

EXECUTIVE DIRECTOR &
GENERAL COUNSEL, ILLINOIS
COURTS COMMISSION**2022 IL Cts Com 002**

(No. 22 CC 03 – Respondent reprimanded)

In re MOHAMMED M. GHOUSE
Associate Judge of the Circuit Court of Cook
County, State of Illinois, Respondent.*Order entered October 14, 2022*

SYLLABUS

On June 17, 2022, the Judicial Inquiry Board filed a one-count complaint with the Illinois Courts Commission, charging the respondent with conduct that is prejudicial to the administration of justice and that brings the judicial office into disrepute in violation of Rules 61 and 62(A) of the Illinois Code of Judicial Conduct. In summary, the complaint alleged the respondent drove a car while under the influence of alcohol, struck the rear end of a parked vehicle, and caused damage to both vehicles. Further, that when law enforcement arrived on the scene, the officer smelled a strong odor of alcohol and observed the respondent's eyes were glassy and bloodshot as he swayed back and forth. The respondent declined to take field sobriety tests and was arrested. The complaint also alleges that while at the police station, the respondent declined to take a breathalyzer test. The respondent subsequently pled guilty to driving under the influence of alcohol.

Held: Respondent reprimanded.

Public hearing live-streamed October 6, 2022.

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

Before the COURTS COMMISSION, appearing remotely: THEIS, Chair, AUSTRIACO, HARRIS, O'BRIEN, SOBOL, TROEMPER, and WOLFF, commissioners. ALL CONCUR.

ORDER

Introduction

The hearing in this matter was held remotely by video conference on October 6, 2022, before the Illinois Courts Commission (Commission), with Commission Chair, Justice Mary Jane Theis, and Commissioners, Aurora Austriaco, Justice Thomas Harris, Justice Mary K. O'Brien, Judge Sheldon Sobol, Judge April G. Troemper, and Paula Wolff. The Judicial Inquiry Board was represented by Michael Deno and Natosha Toller. The respondent was present and was represented by Adrian Vuckovich.

Pleadings and Admitted Misconduct

In a complaint filed on June 17, 2022, the Judicial Inquiry Board (Board) charged the respondent, MOHAMMED M. GHOUSE (Respondent), an Associate Judge in the Circuit Court of Cook County, with "conduct that was prejudicial to the administration of justice and that brought the

judicial office into disrepute,” in violation of the Code of Judicial Conduct (Code), Illinois Supreme Court Rule 61, Canon 1; and Rule 62(A), Canon 2; 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.”

The Board’s complaint was based on Respondent’s driving under the influence of alcohol and his subsequent conviction of that offense. On July 8, 2022, Respondent filed an answer, admitting most of the factual allegations of the complaint, but denying the allegations that his conduct violated Rules 61 and 62(A) of the Code. On September 29, 2022, the parties filed a Stipulation of Facts, stipulating and agreeing that the following facts would be established by clear and convincing evidence if the matter were to be tried before the Commission.

In the early evening on November 23, 2021, around 8:34 p.m., Respondent drove a car while under the influence of alcohol in Hinsdale, Illinois and struck the rear end of a parked vehicle, causing damage to both vehicles. A Hinsdale police officer responded to the scene and noticed that Respondent had glassy and bloodshot eyes and smelled of alcohol. Respondent declined to take field sobriety tests and was arrested and issued citations for driving under the influence of alcohol and failing to reduce his speed to avoid an accident. Respondent was taken to the Hinsdale Police Station, where he declined to take a breathalyzer test, resulting in an automatic suspension of his driver’s license for one year.

On February 18, 2022, Respondent pled guilty to driving under the influence of alcohol. He was sentenced to court supervision for twelve (12) months and ordered to complete a remedial education program and counseling, including attendance at a Victim Impact Panel. He was also ordered to pay fines and costs totaling \$3,281.00, which he paid the same day, February 18, 2022. Respondent completed the remedial educational requirements and counseling requirements, including an aftercare program and attendance at a Victim Impact Panel, by January 25, 2022.

During the public hearing held on October 6, 2022, Respondent, through counsel, admitted that the above-described conduct violated Rule 61 and Rule 62(A) of the Code of Judicial Conduct, as alleged in the Board’s complaint.

Evidence in Aggravation and Mitigation

Aggravation

The Board presented no evidence in aggravation.

Mitigation

In mitigation, Respondent presented twenty-five (25) verifications¹ from attorneys and judges familiar with him, who attested to Respondent's excellent reputation in the legal and judicial communities, as well as his honesty, integrity, veracity, and overall good character. They described Respondent as a prepared, hard-working, and respectful judge, who is dedicated to finding a fair outcome for the litigants who appear before him. They have observed Respondent as a mentor to others, and someone who fosters relationships between the bench and the bar, is committed to his faith, family, and community, is unbiased, and is a true friend and trusted colleague.

Respondent also presented character witness testimony from the Honorable Kerry Kennedy. Judge Kennedy, who is the presiding judge of the Fifth Municipal District in Cook County and who has been a judge for nearly twenty (20) years, testified that he has known Respondent for more than 20 years. He first met Respondent when he was working as a public defender in the Bridgeview Courthouse and Respondent was an assistant state's attorney. Judge Kennedy described Respondent as an honest and forthright assistant state's attorney.

In the late 1990s or early 2000s, Respondent became a private attorney while Judge Kennedy ascended to the bench. Respondent appeared in front of Judge Kennedy as defense counsel and was always well-prepared and professional. Later, after Respondent became a judge, Judge Kennedy described that Respondent was fair and knew the law, he would do any assignment he was asked to do, he was always willing to help other judges when needed, and that his work ethic is beyond reproach. Judge Kennedy also described Respondent as a loving family man and someone he is proud to call his friend and colleague.

When Respondent was arrested in November 2021, Respondent called Judge Kennedy the next morning. Judge Kennedy felt that Respondent was very forthright and candid with him regarding what had happened. Judge Kennedy sent a letter regarding the incident to the Judicial Inquiry Board and also notified the Executive Committee of the Circuit Court of Cook County.

Judge Kennedy believes Respondent is an asset to the judiciary, and he would support Respondent's return to the bench. Judge Kennedy was familiar with the allegations of the Board's complaint, and they did not change his opinion of Respondent.

Respondent also testified in mitigation. Respondent addressed the Commission directly, apologizing for his conduct and expressing remorse for compromising the integrity of the judiciary.

¹ The verifications were signed and submitted by: Jenna Joudeh; Daniel J. Carmody; Dennis F. Dwyer; Kimberly Gray; Luz Toledo; Michelle T. Forbes; Monique M. Medley; Nader Zughayer; Nishá N. Dotson; Tja A. Chiapelli; Steven E. Skinner; Martin Quintana; Judge Sophia Atcherson; Judge John A. Fairman; Judge Linzey D. Jones; Judge Sanjay T. Tailor; Judge E. Kenneth Wright, Jr.; Judge Peter A. Felice; Judge John F. Lyke; Judge Thomas V. Lyons; Judge Jeanne Marie Wrenn; Judge Margaret M. Ogarek; Judge Rouhy J. Shalabi; Judge Carmen Aguilar; and Judge Diann K. Marsalek.

He testified that the night of his arrest would be engrained in his mind forever and, as one of the worst decisions he has made personally and professionally, serves as a reminder to adhere to the ethical standards required of judges. He described in detail that he is embarrassed by his conduct, which brought shame to his family and community and brought a dark cloud over the judiciary. He acknowledged that judges are held to a higher standard in both their professional and personal lives, which he understands now more than ever.

Respondent further testified that since the incident occurred, he has taken responsibility for his actions by pleading guilty, completing all the court-ordered requirements, and paying all the fines and fees. He stated that he has learned a lot from this experience, sought help from various professionals, and is confident that his conduct will not occur again. He is hopeful that through his example of change, he can remove the dark cloud and bring light back to the judiciary.

Additionally, Respondent presented a letter from Dr. Richard Ready, who has been seeing Respondent since November 2021. In Dr. Ready's opinion, Respondent is not alcohol dependent and can perform his duties as a judge.

And finally, Respondent presented a receipt documenting his full payment of the fines and fees in the criminal case, and documents showing his completion of the court-ordered DUI Risk Education program, Early Intervention program, and Victim Impact Panel.

Analysis

“Section 15(c) of the Illinois Constitution empowers the Commission to hear and decide complaints filed by the Board regarding alleged violations of the Code of Judicial Conduct and to determine under what circumstances discipline is to be imposed.” *In re Araujo*, 19 CC 1, at 9 (Nov. 6, 2020), citing Ill. Const. 1970, art. VI, § 15(c).

The Board must prove alleged violations of the Code by clear and convincing evidence, which is more than just a preponderance of the evidence. Ill. Cts. Comm'n. R. Proc. 9(b) (eff. June 17, 1999); *In re Vecchio*, 4 Ill. Cts. Com. 92, 97 (1998) (citing *In re Karns, Jr.*, 2 Ill. Cts. Com. 28, 33 (1982)). “Proof that alleged judicial misconduct is merely probable, or even more probable than not, does not justify discipline under section 15(e) of article VI of the 1970 Illinois Constitution.” *In re Vecchio*, 4 Ill. Cts. Com. at 97. The clear and convincing standard has been defined as evidence that causes the factfinder to believe that the truth of the facts asserted is “highly probable.” *In re Araujo*, 19 CC 1, at 9 (Nov. 6, 2020). Whether the Board has met this standard is a question of fact, which requires the Commission to make credibility determinations, weigh the evidence, draw reasonable inferences, and resolve conflicts in the evidence. *Id.* Additionally, where the Board alleges that a judge's conduct is prejudicial to the administration of justice or brings the judicial office into disrepute, the Board must present evidence to “substantiate” those claims. *In re Vecchio*, 4 Ill. Cts. Com. at 97.

In this matter, the parties have submitted a Stipulation of Facts, and Respondent has admitted that his conduct violated Rule 61 and Rule 62(A) of the Code. Accordingly, the Commission adopts the Stipulation and finds there is clear and convincing evidence that Respondent violated the Code and engaged in conduct that was prejudicial to the administration of justice and that brought the judicial office into disrepute. The Commission must next determine what sanction is appropriate

under these circumstances.

In cases where the Commission determines that discipline is warranted, the Commission may remove the judge from office, suspend the judge without pay, or censure or reprimand the judge.² Ill. Const. 1970, art. VI, § 15(e). If, on the other hand, the Commission finds that the judicial misconduct was *de minimus* or that a violation was not substantial, the complaint may be dismissed. See, e.g., *In re Nielsen*, 2 Ill. Cts. Com. 1, 8-9 (1981); *In re Alfano*, 2 Ill. Cts. Com. 11, 28 (1981); *In re Scrivner*, 3 Ill. Cts. Com. 6, 9 (1993); *In re Vecchio*, 4 Ill. Cts. Com. at 99. In determining the appropriate sanction here, the Commission emphasizes the importance of preserving public confidence in the integrity and independence of the judiciary and reminds judges that at all times, they "... must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in our legal system." *In re Araujo*, 19 CC 1, at 12, citing Illinois Code of Judicial Conduct, *preamble*. "Judges are held to a heightened burden of ethical behavior." *Id.*, citing *In re O'Shea*, No. 18 CC 3 (Sept. 27, 2019).

The Board in this case made no recommendation for an appropriate discipline, while Respondent recommended that a reprimand be imposed. In making this recommendation, Respondent relies upon three (3) Commission matters, which the Board noted were no more egregious than the present case. The Commission finds those three matters, discussed below, are analogous here.

The first case Respondent relies upon is *In re Steven Nordquist*, 4 Ill. Cts. Com. 62 (August 9, 2007). In that case, the judge was stopped for driving over the speed limit and during the traffic stop, the police officer smelled alcohol on the judge's breath. The judge took a breathalyzer test, which indicated that his blood alcohol concentration was over the legal limit. After pleading guilty to driving under the influence of alcohol, the judge was sentenced to twelve months of court supervision, fined, and ordered to attend a Victim Impact Panel and to complete treatment pursuant to an alcohol evaluation. At a hearing before the Commission, the judge admitted that his conduct violated Rule 61 and Rule 62(A) of the Code. The judge was reprimanded.

Respondent next relies on *In re Sheila M. McGinnis*, 4 Ill. Cts. Com 61 (November 18, 2009). There, the judge was arrested for driving under the influence of alcohol after she rear-ended another car at a stoplight, which resulted in damage to that car. The judge refused to take any field sobriety tests, refused to answer the responding police officer's questions, and did not provide proof of valid car insurance. She also refused to take a breathalyzer test at the police station after she was arrested. She later pled guilty to driving under the influence of alcohol, for which she was sentenced to 18 months of court supervision, fined, and ordered to attend a Victim Impact Panel and complete all recommended treatment after an alcohol evaluation. At a hearing before the Commission, the judge admitted that her conduct violated Rule 61 and Rule 62(A) of the Code. She also presented mitigating evidence that she had not been the subject of other disciplinary proceedings related to her conduct, and that she had completed the court-ordered risk education and early intervention classes and attended a Victim Impact Panel. The Commission reprimanded the judge.

Finally, Respondent relies on *In re Joseph P. Hettel*, 14 CC 1 (June 20, 2014). In *Hettel*, the judge drove a vehicle while under the influence of alcohol and collided into a parked vehicle, causing

² Where the Commission finds that a judge is physically or mentally unable to perform his or her duties, the Commission may suspend the judge, with or without pay, or retire the judge. Ill. Const. 1970, art. VI, § 15(e).

damage to both vehicles and a nearby utility pole. After a police officer responded to the scene, the judge stated that he had had “a couple of” drinks and that he had been trying to use his cell phone. The police officer noted the judge’s glassy eyes, slurred speech, and smell of alcohol. He refused to take any field sobriety tests and refused a breathalyzer, blood, and urine samples at the police station after he was arrested. The judge pled guilty to driving under the influence of alcohol and was sentenced to two years of court supervision. He was also fined and ordered to attend a drunk driving impact panel, complete all recommendations resulting from the court-ordered DUI evaluation, and to complete 100 hours of community service. At a hearing before the Commission, the Board acknowledged there were no aggravating factors, and the judge presented several factors in mitigation, including his early completion of all court-ordered evaluations, treatments, and the 100 hours of community service. The judge expressed remorse and acknowledged that his conduct did not adhere to the Code of Judicial Conduct. The Commission imposed a reprimand.

In addition to the three cases relied upon by Respondent, the Commission finds that *In re Patrick Young*, 4 Ill. Cts. Com. 100 (December 20, 2007) and *In re Albert L. Purham*, 09 CC 2 (December 4, 2009) are also instructive.

In *Young*, the judge was arrested for driving under the influence of alcohol after he was involved in a car accident that caused the driver of the other vehicle to sustain injuries.³ When he was stopped by the police officer, the judge refused to submit to field sobriety tests, and he was cited with driving under the influence of alcohol and failure to yield while turning left. He was later found guilty of driving under the influence of alcohol and sentenced to two years of court supervision, fined \$1,500, and ordered to complete treatment pursuant to an alcohol evaluation. At a hearing before the Commission, the judge admitted that his conduct violated Rule 61 and Rule 61(A) of the Code, and the Commission found his lack of a disciplinary history and excellent reputation as mitigating factors. Judge Young was reprimanded.

In the *Purham* matter, the judge was stopped by a police officer after he was swerving between lanes. He refused to take field sobriety tests, but he did agree to take a breathalyzer test at the police station, which revealed that his blood alcohol concentration was over the legal limit of 0.08. The judge later pled guilty to driving under the influence of alcohol, was sentenced to 12 months of court supervision, fined \$750, and ordered to complete all treatment recommendations and counseling pursuant to an alcohol evaluation. In a hearing before the Commission, the judge admitted that his conduct violated Rule 61 and Rule 62(A) of the Code. He submitted evidence in mitigation that he had completed risk education classes, attended a Victim Impact Panel, and had not been disciplined by any other jurisdiction related to his conduct. The Commission reprimanded him.

In each of these five cases, the judge was arrested for an isolated instance of driving under the influence of alcohol and subsequently pled guilty to that offense, completed a term of court supervision, paid fines, and fulfilled the court-ordered requirements for alcohol evaluations, treatment, and, in one instance, community service. It appears that each of these judges cooperated with the Board and throughout the proceedings before the Commission, and in no case did the Commission find any aggravating factors. The same is true here. Respondent was arrested for an isolated instance of driving under the influence of alcohol, he pled guilty, he paid the imposed fines,

³ Judge Young had a passenger in his vehicle, Judge Jan Fiss, who was carrying an open alcohol container. Judge Fiss was also a respondent before the Courts Commission and was reprimanded as part of the same matter. *In re Fiss*, 07 CC 02 (December 20, 2007).

and he completed the court-ordered requirements for alcohol evaluations, treatment, and attendance at a Victim Impact Panel. He completed these before the Commission hearing, as did the judges in *Purham* and *Hettel*. Considering the similarities between these five cases and the present case, the abundance of mitigating evidence here, and the lack of any aggravating factors, the Commission believes a reprimand is appropriate.

NOW THEREFORE, it is hereby ordered that respondent is reprimanded.

Respondent reprimanded.