



MISSISSIPPI COMMISSION ON JUDICIAL PERFORMANCE

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August 26, 2015

NEWS RELEASE

The Mississippi Commission on Judicial Performance, a state agency mandated by the Mississippi Constitution to investigate judicial misconduct, has recommended to the Mississippi Supreme Court that L. Nicole Clinkscales, former Municipal Judge for the City of Columbus, Lowndes County, Mississippi and former Judge for the Columbus Municipal Drug Court, be publicly reprimanded and assessed costs in the sum of \$563.18, Darlene D. Ballard, Executive Director for the Commission, announced today.

The Commission found that Judge Clinkscales engaged in judicial misconduct when she made statements on social media which could reasonably be construed to show racial bias and prejudice; she made statements on social media wherein she endorsed a political candidate; she presided over a case involving her nephew; she gave misleading and deceptive responses during an interview with a reporter from a local newspaper; she routinely started court late and third parties described her as being discourteous and having exhibited poor courtroom demeanor; some participants who did not volunteer were ordered into drug court, therefore, the program was not voluntary; and some participants in drug court remained in the program longer than the law allows.

The Commission's recommendations are filed with the Supreme Court which will consider the Commission's recommendations and determine the appropriate final decision.

A copy of the Commission findings and recommendation is enclosed herein for your information.

BEFORE THE MISSISSIPPI COMMISSION ON JUDICIAL PERFORMANCE

FILED

INQUIRIES CONCERNING A JUDGE

AUG 26 2015

NOS. 2013-222/228

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

2015-JP-01281

COMMISSION FINDINGS OF FACT AND RECOMMENDATION

INITIATION OF PROCEEDINGS

1. On June 9, 2014, the Mississippi Commission on Judicial Performance (“Commission”) filed a Formal Complaint in Inquiries Concerning a Judge Nos. 2013-222/228 charging L. Nicole Clinkscales (“Respondent”), former¹ Municipal Court Judge for the City of Columbus, Lowndes County, Mississippi and former Judge for the Columbus Municipal Drug Court, with judicial misconduct constituting willful misconduct in office and conduct prejudicial to the administration of justice which brings the judicial office into disrepute in violation of Section 177A of the Mississippi Constitution of 1890, as amended.

2. On July 17, 2014, Respondent filed her Answer to Formal Complaint.

3. Thereafter, on August 11, 2015 an Agreed Statement of Facts and Proposed Recommendation was submitted and filed by counsel for the Commission and Respondent regarding the above described Inquiries. The Agreed Statement of Facts and Proposed Recommendation was signed by Darlene D. Ballard, Executive Director of the Commission,

¹Respondent resigned her position as judge of the drug court effective February 6, 2014. Respondent resigned her position as Municipal Court Judge for the City of Columbus effective June 23, 2015.

by Respondent, and by Bennie L. Richard, attorney for Respondent. It was unanimously approved by the full Commission on August 14, 2015 at its regularly scheduled meeting.

FINDINGS OF FACTS

4. Based upon the pleadings and the Agreed Statement of Facts and Proposed Recommendation and after considering Respondent's history with the Commission and other factors delineated in *Miss. Comm'n on Judicial Performance v. Gibson*, 883 So. 2d 1155, 1158 (Miss. 2004), *overruled in part on other grounds by Miss. Comm'n on Judicial Performance v. Boone*, 60 So. 3d 172, 177 (Miss. 2011), as modified by *Miss. Comm'n on Judicial Performance v. Skinner*, 119 So. 3d 294, 306 (Miss. 2013), the Commission finds the following by clear and convincing evidence, to wit:

5. Respondent, while serving as Municipal Court Judge for the City of Columbus and Judge for the Columbus Municipal Drug Court, made numerous statements on Facebook and Twitter which could be reasonably construed to show racial bias and prejudice. Many of the statements were reported in the media including in a local newspaper. Respondent admitted to making the following statements:

June 18, 2013 - "People are no longer hanged from trees. They are crucified of their character with lies and innuendo."

June 20, 2013 - "What is happening now is a modern day mutiny." "If my people don't wake up and walk in the authority God has given, you can very well look up and be right back in bondage. And just as before - they will shove their will down your throat and never give it a second thought! Stop pandering and apologizing and RULE!"

June 21, 2013 - "But we can't expect the media to accurately reflect the

feelings of our community. Time for another plan.” “And don’t misunderstand me. I have an unabashed love for my people. I know the power we have and it’s time to walk in that privilege!”

September 19, 2013 - “I am simply amazed that those who created and established the very institutions and systems that those who were still in the cotton fields during their inception now operate in are complaining about how those systems (i.e. business travel, discretionary spending, police power) are playing out? Give me a break from the manufactured concern. It’s a classic case of separate but unequal. In other news, ‘it ain’t no fun when the rabbit got the gun!’ #don’tbefooled.”

October 24, 2013 - “The elders always say ‘just keep on living’ because anything you haven’t seen you will see eventually. This morning was one of those moments. I can’t believe what my eyes have seen and my ears have heard. I never thought I’d see the kind of ‘tom’ foolery AGAIN that I have seen in what is supposed to be an arena of education and higher order thinking. We are yet reduced back to having to defend an opposing view and race is the dirty little word no one wants to say yet it continues to be tossed around. I am SO over board member Turner!”

October 24, 2013 - “Some folks aren’t amenable to change. I understand Sister Harriet Tubman when she sighed and said she could have freed more if only they knew they were slaves! You have to first liberate the mind!”

October 24, 2013 - “And to further quote Sister Tubman . . . NEVER wound a snake . . . KILL IT!”

October 29, 2013 - “. . . Then we have to move! We’ve sat by too long and allowed them to manipulate and desecrate our community. Enough is enough!”

6. Respondent, while serving as Municipal Court Judge for the City of Columbus and Judge for the Columbus Municipal Drug Court, made at least one statement on Facebook wherein Respondent endorsed a political candidate. This statement was reported in the media including in a local newspaper. Respondent admitted to making the following

statement:

January 12, 2013 - "Cast your vote in the Senate District 16 Special Election. I will be voting for Angela Turner Lairy! . . . Let's not lose this seat!"

7. Respondent resigned as judge of the Columbus Municipal Drug Court effective February 6, 2014. Respondent agreed and admitted that while Respondent served as judge of the Columbus Municipal Drug Court, some participants who did not volunteer were ordered into drug court, therefore, the program was not voluntary. Respondent agreed and admitted that during Respondent's tenure as drug court judge, some participants remained in the program longer than the law allows.

8. Respondent admitted to Commission staff that, while serving as Municipal Court Judge for the City of Columbus and Judge for the Columbus Municipal Drug Court, she ordered her nephew into drug court in violation of Article 6, Section 165 of the Mississippi Constitution of 1890 and Section 9-1-11 of the Mississippi Code.

9. Respondent agreed and admitted that on or about June 23, 2009, Respondent was arrested and charged with failing to obey a police officer. Shortly before February 21, 2011, while serving as Municipal Court Judge for the City of Columbus and Judge for the Columbus Municipal Drug Court, Respondent was interviewed by a reporter with a local newspaper. Respondent agreed and admitted that in the article, which was published on February 21, 2011, Respondent gave misleading and deceptive responses to questions about her arrest. On or about February 22, 2011, Respondent entered a no contest plea to disobeying a police officer in Lowndes County Justice Court.

10. Respondent agreed and admitted that in the past, Respondent routinely started court late and third parties have described her as being discourteous and having exhibited poor courtroom demeanor.

VIOLATIONS

11. Respondent agreed and admitted that the above stated facts constitute a violation of Canons 1, 2A, 3B(1), 3B(2), 3B(4), 3E(1), 4A(1), 4A(2), and 5A(1)(b) of the Code of Judicial Conduct of Mississippi.

12. Respondent agreed and admitted that it was improper to make statements on Facebook and Twitter, referred to in paragraph 5 above, which could be reasonably construed to show racial bias and prejudice.

13. Respondent agreed and admitted that it was improper to endorse a political candidate.

14. Respondent agreed and admitted that it was improper to order participants into drug court who had not volunteered to enter drug court and to allow some participants to remain in the program for longer than the law allows.

15. Respondent agreed and admitted that it was improper to preside over a case involving her nephew.

16. Respondent agreed and admitted that it was improper to give misleading and deceptive responses regarding her arrest during an interview with a reporter from a local newspaper.

17. Respondent agreed and admitted that it was improper to routinely start court late and that it was improper to act in a manner which could be reasonably construed as being discourteous and exhibiting poor courtroom demeanor.

18. Respondent acknowledges that Canon 1 of the Code of Judicial Conduct requires that a judge participate in establishing, maintaining, and enforcing high standards of conduct, and to personally observe those standards to preserve the integrity and independence of the judiciary. Respondent acknowledges that Canon 2A requires judges to respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. Respondent acknowledges that Canon 3B(1) requires a judge to hear and decide all assigned matters within the judge's jurisdiction except those in which disqualification is required. Respondent acknowledges that Canon 3B(2) requires, in part, that judges be faithful to the law and to maintain professional competence in it. Respondent acknowledges that Canon 3B(4) requires that judges be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom they deal in their official capacities. Respondent acknowledges that Canon 3E(1) requires that a judge disqualify herself in proceedings in which her impartiality might be questioned by a reasonable person knowing all the circumstances. Respondent acknowledges that Canon 4A(1) mandates that a judge conduct her extra-judicial activities to minimize the risk of conflict with judicial obligations and that a judge shall conduct all of the judge's extra-judicial activities so that they do not cast reasonable doubt on the

judge's capacity to act impartially as a judge. Respondent acknowledges that Canon 4A(2) mandates that a judge conduct all of the judge's extra-judicial activities so that they do not demean the judicial office. Respondent acknowledges that Canon 5A(1)(b) mandates that a judge refrain from inappropriate political activity and that a judge shall not publicly endorse a candidate for public office.

19. Respondent agreed and admitted that the above stated facts are a violation of Section 177A of the Mississippi Constitution of 1890, as amended, as said conduct constitutes willful misconduct in office and conduct prejudicial to the administration of justice which brings the judicial office into disrepute.

MITIGATION

20. Respondent fully cooperated with the Commission in this matter.

21. Respondent took the bench in December 2010 and has no prior disciplinary history with the Commission.


RECOMMENDATION


22. Section 177A of the Mississippi Constitution provides that upon recommendation of the Commission, a judge may be removed, suspended, fined, publicly censured or reprimanded by the Mississippi Supreme Court. To sanction a judge, the Court must find one or more grounds for sanction, including willful misconduct in office and conduct prejudicial to the administration of justice which brings the judicial office into disrepute. The Commission finds by clear and convincing evidence that Respondent's

conduct herein constitutes each of the above enumerated grounds and recommends to the Mississippi Supreme Court that Respondent be publicly reprimanded pursuant to Section 177A of the Mississippi Constitution of 1890, as amended, and assessed costs of these proceedings in the sum of \$563.18.

RESPECTFULLY SUBMITTED, this the 21 day of Aug, 2015.

MISSISSIPPI COMMISSION ON
JUDICIAL PERFORMANCE


MR. RICK D. COULTER
VICE CHAIRMAN


MR. ROY D. CAMPBELL, III, ESQ.
PRESIDING MEMBER OF
COMMITTEE