



Judicial Discipline & Disability Commission

PRESS RELEASE

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FOR IMMEDIATE RELEASE

January 21, 2022

The Arkansas Judicial Discipline & Disability Commission today announced that a Letter of Censure has been issued to Judge Brad Karren of the Nineteenth West Judicial Circuit, Division 2, in Commission case #21-188.

A copy of the Letter of Censure follows this press release.

David J. Sachar, Executive Director



Judicial Discipline & Disability Commission

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DAVID J. SACHAR
EXECUTIVE DIRECTOR

January 21, 2022

RE: JDDC Case #21-188, et al.

LETTER OF CENSURE AND REMEDIAL MEASURES

Dear Judge Karren,

You were alleged to have committed violations of the Code of Judicial Conduct in the above referenced case filed by Executive Director David J. Sachar. The following facts comprise the violations the Investigation Panel was prepared to charge you with, until you agreed to the sanctions set out in this letter.

Undisputed Facts

1. You are a Circuit Court Judge in the 19th West Judicial Circuit, Division 2. You were elected to that position in 2012 and won re-election twice in 2014 and 2020. Your current term is set to expire on December 31, 2026.

2. JDDC Investigation Panel 1, authorized a full investigation of the allegations in the above referenced complaints. The Panel obtained and reviewed documents, records, videos, and witness statements including - but not limited to:
 - Video taken by a witness who was with Davy Carter.
 - Video obtained from county security cameras.
 - Statements from witnesses to the incident.
 - Hours of video from Zoom hearings conducted by Judge Karren after the complaint was filed.
 - You retained counsel to file responses on your behalf. Those were reviewed by the Panel as well.
3. The totality of your conduct referenced in the paragraphs below, exhibited a failure to promote confidence and uphold the integrity of the judiciary and personal behavior that undermined the integrity of the office of Circuit Judge.
4. You could have fully contested those allegations and could have fully availed yourself of all defenses during a formal disciplinary hearing. You chose to accept a censure and to abide by the remedial measures in this letter in lieu of contesting the allegations. This agreement is proof of your acceptance of responsibility for your actions. You have agreed your actions violated the Code of Judicial Conduct and at least some violations likely could have been proven at the standard of proof set out in the Rules of Procedure of the Judicial Discipline & Disability Commission.

JDDC #21-188

- a. On Friday April 30, 2021, Judge Karren engaged in a verbal exchange in the county-owned court parking lot where he and other court officials are assigned parking spaces in Bentonville, Arkansas. The confrontation was with Davy Carter (herein referred to as Carter), his wife, and adult son.
- b. Carter stated that he and his wife went to dinner, and their 20-year-old son met them in downtown Bentonville. The son is a college student at a nearby university. He arrived a little after 7:00 pm. and parked in a government parking lot. There were unoccupied parking spots, and it was after hours. There were well-marked signs that stated, "Benton County employee parking only, 7 am to 5 pm." However, the location of the spot where he parked had a sign posted on the wall of the building. Those four spots were reserved for Judge Karren and others and stated, "Reserved parking 24/7 violators towed." That sign was on the wall of a building, and the space was reserved for Judge Karren. The ambiguity of the parking situation led to the encounter between the judge and Mr. Carter, his wife, and adult son.

Carter's son met his parents while they had dinner. He left with his mother who walked with him to his vehicle that was parked in the court employee lot. When they arrived, Judge Karren and a bailiff were standing near both vehicles.

- c. Judge Karren had been sitting as special judge in Hot Springs, Arkansas during the workday. He and his bailiff left at the end of a hearing and drove back to Benton County Courthouse where the bailiff had left his vehicle.
- d. The incident that occurred came the attention of the JDDC Executive Director via Twitter. Mr. Carter posted tweets about his encounter with a judge and those posts drew public attention.
- e. Twitter posts by Davy Carter described the encounter, in part, by posting that, "I walked out and saw a very angry man with a gun on his hip and a cane berating my son and wife because my son parked in 'his' parking spot. It was beyond berating, and like any dad or husband, immediately caught my attention."
- f. The actions by Judge Karren were described by Carter as "rabid" and "angry" even after his wife and son had repeatedly apologized to the judge. Karren was carrying a walking cane due to a recent hip surgery. He was accompanied by a bailiff who served in Judge Karren's court. Video and Carter's recitation of the incident show the judge confronting Carter. At one point the judge throws his cane as if to clear his hands and adopts an aggressive stance.
- g. A subsequent tweet posted by Carter contains a 27-second video in which Karren is seen throwing his cane to the ground while moving towards

Carter in an aggressive manner. At different points during the confrontation, there were pedestrians, cyclists and cars passing by.

- h. The incident attracted public attention through online social media and traditional media coverage. Carter was a member of the Arkansas General Assembly and served as House Speaker from 2013–2015. This added to the media attention in the legal/political community in this state. Eventually, stories about the incident were picked up by local and national news outlets. Video of the incident have been viewed thousands of times online.
- i. You have agreed that your behavior was inappropriate. Your actions could have been avoided. Your demeanor throughout the incident was not consistent with the high standards to which judges should aspire. You allowed frustration and personal stressors to impact your handling of encounter that day. You did not act in a way that promoted public confidence in the independence, integrity, and impartiality of the judiciary.
- j. Judge Karren declared in reply to the complaint:
 - He earnestly regrets his participation in the parking lot dispute and will continue to take steps to ensure his conduct remains above reproach.
 - The incident was entirely avoidable, and he accepts responsibility for his involvement.
 - The video does not reflect well on all judges or the public's confidence in the judiciary.

- Unquestionably, the event has been a catalyst for the judge's personal growth and desire to improve his well-being.
- k. JDDC Cases #21-193 and #21-210 are dismissed pursuant to this agreement.
- l. The Judge's conduct is now admitted and found to have violated the following provisions of the Code of Judicial Conduct: Rule 1.1, which requires a judge to comply with the law including the provisions of the Code of Judicial Conduct. Rule 1.2, requiring judges to act at all times in a manner that promotes public confidence in the integrity, independence, and impartiality of the judiciary; and Rule 3.1(C), prohibiting judges from participating in extrajudicial activities that would appear to a reasonable person to undermine the judge's integrity, independence, or impartiality.

Prior Discipline:

In 2011, in JDDC Cases #11-236 and #11-239, you were given a Letter of Reprimand. You admitted that your actions in those cases violated Rules 1.1, 1.2, 1.3, 2.4, 2.9, and 2.11. The discipline included remedial measures that you were required to take pursuant to the agreed public sanction. You complied with the remedial measures. The press release and Letter of Reprimand from those cases are attached to this letter.

Relevant Canons of the Code of Judicial Conduct:

Preamble to the Code of Judicial Conduct

Judges should maintain the dignity of judicial office at all times and avoid both impropriety and the appearance of impropriety in their professional and personal lives. They should aspire at all times to conduct that ensures the greatest possible public confidence in their independence, impartiality, integrity, and competence.

RULE 1.1 Compliance with the Law

A judge shall comply with the law, including 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.

Comment to Rule 1.1 and 1.2:

[1] Public confidence in the judiciary is eroded by improper conduct and conduct that creates the appearance of impropriety. This principle applies to both the professional and personal conduct of a judge.

[2] A judge should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens and must accept the restrictions imposed by the Code.

[3] Conduct that compromises or appears to compromise the independence, integrity and impartiality of a judge undermines public confidence in the judiciary.

....

[5] Actual improprieties include violations of the law, court rules or provisions of the Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge's honesty, impartiality, temperament, or fitness to serve as a judge.

Rule 3.1 - Extrajudicial Activities In General

A judge may engage in extrajudicial activities, except as prohibited by law or this Code. However, when engaging in extrajudicial activities, a judge shall not: (A) participate in activities that will interfere with the proper performance of the judge's judicial duties; (B) participate in activities that will lead to frequent disqualification of the judge; (C) participate in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality; (D) engage in conduct that would appear to a reasonable person to be coercive; or (E) make use of court premises, staff, stationery, equipment, or other resources, except for incidental use for activities that concern the law, the legal system, or the administration of justice, or unless such additional use is permitted by law.

Discussion:

The Code of Judicial Conduct states in Rule 1.2 that “[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 (*emphasis added*).” The plain language of this Rule makes it clear

that judges have a duty to conduct themselves with dignity in their personal lives as well as their official actions on the bench. It is also clear that that duty is not just a general principle, but an enforceable standard of conduct. It is not burdensome to expect the judiciary to follow broadly accepted norms of social conduct. This is where you failed. This case was not about a technical aspect of the unique position of being a judge. It was about common courtesy and conduct when in a minor confrontation.

Judges routinely order people to conduct themselves with self-control, show restraint, and avoid confrontation. It is incumbent upon judges to also adhere to the same behavioral standards in their life encounters. This misconduct not only displayed a lack of dignity, courtesy, and patience required of judges - it affected the way the public views a judge dealing with everyday issues – the same kind that often bring the public to court. Judges should not be isolated from the public. They live in the same communities as the attorneys, staff, parties, and witnesses that appear on their dockets. It is not too much to ask that our judiciary interact with the public with the same patience, self-control, and kindness that should be the social norm throughout our state.

The investigation in this case was extensive. Many witnesses gave formal statements that were then transcribed. The videos of the incident were obtained, preserved, and reviewed. Hours of monitoring occurred wherein staff members watched your court proceedings via Zoom. The Panel was fully informed about the incident, your response, and the information that was available if the case were to proceed to a formal disciplinary hearing. Information concerning your

prior public discipline was reviewed in depth. The mitigating circumstances that you described with openness to the Panel also was impactful.

Standard:

To determine the appropriate sanction, judicial conduct commissions consider the following nonexclusive factors: (a) whether the misconduct is an isolated instance or evidenced a pattern of conduct; (b) the nature, extent and frequency of occurrence of the acts of misconduct; (c) whether the misconduct occurred in or out of the courtroom; (d) whether the misconduct occurred in the judge's official capacity or in his private life; (e) whether the judge has acknowledged or recognized that the acts occurred; (f) whether the judge has evidenced an effort to change or modify his conduct; (g) the length of service on the bench; (h) whether there have been prior complaints about this judge; (i) the effect the misconduct has upon the integrity of and respect for the judiciary; and (j) the extent to which the judge exploited his position to satisfy his personal desires.

The Panel found that factor (i) was the most germane in recommending a serious sanction and that factor. Prior discipline under (h) was also given strong consideration. Factor (e) garnered the most mitigation for the judge and helped him to avoid suspension as a recommended sanction.

Mitigation

Admitting mistakes and accepting a sanction saves time and expense. You have done so willingly after cooperating with the JDDC staff in an effort to resolve this matter. There are other mitigating circumstances that you have offered to

provide the Panel with context. It is undisputed that you have had an extremely difficult past many years and handle a heavy caseload.

You nearly died when you broke your neck in a bike accident about eight years ago.

Two years ago, you experienced a full cardiac arrest. After revival, you underwent triple bypass surgery.

Nine months ago, you had major surgery to replace your hip – which necessitated the use of a cane.

Throughout your tenure as a Circuit Judge, you have had multiple credible death threats – two of which resulted in charges against people who had taken steps to act on their threats. All the time you handled heavy criminal docket, presided over multiple capital murder cases, and handled many jury trials.

Almost immediately after this incident, you took action to seek counseling. You have stated to the JDDC that you wanted to understand the cause of the event from an internal perspective. Counseling was sought to help you handle the foreseeable stressors associated with your work. You have acknowledged and embraced the importance of mental health, which is a topic that far too few people are willing to address in a public forum. You stated, and I agree, that hopefully your candor on this issue will help others in the judiciary who face complicated and stressful situations as part of their profession.

Sanction:

You agree that a Censure is the proper sanction for JDDC #20-188, et al.

A censure is a “[f]ormal sanction for violating the Code of Judicial conduct. It is a declaration that a judge is guilty of misconduct that does not require suspension or removal. A stern rebuke that finds the conduct of the justice or judge violates a rule of judicial conduct, detrimentally affects the integrity of the judiciary, and undermines public confidence in the administration of justice. It could involve misconduct that is more serious, but the judge presented substantial mitigating factors. A censure may include a requirement that the judge follow a specified corrective course of action. A censure also serves as a public warning to other judges. In those cases, you violated Rules 1.1, 1.2, and 3.1. Your Censure includes your adherence to the remedial measures below.

Remedial Measures

The measures listed below are part of the agreement made between the judge and the JDDC. As to the Censure, in the future if the judge violates any of the terms below, the Executive Director may file a new complaint based on, inter alia, Rule 2.16. The new complaint could seek additional and more severe sanctions:

- You proactively enrolled and attended the class on “Mindfulness for Judges” through the National Judicial College. You have provided proof of attendance and completion. It was a four-day class. This class has been recommended as a remedial measure in other JDDC cases.
- You previously submitted proof of participation in professional counseling offered through the Judges and Lawyers Assistance Program (JLAP). You have agreed to continue your meetings until you and your counselor both determine sessions are no longer necessary. The Panel was impressed with

your commitment to working through personal stress and your desire to improve your emotional and mental well-being.

- You have already read and reviewed the IBA Report: *Us Too? Bullying and Sexual Harassment in the Legal Profession*. You are expected to have read and assimilated the information to improve future behavior. It will be assumed that you understood the issues, standards, and examples of bullying in the legal profession.
- Have no more complaints that result in a finding of probable cause resulting in public charges or agreed discipline.
- Through this agreement you have officially reiterated your apology to those involved and to the public for your actions as they reflected poorly on the judiciary.

Other allegations were not litigated as you agreed to the sanctions and remedial measures in this final action letter. 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 release of documents. This final action letter concludes JDDC Cases #21-188. JDDC cases #21-193, and #21-210 were dismissed pursuant to this agreement.

This Commission action is public information.

Sincerely,

A handwritten signature in blue ink, appearing to read 'David J. Sachar', is written over the printed name.

David J. Sachar
Executive Director