JUDICIAL CONDUCT CASES

A. Conflict of Interest

In Re: Braswell, 358 N.C. 721, 600 S.E.2d 849 (2004)

Respondent refused to recuse himself from hearing a case in which the plaintiff also had a lawsuit pending against the respondent on an unrelated matter. The Commission found, and the Supreme Court accepted its finding that the respondent's "impartiality [could] reasonably be questioned", and thus violated Canons 2A and 3C(1). The respondent was censured for his misconduct.

In Re: Allen, ___ N.C. ___, ___ S.E.2d ___ (2007)

Respondent improperly ordered three magistrate judges to set a low bond for a former client, and friend, of his. Respondent also had improper *ex parte* communications with the District Court Chief Judge asking him to 'go easy' on the same defendant because the respondent needed him out of jail to fix his air conditioner. Finally, the respondent signed an Ex Parte Emergency Order and Notice of Hearing granting the same defendant temporary custody of his three children. The Commission found the respondent's actions violated Canons 1, 2A, 2B, 3A(4), 3C(1)(a) and 3D of the North Carolina Code of Judicial Conduct, and censured the respondent.

B. Misuse of Judicial Power

In Re: Jarrell, Jr. – 006-233 (2007)

Two cars were stolen from the estate of the respondent's uncle. Respondent conducted his own investigation and passed this information onto an officer in the Archdale Police Department. Respondent gave the officer his office business card with a note on the back requesting a $25,000 cash bond and instructed the officer to give the business card to the magistrate on-duty. Bond was set for $25,000 with a notation, "BOND SET BY JUDGE JARRELL (CASH ONLY)." Upon receiving a complaint, the Commission found that the respondent misused the power of his judicial office by using his influence to suggest a bond in a matter where he had a personal interest in the case. The Commission said the fact that this action arose in a different judicial district did not in any way mitigate his misconduct. His misconduct violated Canon 1, for failing 'to personally observe appropriate standards of conduct to ensure that the integrity and independence of the judiciary ' is preserved; Canon 2A for failing to 'respect and comply with the law and to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary'; 2B for 'using the prestige of his office to advance the private interests of his uncle's estate'; and 3A(4) for 'initiating *ex parte*

communication in a pending proceeding.' A public reprimand was issued against the respondent for his misconduct.

C. Negligent Disregard of the Code of Judicial Conduct

Roemer – 06-244 (2007)

Respondent presided over a matter on appeal from a magistrate's judgment. The respondent was supposed to enter a monetary judgment against the defendants, but instead unlawfully found them in civil contempt because they could not pay $2,480 as awarded by the court and ordered them into custody until the money was paid. The Commission found the respondent's behavior in negligent disregard of the Code of Judicial Conduct, particularly Canon 1, 2A, and 3A(1) for failing 'to be faithful to the law and maintain professional competence.' The Commission issued a reprimand against the respondent.

Taylor – 07-227 (2008)

Respondent, without further inquiry or speaking to both parties, signed a proposed consent order correcting a finding of fact issued by another judge that was offered *ex parte* by one of the parties. The judge entered the order without a motion to modify or a notice of hearing filed on the parties. The attorney who approached the respondent later admitted he did so without serving notice to the opposing counsel and without a hearing. The Commission found the respondent failed to meet the standards set forth in Canon 1, 2A, 3A(1) and 3A(4), by failing "to accord to every person who is legally interested in a proceeding, or the person's lawyer, full right to be heard according to law, and . . . neither knowingly initiate nor knowingly consider ex parte or other communications concerning a pending proceeding." The Commission issued a public reprimand against the respondent.

Frye, Jr. – 08-020 (2008)

Respondent, three-and-a-half years after presiding over a six day bench trial, still had not issued a written ruling. No ruling had been issued despite inquiries from counsel and court personnel. The Commission found the delay to be serious misconduct under the Canons of the North Carolina Code of Judicial Conduct, depriving litigants the opportunity to have their claims decided in a timely manner. The Commission publicly reprimanded the respondent for his misconduct.

Belk: 09-013, 09-018, and 09-029

Respondent had a history of serving on corporate boards. After being elected as a District Court Judge, he was advised that continuing to serve as a member of the Board of Directors for Sonic Automotive, Inc. for which he was paid $143,500 per year was a violation of

Canon 5 C.(2). Canon 5 C.(2) prohibits a Judge from serving as an officer, manager or director of any business. The Commission recommended to the Supreme Court that respondent be removed from judicial office.

D. Personal Misconduct

In Re: Daisy, 359 N.C. 622, 622 S.E.2d 529 (2005)

The respondent was found to have sexually harassed two District Court female employees. Both incidents involved "physical contact . . . that could reasonably be interpreted, and was considered [by the victims] to be unwanted, uninvited, and inappropriate conduct." The Supreme Court accepted the Commission's finding that the respondent violated Canons 1, 2A, and 3A(3), and censured the respondent.

McCullough – 07-044 (2007)

Respondent was stopped by police for speeding – 12 miles over – and his blood alcohol level was 0.12. He was charged with speeding in a 35 MPH zone and misdemeanor DUI. Respondent pled guilty and reported his conviction to the Commission. The Commission found the respondent's actions disregarded Canon 1, for failing 'to personally observe appropriate standards of conduct to ensure that the integrity and independence of the judiciary shall be preserved'; and failing 'to respect and comply with the law and to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary' as set forth in Canon 2. This was the respondent's first offense and the Commission issued him a public reprimand. See also ***Adkins*, 07-223 (2008)**, respondent receives public reprimand for going 83 in a 55 with a .08 blood alcohol content level.

In Re: Ballance, ___ N.C. ___, 643 S.E.2d 584 (2007)

Respondent pled guilty in criminal court for failure to pay federal income taxes. He was sentenced to a nine month imprisonment, ordered to pay a fine, and given supervised release. The respondent's misconduct was in violation of Canons 1, 2A, and 2B of the North Carolina Code of Judicial Conduct. Conviction of tax evasion is also a crime of 'moral turpitude and conduct prejudicial to the administration of justice that brings the judicial office into disrepute.' The Commission recommended and the Supreme Court accepted their recommendation to remove the respondent from office. The respondent did not file an objection to this recommendation.

E. Supreme Court Declines to follow Commission's Recommendation

In Re: Brown, 358 N.C. 711, 599 S.E.2d 502 (2004)

Respondent had issued a sanction against an attorney before her for *ex parte* communications with another judge about a case in which the respondent was scheduled to preside over the following day. The *ex parte* order delayed the scheduled proceedings, and the respondent ordered the attorney to follow the county's standard practice of only having *ex parte* communication with the appropriate judge assigned to a case. The respondent permitted the attorney to file an appeal to her order within thirty days. Counsel did file an appeal, and over her conflict-of-interest objection, the respondent heard the appeal to her own order. The respondent swore herself in, gave testimony, called a witness, cross-examined the attorney's witnesses, and even ruled on objections (though most rulings were in favor of the attorney). The Commission found the respondent's behavior in presiding in, while participating in, a case at the same time as a violation of Canons 2A, 3A(5), 3C(1)(a), and 3C(1)(d)(iv) of the North Carolina Code of Judicial Conduct. Further, they found the respondent's conduct "constituted 'conduct prejudicial to the administration of justice that brings the judicial office into disrepute' and recommended that respondent be censured by this Court." In deciding this case, the Supreme Court rejected the Commission's recommendation. While not ruling on the alleged individual conduct or Canon violations, the Court held "that respondent's actions do not constitute conduct prejudicial to the administration of justice", and thus rejected the Commission's censure recommendation.

In Re: Badgett, ___ N.C. ___, ___ S.E.2d ___ (2008)

Respondent had a business relationship with one of the lawyers who frequently heard cases before him. At no time did he or the lawyer ever let this be known for the court record, nor did they even tell the District Attorney's office. There were some complaints of perceived favoritism with the lawyer in question, at which time they disclosed the information, but tried to persuade the District Attorney to sign a remittal stating that no conflict existed. The respondent and attorney even lied to the District Attorney and his staff, claiming the Judicial Standards Commission had cleared the relationship, when they had done no such thing. The respondent made threats to one of the Assistant District Attorney's claiming he knew who had filed the complaint against him and "he was going to 'unload on them.'" Respondent was also found to be constantly rude to those working for and appearing in his courtroom. The Commission recommended the respondent be censured; however the Supreme Court found the "respondent's conduct has crossed the threshold from conduct prejudicial to the administration of justice, which would typically warrant a censure, to willful misconduct." The Court noted the respondent impermissibly participated in a remittal of disqualification; gave untruthful statements under oath regarding this matter; and used the power of his position to threaten the District Attorney. His misconduct violated Canons 1, 2A, 2B, 3A(2), 3A(3), 4A(4), and 3D. The Supreme Court did not agree with the Commission that a censure was sufficient punishment and thus in addition to

issuing the respondent with a censure, the Court also suspended him from the bench for sixty days.

F. Unprofessional Conduct

In Re: Hill, 357 N.C. 559, 591 S.E.2d 859 (2003)

During a hearing before the respondent in Superior Court, the respondent asked the defendant's attorney for her personal opinion on her belief of what the plaintiff "knew." The attorney declined to express an opinion on this matter at which point the respondent started to vigorously question the attorney. When the attorney was unable to answer one of the respondent's question, the respondent replied, “Pretty incompetent, isn't it?” The Supreme Court noted that this behavior alone was likely insufficient to warrant a censure. However, when the respondent was assigned to court in Franklin County, she had an exchange at the entrance of the cafeteria with a sheriff's deputy. Upon reaching the doorway at the same time, the respondent yelled: “Get out of my way.” The deputy responded, saying, “Excuse me.” The respondent replied, “Get the hell out of my way”, and extended her hand toward the deputy as if she intended to 'grab his genitals.' The deputy grabbed the respondent to prevent her attack and released her hand upon learning she was a judge. Following the event in the doorway, the respondent asked the sheriff, “Are you scared?” The sheriff responded, "Yes", to which the respondent said, “It's been a while since I shoved a male's balls through his nose holes.” These two incidents taken as a whole was sufficient according to the Supreme Court to issue the respondent with a censure for violating Canons 2A and 3A(3).

In Re: Hill, 359 N.C. 308, 609 S.E.2d 221 (2005)

The Commission found that the respondent on several occasions while court was in session, and outside the courtroom, made unprofessional comments in violation of Canons 1, 2A, 3A(2) and 3A(3) of the North Carolina Code of Judicial Conduct. During the respondent's first trial as a judge, she repeatedly referred to one of the attorneys in the case as "Ally McBeal." Respondent asked another attorney to use his "big boy voice" when speaking to the jury. Respondent told another attorney before her that if he asked a particular question again, he would "probably see 13 collective people throwing up.” The respondent also pushed at yelled at another woman as they were riding in the elevator at the Wake County Courthouse. The respondent did not contest any of these accusations and she was again censured by the Supreme Court for her misconduct.

William McIver Cameron: 06-247A (2008)

The respondent, in an attempt to be humorous, sent a get-well card to his Chief District Court Judge who was in the hospital. The card contained profanity and other inappropriate language, including language which could be considered to have racial connotations. The

respondent did not sign his own name but signed the name of a magistrate who had no knowledge of these actions. The Chief Judge who received the card did not know it was a joke and was so offended by the card, he ordered that the magistrate be "unassigned" from her duties. Thereafter, upon learning that the innocent magistrate had been "unassigned", the respondent confessed of his actions to the Chief Judge to whom the card had been sent. The respondent admitted that the tenor of the card was angry, inappropriate and in poor taste and apologized to the magistrate and all parties involved. The commission found the respondent's actions inappropriate but did not recommend discipline.