(No. 80 CC 3.—Complaint dismissed.)

In re ASSOCIATE JUDGE CHARLES A. ALFANO of the Circuit Court of Cook County, Respondent.

Order entered July 16, 1981.—Motion for reconsideration denied June 8, 1982.

SYLLABUS

On July 11, 1980, the Judicial Inquiry Board filed a multi-paragraph complaint with the Courts Commission, charging the respondent with willful misconduct that is prejudicial to the administration of justice and that brings the judicial office into disrepute. In summary form, the charges were that on Labor Day of 1977 (September 5, 1977) a Lake County deputy sheriff responded to a complaint about youths driving motorcycles in and about the Fair Oaks Subdivision; that the deputy upon arriving at the scene observed the respondent's son and another youth driving motorcycles without license plates and determined they did not have driver's licenses in their possession; that the deputy, in his squad car, followed the youths to the respondent's summer home in the subdivision so that they could produce their driver's licenses; that at the home, the respondent approached the deputy and was told the youths were to receive traffic tickets; that the respondent, after identifying himself as a judge, attempted to dissuade the deputy from issuing the tickets but was unsuccessful; and that the respondent then became angry, and yelled at, threatened, and physically assaulted the deputy, all of which was witnessed by others.

The complaint further alleged that the deputy transported the youths to a police station where the deputy had said the respondent

should also go; that at the police station the youths' traffic tickets were processed, and the respondent sought to compromise the filing of criminal charges against himself which arose out of the physical assault on the deputy; that the respondent told the deputy's supervisor that he was a judge, was sorry and wanted to apologize for his conduct toward the deputy, and his position as a judge would be jeopardized if the criminal charges were filed; that the criminal charges were filed and later dismissed by a court (see *People v. Alfano* (1980), 78 Ill. 2d 434; see also *People ex rel. Ill. Judicial Inquiry Board v. Hartel* (1978), 72 Ill. 2d 225); and that by engaging in the above-described conduct, the respondent violated Supreme Court Rule 61(c)(4) (Ill. Rev. Stat., ch. 110A, par. 61(c)(4)).

Held: Complaint dismissed.

Pierce, Webb, Lydon & Griffin, of Chicago, for Judicial Inquiry Board.

Jenner & Block, of Chicago, for respondent.

Before the COURTS COMMISSION: RYAN, J., chairman, and LORENZ, SEIDENFELD, MURRAY and SCOTT, JJ., commissioners. ALL CONCUR.

ORDER

The Illinois Judicial Inquiry Board (Board) filed a Complaint with the Illinois Courts Commission (Commission), charging Associate Judge Charles A. Alfano of the circuit court of Cook County (respondent) with conduct which is prejudicial to the administration of justice and which brings the judicial office into disrepute. The Complaint makes three specific charges of such conduct, all of which occurred on Labor Day, September 5, 1977. It is first charged that the respondent sought to use the influence of his office as a judge to dissuade a Lake County deputy sheriff, Richard Whitmore, from issuing a traffic ticket to the respondent's son. Second, the Complaint charges that the respondent verbally and physically assaulted the deputy. Third, the Complaint charges that the respondent attempted to use his judicial authority to interfere with, compromise and prevent the

filing of criminal charges against him for aggravated battery and obstructing a police officer in the performance of his duties.

The evidence concerning most of the issues in this case is conflicting and all but a few of the witnesses are either directly interested in the outcome, or have been impeached in one manner or another and in varying degrees. It appears, however, that all the charges against the respondent stemmed from an incident that happened on the afternoon of Labor Day, September 5, 1977. Judge Alfano had a residence in Fair Oaks Subdivision near Antioch, Illinois, in Lake County. The streets in the subdivision are not public streets but are private property and are posted as such. On September 5, 1977, at about 1 p.m., Deputy Whitmore was patrolling in a squad car and received a complaint over his radio that some boys were riding motorbikes in Fair Oaks Subdivision. He went to the subdivision and saw two boys riding unlicensed motorcycles. These vehicles were variously referred to in the testimony as motorbikes or motorcycles. The boys were Paul Alfano, the respondent's son, and Kevin Marcus. Both boys were about 17 years old. They did not have their driver's licenses with them but informed the deputy that they were at Alfano's house. Deputy Whitmore instructed the boys to ride their motorcycles to the Alfano house and procure their driver's licenses. He followed them in the squad car and parked his vehicle partly on the street and partly in the respondent's drive or the respondent's yard. When the respondent saw the squad car, he came out of his house and inquired as to the difficulty. Deputy Whitmore informed the respondent that the two boys would receive traffic citations because the motorcycles did not have license plates. The respondent informed the deputy that this was private property and that the streets were not public streets and that it was not necessary that the vehicles

have license plates on them when they were being operated on the streets of the subdivision. When the boys returned with their driver's licenses, Whitmore, on examining them, noticed that they did not authorize the boys to operate motorcycles, and informed the boys that an additional citation would be issued for that offense. The proof of the first charge against the respondent, that he sought to use the influence of his office as a judge to dissuade the deputy from issuing a traffic ticket to his son, depends upon the conduct of the respondent that occurred at that time, which will be discussed later.

When the deputy persisted in giving the two boys traffic citations, the respondent directed the deputy to remove the squad car from his property. The deputy, with the two boys in the vehicle, backed the squad car down the street where he stopped it and proceeded to write the traffic citations. The respondent followed the vehicle down the street. The proof of the second charge against the respondent depends upon what transpired immediately before the vehicle left the respondent's yard and what transpired after the respondent approached the squad car while it was parked at its new location. The evidence indicates that as many as 15 to 20 people were gathered around the vehicle at the time of the alleged altercation. The officer's testimony is to the effect that the respondent pulled open the door, struck him and pulled him from the vehicle. However, the respondent's testimony, and that of his witnesses, is to the effect that Deputy Whitmore pushed the door open, shoved the respondent back and grabbed him by the arm. Following this activity, the deputy took the boys to the Antioch police station, but did not arrest the respondent. The respondent followed the squad car to the police station.

The third charge against the respondent, that he attempted to use his judicial authority to interfere with, compromise and prevent the filing of criminal charges

against him for aggravated battery and obstructing a police officer in the performance of his duties, arose out of activities that occurred following the respondent's arrival at the Antioch police station. The Board contends that when the respondent was informed at the police station that he would be charged with aggravated battery, he apologized and wanted the deputies to forget the entire incident. Deputy Whitmore then placed the respondent under arrest and took him to the Lake County sheriff's office in Waukegan, Illinois. The Board charges that upon their arrival at the sheriff's office the respondent asked Deputy Whitmore if he would drop the charges that had been placed against him, and later he asked the deputy if he would reduce the aggravated battery charge to simple assault so that it would be easier to make bond. The respondent denies that he apologized or that he made these requests.

As to the first charge, that the respondent attempted to use the influence of his office to dissuade the issuance of the traffic ticket to his son, the evidence concerning that charge involves what transpired when the respondent and the deputy discussed the matter near the respondent's house, and it is very conflicting. Deputy Whitmore testified that he told the respondent that he was going to issue traffic tickets to the boys and that the respondent said that he would like to talk to the deputy in private. The deputy told him that they could talk in the squad car. When they entered the car, the deputy said that the respondent immediately identified himself as a judge from Cook County and showed him a judicial identification card. The deputy said that he told the respondent that he knew who he was. According to the deputy, the respondent told him that it was not necessary to issue a traffic ticket and that they could take care of the matter in the car. When the deputy insisted on issuing a ticket, he testified that the respondent attempted to

intimidate him and reminded him that he was a judge. When the boys returned to the car with their driver's licenses and were informed that they would also be given tickets for not having proper licenses to operate a motorcycle, the respondent, according to the deputy, told him that if he wrote those tickets he would be in "big trouble." When the deputy began to prepare the tickets, the respondent became angry and began to scream at the deputy and ordered him to get the squad car off his property. The deputy then ordered the respondent to get out of the car. After the respondent did so, he stood there and screamed that he would have the deputy's job and that he was "in big trouble."

According to the respondent, when the deputy followed the boys to the respondent's house, he parked the squad car on the lawn. When he asked what was wrong, the deputy said that he knew that the respondent was a Chicago judge and this time he was going to give the boys a ticket. The respondent stated that he told the deputy that the boys were riding on private property and that they did not need a license on their vehicles to do so. The respondent testified that the deputy replied that he would say that the boys were riding on Old Lake Road, which was a public road adjacent to the subdivision. The respondent's testimony in this regard is corroborated by the fact that the traffic ticket issued to Paul Alfano did in fact charge the boy with operating his vehicle on Old Lake Road. The respondent said he then procured pencil and paper and asked the deputy for the name of his superior officer and other information necessary to report the incident. The deputy then ordered him out of the car and the respondent directed the deputy to get the squad car off of his lawn.

The deputy's testimony was partially corroborated by the testimony of Everett Best, who was fishing from a pier near the respondent's house. He saw the squad car

follow the boys to the house and he saw the respondent and the deputy in the car. He then heard the respondent talking in a loud voice. The respondent was standing in front of the squad car yelling at the officer "I'll have your job" and "you're in trouble fellow." The deputy, according to Best, then backed his car off of the respondent's property.

The boys were later exonerated of the traffic charges because the alleged violations had not occurred on a public street. Plainly, the deputy was wrong in insisting on issuing the traffic citations, particularly after he had been informed that the streets in the subdivision were not public streets but were private property. The deputy was especially wrong in falsely stating that the motorcycles had been operated on Old Lake Road. It would appear that the respondent was reacting as a father would normally react upon learning that the deputy was insisting on giving his son a traffic ticket even though no offense had been committed and that the deputy was going to falsely state that the offense occurred on a public road. There is no corroboration of the deputy's testimony that the respondent attempted to use the influence of his judicial position to prevent the issuance of the traffic tickets. The fact that the deputy falsely stated that the violations occurred on Old Lake Road severely undermines the credibility of his testimony. It has not been proven by clear and convincing evidence that the respondent attempted to use the influence of his office in this regard.

As stated above, the respondent was reacting in the defense of his son in a manner normally expected of a father under the circumstances. However, those who have assumed the responsibilities of a judge are not always permitted the privilege of reacting normally. The testimony of Everett Best corroborates the deputy's testimony that the respondent threatened to "have his

job" and that he "is in big trouble." Such conduct may be viewed as normal for a father, and may even be justified. However, in this subdivision most of the people knew that the respondent was a judge and the spectacle of a member of the judiciary shouting threats at a deputy sheriff can only be viewed as demeaning to the judicial office. This conduct, coupled with the respondent's pursuit of the vehicle to its new location, constitutes personal behavior while off the bench that is not beyond reproach, and is a violation of Supreme Court Rule 61(c)(4) (73 Ill.2d R. 61(c)(4)). That rule provides:

> "(4) *Avoidance of Impropriety.* A judge's official conduct should be free from impropriety and the appearance of impropriety; he should avoid infractions of law; and his personal behavior, not only upon the Bench and in the performance of judicial duties, but also in his everyday life, should be beyond reproach."

After the squad car had backed away from the respondent's property, the deputy proceeded to complete the traffic citations. The respondent testified that he pursued the vehicle with pencil and paper in hand to get more information from the deputy relating to where to file a complaint against him. The respondent stated that when he approached the squad car, the deputy rolled up the window. The respondent then tapped on the window with his pencil and the deputy threw open the door violently, jumped out, grabbed the respondent, shook him and shouted, "I'll get you. I don't care if you are a judge or mayor or governor, I'll get you."

The testimony of Deputy Whitmore was quite different. He stated that while he was writing the traffic ticket the respondent came up to the car, and started pounding on the window with his fist. He next pulled open the car door, struck the deputy with his fist and pulled the deputy from behind the steering wheel. The deputy stated that he then got out of the car, pushed the

respondent away from the car and then told him to "knock it off." He said he then told the respondent he was taking the two boys to the Antioch police station and ordered the respondent to follow. The record discloses that the deputy is about six feet one inch tall while the respondent is about five feet six inches tall.

The only witness to confirm the deputy's testimony is Phillip Sunich, who stated that he observed the incident from the front window of his parent's home which was about 45 feet from the squad car. However, the credibility of his testimony is weakened by the fact that a picture of the area showed his view was not as unobstructed as he testified. In addition, the evidence shows that a lot of animosity existed between his parents and the respondent. Although the evidence shows that there were as many as 15 to 20 witnesses around the squad car at the time of the incident, the Board presented no other witness to testify as to the respondent's assault on the deputy. It is incredible that with so many witnesses no one could be found to confirm the deputy's version except Phillip Sunich.

By way of contrast, several witnesses confirmed the respondent's version. In addition to the respondent's wife, his son, Paul Alfano, Kevin Marcus and Kevin's brother, Michael, all of whom are obviously interested, there were three other witnesses who corroborated the respondent's testimony. Kim Mendheim, who at that time was a friend of Paul Alfano, was seated in her automobile a short distance from the squad car. Casimer Gosciniak was seated on the front porch of a nearby house. Charles Valle was on the porch of the same house. The testimony of each of these supports the version that the respondent did not strike the deputy and pull him from the vehicle, but that the deputy threw open the car door and grabbed the respondent. We conclude that the Board has not proved by clear and convincing evidence

that the respondent struck or physically assaulted the deputy.

Deputy Whitmore did not state why he did not place the respondent under arrest for aggravated battery and obstructing an officer at that time. It would appear that if the respondent had assaulted him in this manner, he would have arrested him then. He testified that he told the respondent that he was taking the boys to the Antioch police station and that the respondent should follow. The respondent and Kim Mendheim, however, testified that the deputy stated that he was taking the boys to the Antioch police station and that he did not tell the respondent to follow.

Deputy Whitmore and his superior, Lt. Donaldson, both testified that after the respondent arrived at the police station he apologized for what he had done, informed them that he was a judge and wanted them to forget it and asked for professional courtesy. The respondent denied making these statements and Kim Mendheim, who was in the police station, states that she did not hear the respondent apologize or ask for professional courtesy.

Deputy Whitmore placed the respondent under arrest and took him to the sheriff's office in Waukegan. Whitmore testified that on the way to Waukegan the respondent again apologized and that after they arrived, asked him to drop the charges and later asked that the charge of aggravated battery be reduced to a lesser one. The respondent denies apologizing or asking Whitmore to drop the charge, and stated that when they arrived at the sheriff's office, Whitmore said, "I told you I would get you."

It is uncontradicted that when the deputy arrested the respondent on the felony charge of aggravated battery, he did not handcuff him. Also, when he took the respondent to the sheriff's office in Waukegan in the

squad car, he did not put the respondent in the rear seat but permitted him to ride beside him, unhandcuffed in the front seat of the squad car. All of this would indicate that although the respondent was charged with a felony, Whitmore believed that the respondent was unarmed and not dangerous. However, after they arrived at the jail in Waukegan, the respondent was compelled to remove all of his clothes and a visual body cavity "strip search" was conducted. The respondent was then told to put on prison garb. The felony charge was later reduced to a misdemeanor without notice to the respondent.

In *People v. Seymour* (1981), 84 Ill. 2d 24, our Supreme Court acknowledged that a strip search is a serious invasion of one's privacy and because of its intensity may in some cases be viewed as a violation of fourth amendment rights. The court stated in that case that a reasonable belief that the one arrested has on his person a weapon or contraband may justify a strip search. The conduct of Whitmore in this case disproves any justification for such a search. If there were reason to believe that the respondent had a weapon or contraband on his person, the deputy would not have permitted the respondent to ride in the front seat of the squad car with him unhandcuffed. Obviously, Whitmore felt the respondent did not have a concealed weapon that he could produce or contraband he could dispose of.

Several bits of testimony emerged during the hearing that would indicate there was some ill will between the deputy, or possibly the Lake County sheriff's office, and the respondent. Inferences to that effect can be drawn from other evidence. The deputy denied telling the respondent that he would "get him", however, several witnesses testified that they heard Whitmore make that statement in Fair Oaks Subdivision when he jumped out of the car and grabbed the respondent. The boys were charged with very minor traffic offenses, for which there

was no reason to take them to the police station, yet the deputy insisted on doing so. His explanation was that he took them to the station to quell a disturbance. However, this testimony was not very convincing since the boys had not been involved in a disturbance. As noted above, although the respondent was subsequently charged at the police station with the felony of aggravated battery, the deputy never arrested the respondent in the subdivision, nor did he inform him there that any charge was going to be filed against him. Finally, the strip search of the respondent under the circumstances in this case is strong evidence that ill feeling did exist towards the respondent at least with some members of the sheriff's office. Under these circumstances, little credence can be given to the testimony of Deputy Whitmore or to Lt. Donaldson, except to the extent that it has been corroborated.

The Judicial Inquiry Board argues that the respondent committed perjury during the hearing in this case which, it argues, justifies imposing discipline. As stated earlier, it appears that the respondent did shout at Whitmore words to the effect "you're in big trouble" and "I'll get your job." The respondent denied making these statements. We do not view this denial as perjurious. The respondent was testifying as to his recollection of what had happened during a heated exchange between himself and the deputy. In many trials contradictory evidence is presented and such does not indicate perjury. In fact, in this case there was a substantial amount of conflicting and contradictory testimony, but this does not indicate that the witnesses committed perjury. Each witness was testifying to the best of his recollection. Such testimony admittedly might be colored by imperfect recall or personal interest, as well as by bias or prejudice. However, at the time of the testimony, as inaccurate as it might have been, it was stated as it then existed in the mind of each witness.

In rebuttal to the volunteered statement by the respondent that he would not use the influence of his office as a judge to prevent the issuance of a traffic ticket, the Board introduced evidence that on a prior occasion the respondent had interceded with the Antioch police department on behalf of another son. We cannot view this as substantive evidence of another violation of Supreme Court Rule 61(c)(4). The Complaint does not charge the respondent with having committed a violation of the Standards on this occasion. Testimony concerning this occurrence was permitted solely for the purpose of impeachment, and was invited by the respondent's statement that he did not use the influence of his office for this purpose.

The Commission concludes that the Board has proved one violation of Rule 61(c)(4) by the respondent. Supreme Court Rule 62 (73 Ill. 2d R. 62) provides:

> "A judge who violates the Standards of Judicial Conduct may be subject to discipline by the Courts Commission. The Standards, due to their general terms, may be inadvertently violated on occasion by a judge and such conduct may be too insignificant to call for official action."

As noted in *In re Campbell* (1980), 1 Ill. Cts. Com. 164, 171, prior to July 15, 1976, Rule 62 provided in part:

> "A judge who consistently violates the Standards of Judicial Conduct shall be subject to discipline."

The present rule made two significant changes. No longer is there a requirement that a judge *consistently* violate the Standards before discipline may be imposed. Thus, following the amendment a single violation may warrant imposing discipline. Another significant change is the use of the word *may* in the present rule instead of *shall* that was in the prior rule. Thus, under the former rule a judge who *consistently* violates the Standards *shall* be subject to discipline. Under the present rule, no longer

must a judge consistently violate the Standards. A single violation *may* subject the judge to discipline. We have noted this difference in *In re Nielsen* (1980), 2 Ill. Cts. Com. 1, and have stated that the effect of the change acknowledges that there may be single violations of the Standards that are serious enough to warrant the imposition of discipline. However, ordinarily, in keeping with the use of the word *consistently* in the prior rule, it is usually a pattern of conduct evidencing such violations which will subject the judge to discipline.

Rule 62 is general in terms and because of the Commission's constitutional duty to hear and decide complaints filed by the Judicial Inquiry Board (Ill. Const. 1970, art. VI, sec. 15(c)), the Commission must determine under what circumstances discipline is to be imposed. Under former Rule 62 there was no problem. Consistent violations required that discipline be imposed. Under the present Rule 62 this Commission is given discretion. A judge who violates the Standards *may* be subject to discipline. The Supreme Court has not spelled out specifically when a single violation will warrant imposing discipline, or how many violations are necessary to require that discipline be imposed. The Supreme Court in *People ex rel. Harrod v. Illinois Courts Com.* (1977), 69 Ill. 2d 445, 473, stated that inasmuch as the Courts Commission is not a judicial body, it has no authority to interpret ambiguous statutory provisions. We do not view that statement as limiting our authority in construing Rule 62. That rule is in general terms. In exercising its constitutional authority to hear complaints against judges and determine whether or not discipline should be imposed (Ill. Const. 1970, art. VI, sec. 15(e)), the Commission, of necessity, must construe the rule. We must conclude that this provision of the Constitution has vested in the Commission the authority to do so and to determine when and under what circumstances violations

of the Standards, set out in Rule 61, justify the imposition of discipline.

We do not believe that the last sentence of present Rule 62 controls the action by the Commission under the first sentence of that rule. The last sentence states that the Standards, due to their general terms, may be *inadvertently* violated and that such conduct may be too insignificant to call for *official action*. Official action does not refer to the imposition of discipline by the Commission. Official action refers to the filing of a formal complaint against a judge with the Courts Commission by the Judicial Inquiry Board, charging the judge with violations of some Standards followed by a hearing, whether or not discipline is ultimately imposed. If the Supreme Court would have meant inadvertent violations and insignificant conduct do not warrant the imposition of discipline, it could easily have said that in Rule 62. However, it did not. Instead, the court, in its rule, said that such conduct does not call for *official action*. Thus, this language must be viewed as an invitation by the court to the Judicial Inquiry Board not to file formal charges with the Courts Commission against a judge for inadvertent violations or insignificant conduct. See *People ex rel. Harrod v. Illinois Courts Com.* (1977), 69 Ill. 2d 445, 468.

This construction of Rule 62 conforms to the suggestion in section 6.6 of the American Bar Association's Proposed Standards Relating to Judicial Discipline and Disability Retirement. (The proposed standards may be found in 54 Chi.-Kent L. Rev. 201 *et seq.* (1977).) Section 6.6 relates to dispositions of complaints against a judge by the charging body (the Judicial Inquiry Board in Illinois). Among the suggested dispositions is an informal adjustment without the filing of a formal complaint charging the judge with misconduct. It is interesting to note that the commentary to section 6.6 states that occasionally a judge will be guilty of misconduct through

inadvertence, language similar to that found in the last sentence of Rule 62. It thus appears that the conduct which the ABA standards suggests be handled by informal adjustment is the same type of conduct Rule 62 suggests is too insignificant to call for *official action*.

Our position as stated in *Nielsen* and *Campbell* that a judge should not be disciplined unless he has committed a serious violation of the Standards, or unless he demonstrates a general course of conduct violating the Standards is supported by the decisions in other States. In *In re Kelly* (Fla. 1970), 238 So. 2d 565, the Supreme Court of Florida stated at page 566:

> "Conduct unbecoming a member of the judiciary may be proved by evidence of specific *major* incidents which indicate such conduct, or it may also be proved by evidence of an accumulation of small ostensibly innocuous incidents which, when considered together, emerge as a *pattern of hostile conduct* unbecoming a member of the judiciary." (Emphasis added.)

In *Geiler v. Commission on Judicial Qualifications* (Cal. 1973), 515 P.2d 1, at page 11, the California Supreme Court held that bad faith on the part of a judge as required for discipline meant "*a pervasive course* of conduct overreaching his authority," etc. In *In re Troy* (Mass. 1973), 306 N.E.2d 203, at page 218, the Supreme Judicial Court of Massachusetts speaks of a course of judicial conduct over a protracted period of time. In *In the Matter of Mikesell* (Mich. 1976), 243 N.W.2d 86, at page 96, the Michigan Supreme Court quoted the above-quoted language from *In re Kelly* referring to specific *major* incidents and *a pattern of hostile conduct* and found that the record in its case showed an emerging pattern of hostile conduct. In *In the Matter of Bennett* (Mich. 1978), 267 N.W.2d 914, 922, the Michigan Supreme Court found that the *arbitrary* abuse of judicial powers amounts to conduct supporting discipline and also found

in that case a *pattern* of judicial conduct, etc. In *In the Matter of Szymanski* (Mich. 1977), 255 N.W.2d 601, 602-03, Justice Levin in a concurring opinion stated that although a violation of the Code of Judicial Conduct *may* constitute cause for discipline, a violation of the Code does not necessarily require that discipline be imposed. The question in every case is whether the conduct complained of constitutes misconduct in office or conduct that is clearly prejudicial to the administration of justice, not whether a particular canon or disciplinary rule has been violated, citing GRC 1963, 932.4(d). Justice Levin then noted that in Michigan many complaints against judges are dealt with by the Tenure Commission informally without the filing of a formal complaint. This practice appears to conform with that suggested in section 6.6 of the ABA standards discussed earlier and conforms to our construction as to the meaning of the last sentence in Supreme Court Rule 62. In *McCartney v. Commission on Judicial Qualifications* (Cal. 1974), 526 P.2d 268, 284, the Supreme Court of California, after finding certain conduct of a judge sufficient to support discipline, found other charges against him were isolated instances which could not be said to be prejudicial to the administration of justice.

In light of the above, it appears that our previous construction of Rule 62, as stated in *Nielsen* and in *Campbell*, that a single serious (or using the language of the Florida Supreme Court, *major*) violation of the Standards by a judge is sufficient to support the imposition of discipline, is in accord with the suggested ABA standards and the practice in other States. Absent a serious violation, the judge must demonstrate a pattern of arbitrary conduct in his office or a pattern of conduct hostile to the Standards of Judicial Conduct, as set out in Supreme Court Rule 61, to warrant the imposition of discipline. As noted by Justice Levin of the Michigan

Supreme Court in *In the Matter of Szymanski*, the question is whether the conduct complained of constitutes misconduct in office or conduct that is clearly prejudicial to the administration of justice, not whether a particular standard has been violated.

We above found that the conduct of the respondent, in shouting threats at the deputy, constituted a violation of Rule 61(c)(4). However, we find that this single violation, provoked as it was by the wrongful ticketing of the respondent's son for a traffic offense, does not call for the imposition of discipline upon the respondent. The Complaint is therefore dismissed.

Complaint dismissed.