



Judicial Discipline & Disability Commission

JUDGE KIRK JOHNSON
CHAIRMAN

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DAVID J. SACHAR
EXECUTIVE DIRECTOR

PRESS RELEASE

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FOR IMMEDIATE RELEASE

May 1, 2020

The Arkansas Judicial Discipline and Disability Commission today announced the resignation of Randolph County District Court Judge John Throesch. His resignation has the legal effect of “removal from office” as defined in *Proctor v. Daniels* and includes permanent disqualification from holding further judicial office.

The final Letter of Resignation and Prohibition from Office immediately follows this release. This concludes JDDC case number 18-274.



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DAVID J. SACHAR
EXECUTIVE DIRECTOR

May 1, 2020

Honorable John Throesch
Randolph County District Court
1510 Pace Rd.
Pocahontas, AR 72455

RE: JDDC Case # 18-274

LETTER OF RESIGNATION AND PROHIBITION FROM OFFICE

Dear Judge Throesch:

You were alleged to have committed violations of the Code of Judicial Conduct in the above referenced case filed by the Executive Director. The following facts comprise the violations the Investigation Panel was prepared to charge you with, until your voluntary resignation from the Randolph County District Court bench effective at the end of business on May 1, 2020:

Undisputed Facts of JDDC #18-274:

1. You are an elected District Court Judge in Pocahontas, serving Randolph County, Arkansas, and have served in this capacity since 2001.
2. On September 28, 2018, JDDC Executive Director David J. Sachar filed a complaint against you upon receiving information that alleged you had violated the Code of Judicial Conduct.

3. JDDC Investigation Panel 3 authorized a full investigation of these allegations and obtained documents, records and witness statements. You hired counsel to file responses on your behalf.
4. The totality of your conduct referenced in the paragraphs below exhibited a disregard for the law, failure to promote confidence and uphold the integrity of the judiciary, and personal behavior that undermined the integrity of the office of District Judge.
5. Your willingness to resign your public office and render yourself permanently ineligible to serve in the judiciary ended this case before a final hearing. You have also cited some family health concerns and other personal matters as additional factors in your decision to resign at this time rather than defend yourself against the allegations.
6. You could have contested those allegations and availed yourself of all defenses during a formal disciplinary hearing. You cooperated with the investigation and chose to resign in lieu of contesting the allegations at a hearing. Your resignation is acknowledged as an acceptance of responsibility for your actions. Your resignation is not an admission to any criminal act, ancillary civil case or regulatory matter. You have agreed your actions fit specific violations of the Code of Judicial Conduct and could have been proven at the standard of proof set out in the Rules of Procedure of the Judicial Discipline & Disability Commission.

Factual Basis for Sanction:

You acknowledge that you would have faced judicial discipline charges based on the allegations recited below:

7. In 2018, you engaged in *ex parte* Facebook Messenger and telephonic communication with a female District Court defendant, hereinafter referred to as “DEF A”. The JDDC obtained records that show you were communicating on a personal level with DEF A starting on or about April 14, 2018. During your online chat communications, DEF A revealed to you on June 4, 2018, that she was facing charges in your court, as well as a potential probation revocation in Circuit Court. She was scheduled to appear in your court on July 11, 2018.

8. Despite being informed in June 2018 of DEF A's pending charges in your court, you did not immediately recuse from all cases involving DEF A.
9. DEF A's case remained on your docket with no action until after she appeared in your court on July 11, 2018. When DEF A's case was called, she entered a plea to the charges. At that time, you recused, and the case was set for a conflict docket to be heard by a special judge. Your communications with DEF A indicate that you should have recused and/or disclosed the contact sooner than you did. Although you eventually recused on July 11, 2018, you continued to communicate with DEF A with the knowledge that DEF A had unresolved district and circuit court cases.
10. Communications with DEF A progressed over time from friendly to flirty and finally, after you recused, to sexual in nature. After recusal, you sent communications that indicated you would help DEF A with her charges. These charges were pending in your court but purportedly would be heard by a special judge.
11. On July 26, 2018, after you recused, the following messages sent to DEF A on Facebook Messenger were authored by you and included here:
 - "Are you done with everything except what u [sic] have in my court?"
 - "I am going to look at those [sic] traffic stuff and see what we can do. Your [sic] really trying and I hate to see u [sic] buried in fines. I would do that for anyone who's trying."
 - "Well I want u [sic] to get everything behind u [sic]. We need to talk so I k ow hoe [sic] to help u [sic]."
 - "Message me first thing in the morning and I will call. Make sure you don't tell anyone ur [sic] talking to me for lots of reasons."
12. On July 27, 2018, you asked DEF A to call your cell phone number to communicate. While exchanging text messages with DEF A, you received explicit photographs from DEF A to your cell phone. Your text communications went on to request additional photographs of the same nature.

13. The Commission does not allege, nor is there evidence, that you actually influenced the outcome of DEF A's traffic citations, fines, or any other charges. The Commission does not allege, nor is there any evidence, that you ever met with DEF A.
14. A separate fact pattern indicates your wife was cited for a traffic offense on September 28, 2017. After your wife was ticketed, you contacted both the Mayor and the Chief of Police. You called the Mayor and indicated that the police department was out of control. When you called the Chief of Police, you broached the topic of "professional courtesy" related to your wife's traffic offense and interaction with the police. You used unprofessional language and exhibited demeanor unbecoming to the robe. While your behavior was off-the-record when talking to or about the police department, it was nonetheless a violation of the Code.

Relevant Canons of the Code of Judicial Conduct:

CANON 1

A JUDGE SHALL UPHOLD AND PROMOTE THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY OF THE JUDICIARY, AND SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY.

RULE 1.1 Compliance with the Law

A judge shall comply with the law, including the Arkansas 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 1.3 Avoiding Abuse of the Prestige of Judicial Office

A judge shall not abuse the prestige of the judicial office to advance the personal or economic interests of the judge or others, or allow others to do so.

CANON 2

JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY, COMPETENTLY, AND DILIGENTLY.

RULE 2.2 Impartiality and Fairness

- (A) *A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.*

RULE 2.3 Bias, Prejudice, and Harassment

- (A) A judge shall perform the duties of judicial office, including administrative duties without bias or prejudice.
- (B) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so.

Rule 2.4 External Influences on Judicial Conduct

- (B) A judge shall not permit family, social, political, financial, or other interest or relationships to influence the judge's judicial conduct or judgement.

RULE 2.9 Ex Parte Communications

- (A) A judge shall not initiate, permit or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending or impending matter ...
- (C) A judge shall not investigate facts in a matter independently, and shall consider only the evidence presented and any facts that may be properly be judicially noticed.

RULE 2.11 Disqualification

- (A) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to the following circumstances: (1) The judge has a personal bias or prejudice concerning a party or a party's lawyer, or person knowledge of facts that are in dispute in the proceeding.

Conclusion:

You agree that a voluntary resignation and removal from judicial office is the appropriate resolution for all allegations of JDDC #18-274.

Your actions and this agreement have rendered you ineligible and unworthy of the robe. Your admissions to paragraphs seven (7) through thirteen (13) constitute violations of the Code of Judicial Conduct. Specifically, you violated Rules 1.1, 1.2, 1.3, 2.2, 2.4, 2.9, 2.11. The other allegations were not litigated as you resigned and agreed to a permanent bar from holding judicial office in this state.

Pursuant to your agreement, as of May 1, 2020, you will resign as District Court Judge.

Pursuant to the meaning of "removal" from office in *Proctor v. Daniels*, 2010 Ark. 206 (Ark. 2010), you are specifically no longer eligible to serve in a judicial capacity in the State of

Arkansas. Should you seek any Federal office or other State public office, the JDDC may respond to a background check with information in our investigation file concerning the allegations you were facing upon acceptance of this negotiated agreement for your permanent removal from office. You understand that the JDDC will use all legal remedies at its disposal to enforce this agreement. Should you make inaccurate comments on the subject matter or the procedure in this case the Executive Director reserves the right to correct those inaccuracies through statements to the press or the release of documents. This final action letter concludes JDDC Case #18-274.

This Commission action is public information.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Sachar', with a long horizontal flourish extending to the right.

David J. Sachar
Executive Director

**Randolph County District Court
John C. Throesch, District Judge
1610 Pace Rd.
Pocahontas, AR 72455**

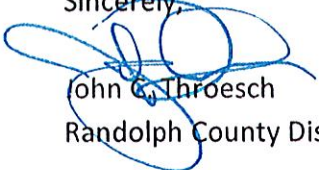
April 27, 2020

Honorable Asa Hutchinson
Governor of the State of Arkansas
State Capitol
500 Woodlane, Suite 250
Little Rock, AR 72201

Dear Governor Hutchinson:

Please accept this letter as my resignation as Randolph County District Judge effective Thursday, April 30, 2020.

Sincerely,



John C. Throesch
Randolph County District Judge

JCT