

# “A one-second scream”

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The Ohio Supreme Court suspended a former magistrate from the practice of law for 6 months for summarily holding a woman who screamed in the hallway outside his courtroom in contempt and, when she protested, increasing her jail sentence. *Disciplinary Counsel v. Bachman* (Ohio Supreme Court December 18, 2020). The Court adopted the findings of the Board of Professional Conduct, which were based on stipulations and evidence presented at a hearing.

On September 4, 2018, at approximately 7:45 a.m., K.J. arrived at the court to file a petition for a civil protection order. After she completed the paperwork, a clerk's office employee told her that she had missed the 8:10 a.m. filing deadline to be heard that day and that she would have to return the following day.

K.J. went to the magistrate's courtroom, apparently hoping to have her case heard that day. The magistrate was conducting an asset-forfeiture trial. After speaking with the magistrate's clerks in the hallway, K.J. turned away.

As she walked toward the exit, K.J. screamed so loudly that she was heard in the courtroom. The magistrate immediately said, “Okay, time-out,” and stopped the trial.

The Court described the video footage of what followed as “revealing and disturbing.”

It shows Bachman exiting the courtroom in his robe and running down the hallway in pursuit of K.J. He accosts her at the elevators and returns her to his courtroom. Once there, Bachman walks her through the crowded courtroom with his hand on her shoulder, places her in a seat in his jury box, and orders her not to move just before summoning the sheriff. Multiple sheriff's deputies soon arrive, and Bachman orders them to take K.J. into custody and to jail her for three days for contempt, causing her to cry and attempt to leave the jury box.

The Court stated that “the next 20 minutes of the video are difficult to watch.”

While K.J. resists being arrested and pleads with Bachman to explain why she is being jailed for three days, she is physically subdued by two deputies, threatened with being tased, and ultimately dragged from the jury box by several deputies. Bachman's only response is to increase her jail sentence to ten days. . . . Bachman then congratulates a deputy on an award the deputy had recently received and resumes the proceeding as if nothing out of the ordinary has just transpired. Meanwhile, the video footage shows, while K.J. continues protesting her arrest, she is dragged, yanked, pinned to a wall, and handcuffed to a chair. Before the video ends, over 20 deputies and members of the court staff are involved in jailing K.J.—all because of a scream of frustration in the hallway that lasted one second.

2 days later, the administrative judge watched the video of the incident and ordered that K.J. be released from custody. Approximately 4 days later, the magistrate was told that the “general sentiment” of the judges on the court was that he should be let go. He resigned because, as he testified at his disciplinary hearing, he had been told that if he did, “this would be quiet and that would be it.”

Noting that a judicial officer has authority to summarily punish a person whose misbehavior in or near the courtroom “obstruct[s] the administration of justice,” the Court emphasized that K.J.’s scream outside the magistrate’s courtroom was only “a distraction at best or a momentary interruption to the proceedings at worst. The only obstruction to the administration of justice that day occurred due to Bachman’s misconduct.”

Noting that it considers injury caused by professional misconduct when determining a sanction, the Court stated that “the chain of events set in motion by Bachman’s misconduct” physically and emotionally harmed K.J. It noted that the magistrate’s conduct also “exposed the sheriff’s deputies and other court personnel to harm from a violent and unnecessary arrest on full display in front of a courtroom full of people who have no other choice but to sit silently and witness such a disturbing sight.”

The Court noted the Board’s finding that the magistrate defended his action as an appropriate exercise of the contempt power and “demonstrated a lack of insight as to the inappropriateness of his actions,” showing no “remorse for the effects of the incident on [K.J.],” and focusing on the impact “on his career and his resulting financial loss,” and. The Court found:

Bachman’s sentencing K.J. to ten days in jail for a one-second scream in the hallway as she was leaving his courtroom area and for questioning why she was being jailed is outrageous. The spectacle his conduct created was even more appalling and demonstrates his utter indifference to the harm he caused K.J. and the integrity of the judiciary. . . .

Sending someone to jail is not the adult equivalent to sending a child to his or her room for a time-out. Yet Bachman and other judicial officers who have been sanctioned for similar conduct seem to equate the two. Not only was Bachman’s jailing of K.J. unauthorized under the contempt statute, but he exhibited a total disregard for the reason she was at the courthouse in the first place — to get a civil protection order. He also showed a complete indifference to the circumstances of her life (e.g., whether she had children or other family members to care for, employment she might lose, or any other harm she could suffer), to the indignity she endured by being physically restrained in a crowded courtroom, and ultimately, to the loss of her liberty.

The Board had recommended that the 6-month suspension be stayed with conditions. The Court stated that an actual suspension was warranted “when a judicial officer’s misconduct causes harm in the form of incarceration” and “to send a strong message to members of the judiciary, to deter similar violations in the future, and to make crystal clear to the public that this type of judicial misconduct will not be tolerated.”