defendant's age, the jail time was reduced to five (5) days of community service. When asked if the community service could be served in Benton County, the Respondent advised that the community service would have to be performed in Madison County, since Madison County was where the defendant had contaminated the land with his sewage, and the docket sheet on the case indicates that the community service was to be performed in Madison County.

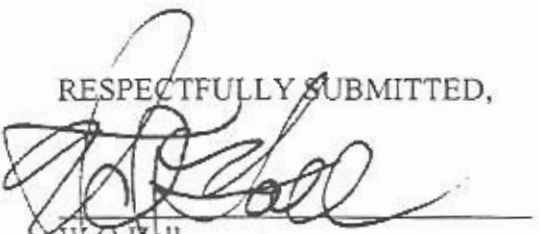
Prior to sentencing, when Mr. Gates and his attorney were given an opportunity to present any mitigating evidence, his attorney offered nothing, but advised the Respondent, "My client is very hard of hearing so you'll have to talk loud." Mr. Gates, apparently unaware that he had been videotaped in the criminal act of dumping sewage, told the Court that he had not dumped any sewage, but had only dumped "some pond water" in the meadow. The Respondent told Mr. Gates that he was a liar and was lying to the Court and that the evidence showed that he had been caught dumping "shit, condoms, tampons, and filth on the field." The Respondent also told the defendant that if he brought any of that stuff to this county and dumped it on my land he would be shot.

6. There was never a trial, as incorrectly indicated by Mr. Badami, as Mr. Gates had waived his right to a trial when his attorney entered his guilty plea, and the Respondent did not stand up or curse the defendant but told Mr. Gates he was guilty and was scum for dumping the feces, used condoms and tampons and other sewage in the pasture. This Commission would suppress free speech and the Respondent's right to freely express myself under the First Amendment to the United States Constitution. The Respondent did not stand up, did not spit, did not scream, never cursed Gates, nor did he tell Gates that he would kill him, but respondent did tell Gates that if he came over here and scatter that stuff on the Respondent's lands he would be shot.

7. The respondent denies all other allegations in the FORMAL STATEMENT OF CHARGES not admitted herein and reserves the right to amend this Response after discovery.

8. Respondent further moves this matter be put on hold until after October 15, as the Honorable William Storey has a hearing set for that day in the Circuit Court of Madison County, Arkansas, on a matter filed by Mr. Gates in the pending cause.

RESPECTFULLY SUBMITTED,



W Q Hall