

IN THE ALABAMA COURT OF THE JUDICIARY

IN THE MATTER OF:

HENRY P. ALLRED
DISTRICT JUDGE
WALKER COUNTY, ALABAMA

*
*
*
*
*

CASE NO. 53



FINAL JUDGMENT

On September 20, 2019, the Alabama Judicial Inquiry Commission ("JIC") filed a complaint with the Alabama Court of the Judiciary charging Henry P. Allred with violating the Canons of Judicial Ethics in his capacity as a District Judge of Walker County. The complaint charged Judge Allred with violations of various Canons of Judicial Ethics in four designated charges.

A public trial was conducted on the record before the Court of the Judiciary on January 29 and 30, 2020. JIC presented testimony from five witnesses and submitted exhibits. Judge Allred testified, presented testimony from another witness, and submitted exhibits. Under Rule 10 of the Court of the Judiciary as established by the Alabama Supreme Court, JIC must prove a charge against Judge Allred by "clear and convincing evidence." COJ Rule 16 also provides that "[w]ith respect to all matters other than removal from office, the Court shall convict only with the concurrence of no fewer than six of its nine members." The charges against Judge Allred are as follows:

Charges 1 and 2

In charges 1 and 2, the JIC charges that "Judge Allred violated the following provisions of the Alabama Canons of Judicial Ethics by ignoring another court's lawful order (i.e., Temporary Order, by not even reading it) in cases involving his relatives, taking actions that were contrary to that order, and/or condoning and/or enabling violations of that order by the children's parents and by Judge Allred's parents:

- Canon 1: A judge should uphold the integrity and independence of the judiciary. A judge should participate in ... maintaining ... and should himself 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 his activities.
- Canon 2A A judge should respect and comply with the law and should conduct himself 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.

"Judge Allred violated the provisions of the Alabama Canons of Judicial Ethics [Canon 1, Canon 2, Canon 2A, and Canon 2B] and the following provision, by unnecessarily creating an 'emergency' for the deviation by him and his relatives of the visitation requirements and/or by attempting to obtain the baby pursuant to an oral authorization, thereby creating emotionally-charged controversy, confusion, and confrontation regarding the legal significance of an 'oral order' in child custody/visitation and necessitating further litigation and expenditure of law-enforcement resources, judicial resources, DHR and CAJA resources, and additional legal fees:

Canon 2B: A judge should at all times maintain the decorum and temperance befitting his office"

FINDING: The Court of the Judiciary does not find by a vote of at least six members that the Judicial Inquiry Commission proved that Judge Allred violated Canons 1, 2, 2A, or 2B in Charges 1 or 2 by clear and convincing evidence. Therefore, these charges are dismissed.

Charge 3

In Charge 3, the JIC charges that "Judge Allred violated the provisions of the Alabama Canons of Judicial Ethics [Canon 1, Canon 2, Canon 2A, and Canon 2B] and the following provisions, by taking advantage of his judicial status for special consideration regarding cases involving his relatives, an advantage not accorded to the ordinary citizen under the same

circumstances, i.e., he intervened in a proceeding in Judge Mastin's court by securing an ex-parte, oral deviation from an order in confidential juvenile cases, and he required the services of law enforcement to enforce an 'oral order' in child custody/visitation:

- Canon 2B: A judge should at all times maintain the decorum and temperance befitting his office
- Canon 2C: A judge should not allow his family . . . to influence his judicial conduct or judgment. He should not lend the prestige of his office to advance the private interests of others"

FINDING: The Court of the Judiciary does not find by a vote of at least six members that the Judicial Inquiry Commission proved that Judge Allred violated Canons 1, 2, 2A, or 2B in these charges by clear and convincing evidence and the charges related to those Canons are dismissed. Six members of the Court of the Judiciary find by clear and convincing evidence that Judge Allred violated Canon 2C as charged in Charge 3.

Charge 4

In Charge 4, the JIC charges that "Judge Allred violated the provisions of the Alabama Canons of Judicial Ethics [Canon 1, Canon 2, Canon 2A, and Canon 2B] and the following provision, by initiating ex-parte communications with another judge regarding cases involving Judge Allred's relatives, i.e., the pending child-custody cases, DHR's dependency petition regarding the older child, the pending contempt motion, the impending DHR's motion to intervene in the baby's case, and/or the impending contempt proceeding against Judge Allred's parents:

- Canon 2C: A judge should not allow his family ... to influence his judicial conduct or judgment. He should not lend the prestige of his office to advance the private interests of others
- Canon 3A(4): A judge should ... [not] initiate ex parte communications concerning a pending or impending proceeding."

FINDING: The Court of the Judiciary does not find by a vote of at least six members that the Judicial Inquiry Commission proved that Judge Allred violated Canons 1, 2, 2A, or 2B, 2C, or

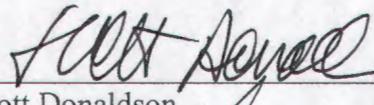
3A(4) in this charge by clear and convincing evidence and these charges are dismissed.

It is noted that a majority, but not all, of the members of the Court of the Judiciary interpret Canon 3A(4) as only applying to a judge who is presiding over a pending or impending proceeding in regard to which the ex parte communication is made.

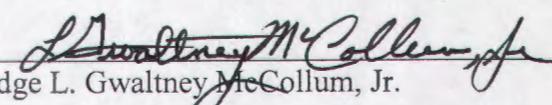
SANCTION

Based on the adjudication that Judge Allred violated Canon of Judicial Ethics 2C in Charge 3, the Court of the Judiciary hereby reprimands Judge Allred. It is noted that Judge Allred has been suspended from performing judicial duties since September 20, 2019 and the suspension is dissolved upon the entry of this Judgment. The Court of the Judiciary notes that the dismissal of any charges does not indicate approval or condonation of all of Judge Allred's acts and conduct but is based on the standard of proof required.

Costs are not taxed against either party. Done and Ordered by the Alabama Court of the Judiciary this the 31st day of January, 2020.



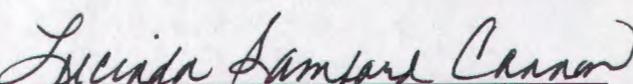
Judge Scott Donaldson,
Chief Judge



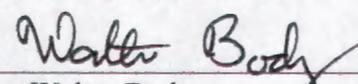
Judge L. Gwaltney McCollum, Jr.



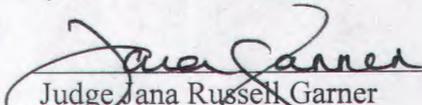
Judge S. Dagnal Rowe, Sr.



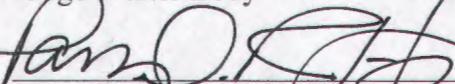
Judge Lucinda Samford Cannon



Judge Walter Body



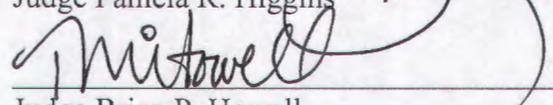
Judge Jana Russell Garner



Judge Pamela R. Higgins



Judge Elisabeth A. French



Judge Brian P. Howell