

2022 IL Cts Com 003



(No. 22 CC 2. – Complaint dismissed)

EXECUTIVE DIRECTOR &
GENERAL COUNSEL, ILLINOIS
COURTS COMMISSION*In re* WILLIAM B. RAINES
Judge of the Circuit Court of Cook County
State of Illinois, Respondent.*Order entered December 2, 2022*

SYLLABUS

On June 17, 2022, the Judicial Inquiry Board filed a complaint with the Courts Commission, charging Respondent with conduct that is prejudicial to the administration of justice and conduct that brings the judicial office into disrepute in violation of the Code of Judicial Conduct, Illinois Supreme Court Rules 61, 62, and 63. In summary form, the complaint alleged that Respondent committed misconduct in January 2022 by mocking and ridiculing two attorneys who had appeared before him on a livestreamed court proceeding after the proceeding was over and the two attorneys had left. The complaint further alleged that Respondent engaged in the derogatory, injudicious, and demeaning statements in the presence of two Assistant State's Attorneys and one Assistant Public Defender, believing that the livestream had been turned off when, in fact, it had not been.

Held: Complaint dismissed.

Michael Deno and Natosha Toller for Judicial Inquiry Board.
Collins, Bargione, and Vuckovich, of Chicago, for Respondent.

Before the COURTS COMMISSION: NEVILLE, Chairperson, McBRIDE, O'BRIEN, SOBOL, WALLER, AUSTRIACO, and WOLFF, commissioners. ALL CONCUR.

ORDER

Pleadings

In a complaint filed June 17, 2022, the Judicial Inquiry Board (Board) charged the respondent, WILLIAM B. RAINES (Respondent), a Judge in the Circuit Court of Cook County, with "conduct that was prejudicial to the administration of justice and that brought the judicial official into disrepute," in violation of the Code of Judicial Conduct (Code), Illinois Supreme Court Rule 61, Canon 1; Rule 62, Canon 2(A); and Rule 63, Canon 3(A)(2), (A)(3), and (A)(9); which provide as follows:

Rule 61: A Judge Should Uphold the Integrity and Independence of the Judiciary

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and should personally observe, high standards of conduct so that the integrity and independence of the judiciary

may be preserved. The provisions of this Code should be construed and applied to further that objective.

Rule 62: A Judge Should Avoid Impropriety and the Appearance of Impropriety in All of the Judge's Activities

(A) A judge should respect and comply with the law and should conduct himself or herself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Rule 63: A Judge Should Perform the Duties of Judicial Office Impartially and Diligently

(A)(2) A judge should maintain order and decorum in the proceedings before the judge.

(A)(3) A judge should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity, and should require similar conduct of lawyers, and of staff, court officials, and others subject to the judge's direction and control.

(A)(9) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, and shall not permit staff, court officials and others subject to the judge's direction and control do so.

The Board's complaint alleged that after a livestreamed court proceeding, Respondent, believing the livestream had ended, made several disparaging remarks regarding two attorneys that had appeared before him during the court proceeding. Specifically, the complaint alleged that Respondent initiated a conversation with two Assistant State's Attorneys and one Assistant Public Defender who remained present after the court proceeding had concluded. The complaint alleged that Respondent made the following statements during this conversation, referring to one of the attorneys that had just appeared before him: "[d]id you see her going nuts? Glasses off, fingers through her hair, the phone's going all over the place. It's insane." The complaint further alleged that Respondent found the attorney's behavior to be "entertaining" and that he stated, "[c]an you imagine waking up to her every day? Oh my God." When asked who the second attorney was, Respondent replied, "[t]hat's her man child."

On July 8, 2022, Respondent filed an answer admitting some of the allegations in the complaint and denying the alleged Code violations. Respondent admitted that he made the above-described statements and that he believed the livestream of the court proceeding had stopped, however, he denied that he initiated the conversation. Respondent did not admit or deny the Board's allegations that his statements were derogatory, injudicious, and demeaning, and that he mocked and ridiculed the two attorneys, but he admitted that the statements were inappropriate and should not have been made. He denied all the allegations of Code violations.

This matter is now before the Courts Commission (Commission) on the Board's Motion to Dismiss Complaint Without Prejudice (Motion), which was filed on November 16, 2022. In its Motion, the Board asserts that Respondent resigned from the office of Judge of the Circuit Court of Cook County on November 6, 2022, and that because Respondent is no longer a sitting Illinois judge, the Commission has lost jurisdiction over this matter. In support, the Board attached a letter, dated October 25, 2022, from the then-Chief Justice of the Illinois Supreme Court, Anne M. Burke, acknowledging receipt of Respondent's resignation letter and his intention to resign as of November 6, 2022.

Analysis

Having considered the Board's Motion and Respondent's resignation from the bench, the Commission agrees that it is now without jurisdiction over this matter. It has long been established that the Commission only has jurisdiction to adjudicate matters regarding active judges and that, therefore, the Commission loses jurisdiction when a judge retires or resigns during the pendency of a Commission case. The Commission first discussed this jurisdictional issue in 1987 in *In re Robert J. Dempsey*, 2 Ill. Cts. Com. 100 (1987). In *Dempsey*, the respondent resigned from judicial office while the Board was investigating the respondent's conduct. *Id.* at 104. Despite the respondent's tendered resignation, the Board filed a complaint with the Commission and simultaneously filed a petition with the Illinois Supreme Court requesting that the respondent's resignation be stayed pending any action by the Commission. *Id.* However, the Supreme Court denied the petition, holding that a judge's resignation is effective when tendered. *Id.* In response to the Board's complaint, the respondent filed a motion to dismiss, challenging the Commission's jurisdiction due to his resignation and arguing that the charges in the Board's complaint were moot. *Id.* at 102. Citing article VI, section 15(a) of the 1970 Illinois Constitution, the Commission opined that because the Illinois Supreme Court has jurisdiction to assign a retired judge to judicial service, and because a retired judge can still perform marriages in the State of Illinois (Ill. Rev. Stat. 1985, ch. 40, par. 209), the charges in the Board's complaint were not "necessarily moot issues." *Id.* at 105. The question, therefore, was one of jurisdiction, not mootness, and the Commission held that it did not, in fact, have jurisdiction over the case in light of the respondent's resignation. *Id.* In reaching this conclusion, the Commission examined its authority under article VI, section 15(e) of the 1970 Illinois Constitution, which vests the Commission with exclusive jurisdiction to "convene disciplinary proceedings against a judge upon the filing of a complaint by the Judicial Inquiry Board" and further, to "discipline a judge, as warranted, at the conclusion of such proceedings." *Id.* at 105-06. The Commission recognized that although its jurisdiction is exclusive, it is not unlimited, and it "could discipline judges only for violations of the Standards of Judicial Conduct as promulgated by the court." *Id.* at 106, citing *People ex rel. Judicial Inquiry Board v. Courts Com.* (1982), 91 Ill. 2d 130, 135-36. Because the Standards of Judicial Conduct apply only to active judges, the Commission determined that it may exercise its exclusive jurisdiction only with respect to active, sitting judges. *Id.* Former judges, such as those who retire or resign, are "beyond the exclusive jurisdiction of the Commission and cannot be disciplined." *Id.* Consequently, the respondent's resignation divested the Commission of jurisdiction, and the Commission dismissed the Board's complaint for lack of jurisdiction. *Id.* at 108.

In the decades following *Dempsey*, the Commission has dismissed several other cases for lack of jurisdiction after a respondent resigned or retired while a Commission case was pending.

See, e.g., In re Eugene Pincham, 2 Ill. Cts. Com. 130, 132 (1992) (complaint dismissed for want of jurisdiction when respondent resigned while complaint was pending); *In re James T. Doyle*, 4 Ill. Cts. Com. 5, 6 (2006) (complaint dismissed for want of jurisdiction when respondent voluntarily vacated his judicial office during the pendency of the Commission matter); *In re Donald A. Behle*, 4 Ill. Cts. Com. 1, 1-2 (2007) (complaint dismissed without prejudice for lack of jurisdiction when respondent was no longer a sitting judge); *In re Sheldon Harris*, 22 CC 1 (July 6, 2022) (Board's motion to dismiss for lack of jurisdiction granted when respondent resigned prior to the conclusion of the Commission case).

Accordingly, because Respondent has resigned as of November 6, 2022, he is no longer an active, sitting Illinois judge, and the Commission no longer has jurisdiction over this case. The Board's Motion is granted.

NOW THEREFORE, it is hereby ordered that this action is dismissed without prejudice.

Complaint dismissed.