

September 21, 2001

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

RE: Letter of Admonishment, Case #00-256

Dear Judge Batton:

During the September 21, 2001 meeting, the Judicial Discipline & Disability Commission decided to issue a letter of admonishment to you in complaint #00-256. After careful review of the complaint and the accompanying investigation, the Commission determined you had violated the Code of Judicial Conduct.

While serving as a part-time municipal court judge in Pulaski County (6<sup>th</sup> Judicial Circuit), you presided over criminal cases in which the State of Arkansas was represented by the Prosecuting Attorney of Pulaski County. At the same time from 1999 - 2001 you represented approximately 17 criminal defendants in Pulaski County Circuit Court wherein the opposing party (the State of Arkansas) was represented by the Prosecuting Attorney of Pulaski County. Such action creates the appearance of impropriety and must be avoided in order to be in conformity with Canon 2(A) of the Code of Judicial Conduct and to ensure public confidence in the judicial system.

The operative ethical principle involved in this matter was set out and explained on April 30, 1998 in Judicial Ethics Advisory Opinion #98-02. That opinion, in part, states:

“ . . .an individual who accepts the position of a continuing part-time judge places the judicial office first in service and priority, and certain restrictions must follow. It is, we believe, self evident that a municipal judge who is engaged in an adversarial role opposing a prosecuting attorney in a criminal case brought by the State and who presides over proceedings involving that

same prosecuting attorney is in an untenable position, however principled that individual may be. Acting as both judge and jury, the municipal judge has significant discretion in dealing with the prosecuting attorney. To oppose that same attorney in another matter creates an appearance of impropriety. We conclude, as have a majority of other jurisdictions, that license must yield to ethic, where, in the perception of reasonable minds, the ability of municipal judges to carry out their responsibilities with integrity, competence and impartiality could be impaired. It follows that the initial responsibility rests on the municipal judge to decline the personal representation of a criminal defendant in any circuit within which the prosecuting attorney has jurisdiction.”

The Commission notes that you have agreed to no longer accept cases as the personal representative of a criminal defendant in the 6<sup>th</sup> Judicial Circuit (Pulaski County). For your conduct in violating this provision of the Code of Judicial Conduct, it is the decision of the Commission that you be admonished. This public admonition constitutes adequate discipline and no further action is warranted. This Commission’s action is public information.

BY THE DIRECTION OF THE COMMISSION:

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James A. Badami  
Executive Director