



## *Judicial Discipline & Disability Commission*

May 17, 2013

Honorable Robert Batton  
Pulaski County District Court  
Jacksonville Division  
1414 West Main  
Jacksonville, AR 72076

RE: JDDC Case No. 12-303

### **LETTER OF REPRIMAND**

Dear Judge Batton:

You were alleged to have committed violations of the Code of Judicial Conduct in the above referenced case. The following facts comprise the violations which you agree are no longer alleged but proven:

#### **UNDISPUTED FACTS:**

- 1) Judge Batton is the full time District Court Judge for the Jacksonville Division of the Pulaski County District Court.
- 2) Glen Thomas is a resident of Jacksonville, Arkansas. On August 29, 2012, Thomas was the Defendant in a traffic court case before Batton for a charge of driving on a suspended driver's license. This was not the first time Thomas had been in Jacksonville District Court, either as a victim or as a defendant.
- 3) Glen Thomas and his counsel entered into a verbal disagreement at the podium regarding the State's need for a continuance of his case. Thomas grew increasingly louder as the conversation continued between him and his attorney, to the point that he could be heard by all persons inside the courtroom.
- 4) Thomas' attorney asked him to stop talking and Thomas refused; only growing louder as he spoke. Thomas made reference to those around him considering him an idiot and the fact that his attorney told him to "shut up", a statement which is not supported by the recording of the attorney's statements.
- 5) Batton responds to Thomas' statements by indicating that Thomas was acting like an idiot at the present time and commented that Thomas is always argumentative.
- 6) Thomas goes on to say things like "this always happens to minorities."
- 7) Batton responds by stating to Thomas "You're a racist and I'll let the world know it too." As the argument accelerated, reference is made to previous complaints to the JDDC. Batton's response was, "Did they throw that out?"
- 8) Thomas asks Batton to recuse, to which Batton begins to advise the parties to "keep a record of this."
- 9) Batton refers to Thomas' actions as a "tirade," and resets Thomas' case for September 12, 2013.

- 10) Batton says he thinks Thomas is a racist too and that he is prejudice against white people. He then comments for Thomas to "write another letter and take me to Federal Court." Batton also tells Thomas that he is "waiting to deal with" him and adds reference to Thomas' personal life.
- 11) Batton finishes by telling Thomas to "put that in your report."
- 12) As Thomas leaves the courtroom, Batton comments to the audience, "there goes another angry black man."
- 13) Batton admits that he told Thomas he considered him a racist. Batton also admits that he stated "there goes an angry black man."
- 14) Recordings were submitted to the JDDC office and the recordings indicate the language to be "there goes *another* angry black man." Batton admits that his statements may not be "right or proper," but states that Thomas provokes frustration when he comes into Jacksonville District Court. Batton also expressed a desire to vindicate to those in the court that he is not prejudiced against blacks. The recordings, submitted by both Batton and Thomas, clarify any discrepancies represented by either Batton or Thomas, as they occurred in open court.
- 15) All factual allegations of this conversation occurred with a galley full of citizens and or court staff and inflicted damage on the public confidence in the judiciary.
- 16) The judge's actions in paragraphs one (1) through fifteen (15) violated Canons 1.1, 1.2, 2.2, 2.3, and 2.8.
- 17) The judge is reprimanded for this conduct.

#### **RELEVANT AUTHORITY:**

The Judicial Discipline and Disability Commission ("JDDC") determined, and you agree, that the above described behavior violates the following sections of the Code of Judicial Conduct (*hereinafter referred to as the "Code"*):

#### **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.

#### **CANON 2**

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

#### **RULE 2.2 Impartiality and Fairness**

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

- (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 2.8 Decorum, Demeanor, and Communication with Jurors

- (A) A judge shall require order and decorum in proceedings before the court.  
(B) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge's direction and control.

### CONCLUSION:

You have agreed that a reprimand is the appropriate sanction for statements you made in the factual allegations of JDDC Case # 12-303. Your willingness to accept that your actions were in violation of the code and your commitment to be more aware of the issues listed above in the future, have led the JDDC to refrain from recommending a more serious sanction, public charges or a public disciplinary hearing in this case.

Even in the face of provocative, disrespectful comments by a litigant, a judge is required to be an exemplar of decorum and dignity in the courtroom and not allow the proceedings to devolve into an undignified exchange of insults and obscenities. The more offensive a litigant's behavior, the more important it becomes for the judge to act with dignity and restraint.

The robe magnifies words and actions and the judicial office imposes speech and conduct restrictions that would be burdensome to the average ordinary citizen. As with most district courts in Arkansas, the dockets are crowded and may present repetitive litigants before the bench. Judges face people who do not always understand the legal processes, even if represented by counsel. Those litigants may not behave with the same decorum shown by counsel. Even in the face of a litigant who shows outright disrespect for the process and the judge himself, it is the judge's responsibility to control his or her courtroom and to continually treat the litigants and counsel with dignity and respect.

Your willingness to make admissions and your promise to avoid such behavior in the future negated a likely recommendation of a more serious sanction.

If you violate the terms below or have additional violations of the Code, the JDDC may initiate a new investigation under the Rules of Procedure of the Judicial Discipline & Disability Commission. In any future proceeding, the JDDC may take into consideration the fact that you have had Case #12-303, in which allegations have been substantiated and agreed as Code violations.

The reprimand for Case #12-303 includes the following agreed conditions:

- You shall refrain from making racially insensitive comments to any persons in your courtroom at any time.
- You shall maintain restraint in dealings with litigants and/or their counsel before you at all times.

- o You shall disqualify yourself in any and all cases where you feel unable to maintain restraint in dealings with litigants and/or their counsel, before you.

The JDDC will monitor your compliance by sending random observers to your courtroom over the next eighteen (18) months. The observers will report back to the JDDC concerning your demeanor and treatment of litigants in your court. The JDDC may file new allegations against you if your behavior is not in compliance with the Code.

In view of these circumstances, it is the judgment of the JDDC that you are hereby reprimanded, for Case #12-303. This public sanction constitutes adequate discipline and no further action, other than the remedial measures and conditions described above, is warranted. Further discipline may occur if the JDDC finds you committed additional violations of the Code, at any time in the future.

This Commission action is public information.

Sincerely,

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

David J. Sachar  
Executive Director