

BEFORE THE ARKANSAS JUDICIAL DISCIPLINE  
AND DISABILITY COMMISSION

1998 NOV 24 AM 8:00

IN THE MATTER OF: )

Honorable William McKimm )  
Respondent )

No. 97-284

FINAL DECISION AND ORDER

Pursuant to authority granted by Amendment 66 to the Arkansas Constitution, A.C.A. 16-10-410 et seq. and the Rules of Procedure of the Arkansas Judicial Discipline and Disability Commission promulgated by the Arkansas Supreme Court, the Commission has jurisdiction over the Respondent, Judge William McKimm and issues this Final Decision and Order.

The Commission filed a formal statement of charges against Respondent on September 25, 1998. By letter dated October 19, 1998, Respondent filed an answer to those charges.

I. FINDINGS OF FACTS

1. At all times relevant hereto, Respondent, William McKimm was and continues to be the judge of the Municipal Court of Mount Ida, Arkansas.

2. That after a Probable Cause Hearing on May 16, 1997, in Commission case No. 95-260, Respondent was issued an informal adjustment by the Commission. The informal adjustment stated that Respondent's conduct may have violated the Code of Judicial Conduct.

During the hearing, the Commission accepted Respondent's representation that steps had been taken to avoid such an incident in the future. The Commission found that:

- a) Respondent presided at the trial of Walker v. Standridge on August 4, 1994. The lawsuit concerned a dispute over the failure to pay \$2524 for the delivery of certain goods.
- b) After the trial, Respondent took the matter under advisement. Respondent was contacted by approximately fifteen (15) letters and telephone calls by the attorneys for both parties reminding him that a decision was needed in the case.
- c) As of the date of the Probable Cause Hearing, May 16, 1997, Respondent still had not decided the case.
- d) Respondent acknowledged responsibility for failing to decide the case in a timely manner. The Commission also accepted Respondent's representation that steps had been taken to avoid this type of delay in the future.

3. During the May 16, 1997 Probable Cause Hearing, under oath Respondent stated:

- a) That he was acutely aware of the potential for public disrepute to be brought onto the judicial system and himself by this failure to take care of cases in a timely manner. He was embarrassed by his failure and would take steps to insure it would not happen in the future.
- b) That he had already prepared and had with him a hand written letter which

was his decision in the Walker v. Standridge case, and was ready to enter judgment in the case.

c) That the lawyers for both parties had agreed that it would be acceptable with them if he issued a decision in the case. Also, that he would have the decision in the mail to the lawyers on the following Monday, May 19, 1997.

d) (In response to a comment that he had failed to respond to several letters to him from the Commission) That his failure to respond was not intended to be any disrespect to the Commission or any lack of regard for the complaint. He was embarrassed over this complaint and simply avoided dealing with it. He apologized for his failure to respond to the Commission's letters.

4. In late August or early September 1997, Gail Walker, the complaining party in complaint # 95-260, called the Commission staff to ask for help in getting Respondent to make a decision in the Walker v Standridge case. The Commission staff called Respondent. The Respondent thought the case had been decided. The case docket sheet reflects a entry on 7/7/97 "Upon consideration of testimony, exhibits judgment entered for D"(defendant). Notice of the decision was not sent to the parties or their lawyers. Respondent failed to dispose of this case and notify the parties of his decision in a prompt and efficient manner.

5. By transmittal letter dated October 16, 1997, Respondent forwarded his decision in the Walker v. Standridge case to the lawyers for the parties.

6. In Commission case No. 97-284, Respondent was sent two (2) letters requesting his comments to the complaint. Respondent was sent two (2) letters requesting his comments to a sworn complaint in this case. Respondent failed to respond to any of these letters.

7. By letter dated May 19, 1998, respondent was requested to appear at a Probable Cause Hearing before the Commission on July 17, 1998 at 11:00 a.m. Respondent received the letter but failed to appear at the Probable Cause Hearing.

8. Respondent has failed to cooperate with the Commission. Respondent testified at the May 16, 1997 Probable Cause Hearing in Commission case No. 95-260, and failed to do what he stated under oath, to the Commission, that he would:

a) Send the decision to the lawyers representing the parties on Monday May 19, 1997.

b) Respond to letters sent to him by the Commission in matters relating to the complaint of Gail Walker.

9. Respondent failed to cooperate with the Commission in Commission case No. 97-284 when, after receiving notice of the hearing, he failed to appear at a Probable Cause Hearing before the Commission on July 17, 1998.

## II. FINAL DECISION AND CONCLUSION OF LAW

The above constitutes a violation of A.C.A. 16-10-410(4) and (5) by being conduct that is prejudicial to the administration of justice and is in wilful violation of Canons 1, 2A, and 3B(8) of the Code of Judicial Conduct. The Commission further finds troublesome, Respondent's actions of failing to respond to Commission correspondence, the disregard of the Commission's request to appear at a Probable Cause Hearing on July 17, 1998, especially when coupled with the repeated and continued delay in deciding and issuing the decision in the Walker v. Standridge case, after making assertions that the decision was already drafted and would be issued on the following Monday. These actions with the resulting publicity detrimentally affected the integrity of the judiciary, undermined public confidence in the administration of justice, and constituted and continues to constitute unacceptable behavior. The Commission indulges in the expectation that Respondent will no longer continue with this unacceptable behavior.

## III. ORDER

It is therefore ordered that the Respondent be censured. It is further ordered that Respondent take action to correct the continuing nature of the violations, specifically that Respondent develop a plan to insure that the kind of deficiencies noted will not occur again. Copies of the ticker system, day timer or other similar system that will be used to implement Respondent's to be developed plan, will be photocopied and personally sent to the Judicial Discipline and Disability Commission on the first day of every month from December 1, 1998

thru June 1, 1999. Failure to provide this information in a timely manner or further instances of this type of inappropriate behavior by Respondent will be a basis to re-open these proceedings for review and determination of other possible sanctions to include the possibility of the rescinding of this censure and the re-opening of the Formal Disciplinary Hearing for the consideration of the imposition of another sanction.

Respondent is hereby censured.

By direction of the Judicial Discipline and Disability commission

11/20/98  
Date

Badami  
James A. Badami  
Executive Director  
Judicial Discipline & Disability Commission

Approved as to form.

Richard N. Moore, Jr.  
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