

IN THE ALABAMA COURT OF THE JUDICIARY



In the Matter of:)
EARLEAN ISAAC)
Probate Judge) Court of the Judiciary
Greene County, Alabama) Case No. 48

COMPLAINT

The Judicial Inquiry Commission of the State of Alabama ("the Commission") files this Complaint against Judge Earlean Isaac ("Judge Isaac"), Probate Judge of Greene County, Alabama. The Commission alleges and charges as follows:

I.

NATURE OF THE CHARGES

1. Judge Isaac was first elected as Probate Judge of Greene County in 1989. In 2012, she was re-elected to her fifth term which expires in 2018. Greene County has only one probate judge.

2. Judge Isaac violated the Alabama Canons of Judicial Ethics by presiding over and by failing to disqualify herself from a case involving the probate of her father's estate in which she and her siblings¹ were heirs.

¹ As used herein, the term "sibling" means "[e]ach of two or more offspring of the same parent or parents." SHORTER OXFORD ENGLISH DICTIONARY 2827 (5th ed. 2003).

Her failure to disqualify and her participation as a judge in this case resulted in the following violations: her entering into ex parte communications with others, including her siblings; her obtaining waivers outside the court and outside the presence of all parties or their attorneys; her notarizing documents that she knew or should have known would be filed in a proceeding before her; her directing the administratrix/her sister as to who she thought should and should not be included as heirs; her directing her attorney to request a class-action check be sent to the probate office; her inserting her personal knowledge of facts and family history into the case; her misusing her status as a judge to preempt tasks normally reserved for the personal representative of an estate; and her co-mingled status as party and judge, abandoning her post as an impartial arbiter. The potential damage visited upon the judiciary by the above is significant.

II.

THE FACTS

3. At all times relevant to this Complaint, Judge Isaac was the Probate Judge of Greene County, Alabama.

4. Ms. Gloria Mobley ("Ms. Mobley") is the sister of Judge Isaac, a fact known to Judge Isaac at all times relevant to this Complaint.

5. Mr. Robert Percy Williams was the father of Judge Isaac and Ms. Mobley. Mr. Williams died intestate on July 12, 2003.

6. Prior to his death, Mr. Williams had participated in a class-action lawsuit concerning racial discrimination in the administration of a federal farm program. In 2013, after his death, Mr. Williams was awarded \$62,500 pursuant to the Black Farmers Discrimination Settlement.²

7. Having been notified the settlement was ready for distribution, Ms. Mobley initially presented to Judge Isaac, but did not file, a Petition for Letters of Administration in the Probate Court of Greene County in which she listed ten children of Mr. Williams as heirs.

8. A dispute arose between Ms. Mobley and Judge Isaac as to which individuals were the heirs of the estate. Mr. Williams had four or five additional children by different

² See generally *In re Black Farmers Discrimination Litig.*, 856 F. Supp. 2d 1 (D.D.C. 2011), as amended (Nov. 10, 2011). The amount of \$62,500.00 is the total amount from the Black Farmers Discrimination Fund before taxes. After taxes, the Estate received \$50,000.

mothers. Judge Isaac instructed Ms. Mobley that the Petition was incorrect and that all of the children listed in Mr. Williams's obituary must be included in the Petition.

9. Judge Isaac instructed Ms. Mobley which individuals should and should not be included as heirs in the Petition. Judge Isaac advised Ms. Mobley that a 15th child, Christine Turner ("Ms. Turner," allegedly Mr. Williams's oldest daughter) should not be included in the Petition for Letters of Administration.

10. On November 20, 2013, Ms. Mobley filed a Petition for Letters of Administration in the Greene County Probate Court. That Petition specifically listed and individually identified Ms. Mobley, Judge Isaac, and twelve other siblings as the heirs to Mr. Williams's estate.³ Ms. Turner was not listed among the heirs pursuant to Judge Isaac's instructions to Ms. Mobley.⁴

³ That Petition listed the following fourteen heirs: Almore Williams, Charlie Richardson, Donald Richardson, Ronald Richardson, Calvin Williams, Gloria Mobley, Syvonia Williams, Bettie Reid, Marilyn Williams, JoAnn Broadwater, Johnny Richardson, Earleen Isaac, Gertrude Parker, and Deossie Lewis.

⁴ Ms. Mobley filled out an updated Petition for Letters of Administration that added Christine Turner as an heir. The

11. That same date, November 20, 2013, Judge Isaac granted her sister's Petition. Judge Isaac required Ms. Mobley to post a \$50,000 bond and issued Letters of Administration authorizing Ms. Mobley to administer their father's estate.

12. Judge Isaac testified before the Commission that she did not foresee any problems with her sister serving as the administratrix of their father's estate and had no reservations about presiding as the judge over those proceedings. In her testimony, Judge Isaac stated her sister Deossie Lewis asked her if she intended to recuse if any issue about Ms. Turner arose, and she said yes, she would.

13. No motion for the disqualification or recusal of Judge Isaac was ever filed in the Greene County Probate Court. At no time did Judge Isaac either recuse or disqualify herself from the case involving her father's estate. At no time did Judge Isaac advise the parties she was disqualified as required by Canon 3D, Alabama Canons of Judicial Ethics.

record is unclear if Judge Isaac refused to grant it, or if Ms. Mobley simply failed to file the updated petition.

14. Mr. Williams' estate consisted solely of \$50,000 from the Black Farmers Discrimination Litigation. Although Ms. Mobley was the administratrix, Judge Isaac asked local attorney, Walter Griess, to contact the Black Farmers Discrimination Litigation Claims Administrator and have "the Awards" sent to "Probate Court for Greene County Alabama Hon. Earlean Isaac Probate Judge." It is unclear whether Mr. Griess was representing Judge Isaac in her official capacity or as an heiress with a financial interest in the check's delivery. That check was never cashed. Subsequently, Ms. Mobley had the check reissued to her as administratrix of the estate. The reissued check was cashed.

15. Judge Isaac notarized the Acceptance of Service and Request for Consent Settlement executed by most of the petitioning heirs: Almore Williams, Donald Richardson, Sr., Ronald Richardson, and Calvin Williams on May 10, 2014; Syvonia Williams, Gertrude Parker, Johnny Richardson, and Jo Ann Broadwater on May 21, 2014; Marilyn Williams and Bettie Reid on May 23, 2014; and Deossie W. Lewis on June 15, 2014.

16. During the pendency of the Williams' estate litigation, one of the heirs listed in the Petition for Letters of Administration, Johnnie Richardson, died intestate. On June 20, 2014, Judge Isaac sent a letter to the Larkin & Scott Funeral Home to "release any and all information concerning the Funeral Arrangement of Johnnie Richardson, including total amount of arrangement and balance due" to the court. She signed the letter with her signature and the title "Judge of Probate." The phrase "Ordered this 20th day of June, 2014" preceded Judge Isaac's signature.

17. On June 30, 2014, Ms. Mobley, through her counsel Byron Ford, filed a Petition for Settlement Disbursement in the Greene County Probate Court. This Petition identified all fourteen of the heirs included in the November 20, 2013 Petition for Letters of Administration, and added Christine Turner as a fifteenth heir.

18. Upon receipt of the petition, Judge Isaac made several unsuccessful attempts to speak with Ms. Mobley's attorney by telephone. Judge Isaac then contacted her attorney, Mr. Griess, out of "concern" for the petition.

19. On July 3, 2014, Judge Isaac's attorney, Mr. Griess, wrote a letter to Ms. Mobley's attorney, Byron Ford, challenging the statutory validity and legitimacy of the Petition for Settlement Disbursement and requesting an explanation of certain "particulars" concerning the Petition. Attorney Griess requested a response within thirty days and stated that "[i]f Gloria [Mobley] is not prepared to cooperate as to this, I assume my client will seek the Circuit Court's assistance."

20. On August 5, 2014, Attorney Ford, for the estate and Ms. Mobley, submitted a proposed Order for Partial Settlement to Judge Isaac. This proposed order was never signed by Judge Isaac.

21. Despite the fact that no order for partial settlement had been issued, Ms. Mobley disbursed funds from the estate.

22. On August 15, 2014, Attorney Ford responded in writing to Attorney Griess's letter of July 3, 2014 and addressed each "particular" raised therein. Attorney Ford stated that Judge Isaac and other siblings had made it known that they did not want Ms. Turner "to have what's due to her." Attorney Ford also stated that Judge Isaac and

Attorney Griess had told Ms. Mobley that "the heir's [Ms. Turner's] mother would be jailed if they got anything monetary."

23. On October 7, 2014, Judge Isaac and five other heirs filed a Motion for Removal of the estate in Greene County Circuit Court. They concurrently filed a Petition for Removal of Administratrix for Cause, Request for Accounting and Wrongful Appropriation and Waste of Estate Assets in Circuit Court.

24. Judge Isaac admits that after the above stated interaction with Ms. Mobley, Judge Isaac finally recognized a conflict with her sister, Ms. Mobley, relative to the administration of their father's estate.

25. The Petition for Removal of Administratrix for Cause challenged the validity and accuracy of the Petition for Settlement Disbursement Ms. Mobley filed in Greene County Probate Court, requested a formal accounting of Administratrix Mobley's receipt and disbursement of the funds of the estate, alleged misappropriation of estate assets and maladministration of the estate, and requested the removal of Ms. Mobley as the administratrix.

26. On October 7, 2014, the Greene County Circuit Court ordered the case transferred to Circuit Court.

27. On October 8, 2014, the Circuit Court issued a temporary restraining order against Ms. Mobley requiring her, among other matters, to account for the funds received by the estate from the Black Farmers Discrimination Litigation.⁵

28. On October 21, 2014, after an evidentiary hearing, the Circuit Court removed Ms. Mobley as administratrix of the estate "because of the apparent conflict between the Administratrix, Gloria Mobley, and the Petitioners" and ordered Ms. Mobley to pay \$15,116.66 into the Court. In that order, Circuit Judge Eddie Hardaway found that "[f]rom the testimony at the hearing, it is clear that there is a dispute as to who all the heirs of Robert Percy Williams are."

29. Ms. Mobley appealed the order of the Circuit Court removing her as administratrix to the Alabama Supreme Court. On June 10, 2015, the Alabama Supreme Court (Justice Main) affirmed the Circuit Court with the entry: "AFFIRMED. NO OPINION." Ala. S. Ct. Case No. 1140181.

⁵ *In re Williams*, Circuit Ct. Case No. CV-2014-6, Doc. 5.

30. On November 13, 2014, the Circuit Court granted Letters of Administration to Doris Jordan.⁶

31. The estate has been settled in the Circuit Court and Ms. Mobley ordered to pay the estate for disbursements deemed wrongful by the circuit court.

32. At no time during the proceedings did Judge Isaac inform the parties that she was disqualified from sitting in the probate of her father's estate.

33. At no time during the proceedings did Judge Isaac receive a consent in writing from any of the parties waiving her disqualification as required by Canon 3D to sit in the probate of her father's estate.

34. Judge Isaac admitted to the Commission that although she has served as Probate Judge of Greene County for 27 years, she was unaware of the requirements of the Canons which include her required disqualification in a probate proceeding concerning a member of her family or in which she had a personal financial interest.

⁶ *In re Williams*, Circuit Ct. Case No. CV-2014-6, Doc. 28.

III.

CHARGES

Charge I

35. Judge Isaac, while serving as a Probate Judge for Greene County, Alabama, by presiding over a proceeding in which she was disqualified in that her sister was the petitioner and Judge Isaac and their siblings were heirs in the probate of her father's estate under the circumstances described in Paragraphs 1 through 31 of this Complaint, violated those provisions of the Alabama Canons of Judicial Ethics which provide:

Canon 1 - A judge . . . should [her]self observe[] high standards of conduct so that the integrity and independence of the judiciary may be preserved.

Canon 2 - A judge should avoid impropriety and the appearance of impropriety in all [her] activities.

Canon 2A - A judge should respect and comply with the law

Canon 2A - [A judge] . . . should conduct [her]self at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Canon 2B - A judge should . . . avoid conduct prejudicial to the administration of justice which brings the judicial office into disrepute.

Canon 2C - A judge should not allow [her] family, social, political, or other relationships to influence [her] judicial conduct or judgment.

Canon 3C(1) - A judge should disqualify [her]self in a proceeding in which [her] impartiality might reasonably be questioned.

Canon 3C(1)(a) - A judge should disqualify [her]self in a proceeding . . . where . . . [she] has a personal bias or prejudice concerning a party

Canon 3C(1)(a) - A judge should disqualify [her]self in a proceeding . . . where . . . [she] has . . . personal knowledge of disputed evidentiary facts concerning the proceeding

Canon 3C(1)(c) - A judge should disqualify [her]self in a proceeding . . . where . . . [she] knows that [she] individually . . . has a financial interest in the subject matter in controversy

Canon 3C(1)(d)(i) - A judge should disqualify [her]self in a proceeding . . . where . . . [she] . . . [i]s named a party to the proceeding

Canon 3C(1)(d)(i) - A judge should disqualify [her]self in a proceeding . . . where . . . a person within the fourth degree of relationship to [the judge] . . . [i]s named a party to the proceeding

Canon 3C(1)(d)(ii) - A judge should disqualify [her]self in a proceeding . . . where . . . [she] . . . [i]s known by

the judge to have an interest that could be substantially affected by the outcome of the proceeding

Canon 3C(1)(d)(ii) - A judge should disqualify [her]self in a proceeding . . . where . . . a person within the fourth degree of relationship to [the judge] . . . [i]s known by the judge to have an interest that could be substantially affected by the outcome of the proceeding

Canon 3C(1)(d)(iii) - A judge should disqualify [her]self in a proceeding . . . where . . . [she] . . . [i]s to the judge's knowledge likely to be a material witness in the proceeding.

Canon 3C(1)(d)(iii) - A judge should disqualify [her]self in a proceeding . . . where . . . a person within the fourth degree of relationship to [the judge] . . . [i]s to the judge's knowledge likely to be a material witness in the proceeding.

Charge II

36. Judge Isaac, while serving as a Probate Judge for Greene County, Alabama under the circumstances described in Paragraphs 1 through 34 of this Complaint, and being admittedly unaware of certain Canons and/or their application, violated those provisions of Canon 1 and 3A of the Alabama Canons of Judicial Ethics which provide:

Canon 1 - A judge . . . should [her]self observe [] high standards of conduct so

that the integrity and independence of the judiciary may be preserved.

Canon 3A(1) - A judge should be faithful to the law and maintain professional competence in it.

Charge III

37. Judge Isaac, while serving as a Probate Judge for Greene County, Alabama under the circumstances described in Paragraphs 1 through 34 of this Complaint, and particularly by entering into ex parte communications with her siblings in obtaining her siblings' waivers outside the court and outside the presence of all parties or their attorneys, and by notarizing documents that she knew or should have known would be filed in a proceeding before her, violated the following Alabama Canons of Judicial Ethics which provide:

Canon 1 - A judge . . . should observe[] high standards of conduct so that the integrity and independence of the judiciary may be preserved.

Canon 2 - A judge should avoid impropriety and the appearance of impropriety in all [her] activities.

Canon 2A - A judge should respect and comply with the law

Canon 2A - [A judge] . . . should conduct [her]self at all times in a manner that promotes public confidence in the

integrity and impartiality of the judiciary.

Canon 2B - A judge should . . . avoid conduct prejudicial to the administration of justice which brings the judicial office into disrepute.

Canon 3A(4) - A judge should accord to every person who is legally interested in a proceeding, or his lawyer, full right to be heard according to law, and, except as authorized by law, neither initiate nor consider ex parte communications concerning a pending or impending proceeding.

Charge IV

38. Judge Isaac, while serving as a Probate Judge for Greene County, Alabama under the circumstances described in Paragraphs 1 through 34 of this Complaint, and particularly by entering into ex parte communications with others including her siblings, by directing her administratrix/sister as to who should and should not be included as heirs, by directing her attorney to request the Black Farmers Litigation check be sent to the probate office, by inserting her personal knowledge of facts and family history into the case, by misusing her status as a judge to preempt tasks normally reserved for the personal representative of an estate, and by personally obtaining waivers outside the court and outside the presence of all

parties or their attorneys, co-mingled her status as party and judge, and abandoned her post as an impartial arbiter in violation of the following Alabama Canons of Judicial Ethics which provide:

Canon 1 - A judge . . . should [her]self observe[] high standards of conduct so that the integrity and independence of the judiciary may be preserved.

Canon 2 - A judge should avoid impropriety and the appearance of impropriety in all [her] activities.

Canon 2A - [A judge] . . . should conduct [her]self at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Canon 2B - A judge should . . . avoid conduct prejudicial to the administration of justice which brings the judicial office into disrepute.

Canon 2C - A judge should not allow [her] family . . . relationships to influence [her] judicial conduct or judgment.

Canon 2C - [A judge] should not lend the prestige of [her] office to advance the private interest of others . . .

Done this 3rd day of August, 2016.

BY ORDER OF THE COMMISSION


Billy Bedsole, Chairman