

2020 IL Cts Com 001

(No. 18-CC-1 Respondent removed.)

In re RONALD R. DUEBBERT,
Judge of the Circuit Court, Twentieth Judicial Circuit
of the State of Illinois, Respondent

Order entered January 10, 2020

SYLLABUS

On April 19, 2018, the Judicial Inquiry Board filed a complaint with the Courts Commission, charging respondent with conduct that failed to uphold the integrity and independence of the judiciary and failed to avoid impropriety or the appearance of impropriety in his activities in violation of the Code of Judicial Conduct, Illinois Supreme Court Rules 61 and 62. In summary, the complaint alleged that the respondent gave false and misleading statements to law enforcement officers related to a homicide investigation in which a friend of respondent's had been identified as a suspect. The complaint further alleged that, during investigation of these incidents by the Judicial Inquiry Board, respondent gave false and misleading testimony before the Board.

Held: Respondent removed.

Sidley Austin LLP, of Chicago, for Judicial Inquiry Board.
Robinson Stewart Montgomery & Doppke, of Chicago, for Respondent.

Before the COURTS COMMISSION: THOMAS, Chair, AUSTRIACO, HULL,
McBRIDE, REDDICK, SCHOSTOK, and WOLFF, commissioners.

ORDER

In a complaint filed April 19, 2018, the Judicial Inquiry Board (Board) charged the respondent, RONALD R. DUEBBERT, a Circuit Court Judge for the Twentieth Judicial Circuit of Illinois, 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, Illinois Supreme Court Rule 61, Canon 1; and Rule 62, 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.

(B) A judge should not allow the judge's family, social or other relationships to influence the judge's judicial conduct or judgment."

The Board must prove any violation of the Code by clear and convincing evidence.

We first detail respondent's relevant background to fully understand the circumstances that arose in this case. Respondent practiced law with Duebbert Law Offices in Belleville, Illinois. In 2013, respondent met and befriended an individual named David Fields. Respondent developed a close relationship with Fields. In the summer of 2015, Fields pled guilty to aggravated assault on a pregnant person and was sentenced to a term of incarceration. Respondent remained in contact with Fields during Fields's period of incarceration, through phone calls, written correspondence, and personal visits. On October 24, 2016, Fields was released from prison on mandatory supervised release.

Prior to Fields's release, respondent had submitted multiple applications to the Illinois Department of Corrections seeking approval for Fields to reside in respondent's Belleville home upon Fields's release. The applications were initially denied because of the presence of firearms in respondent's house. Upon his release, Fields went to live at his mother's home. Respondent submitted an application, indicating he had removed his firearms from his home so that Fields would be allowed to move into respondent's home during his period of mandatory supervised release. On or about November 4, 2016, Fields moved from his mother's home to respondent's home. On November 8, 2016, respondent was elected Judge of the Circuit Court for the Twentieth Judicial Circuit. Fields continued to live with respondent for several weeks after the election. On or about December 2, 2016, Fields moved from respondent's home and returned to live at his mother's home. Respondent was sworn in as a judge on December 5, 2016.

Beginning in 2015, respondent periodically provided Fields with a cellular telephone, associated with a phone number containing the digits 650 ("the 650 phone"), that Fields could use to communicate with respondent and others. The 650 phone was in respondent's name and he paid the monthly bill, while Fields was the phone's primary user when the phone was in Fields's possession. Before Fields was incarcerated, the 650 phone was returned to respondent's possession. Respondent possessed and operated another cellular telephone with a phone number containing the digits 117 ("the 117 phone"). After Fields was released from prison in 2016, respondent returned possession of the 650 phone to Fields. Fields returned the 650 phone to respondent in mid-December 2016.

At some later point, and prior to December 29, 2016, Fields contacted respondent and requested that respondent return the 650 phone to Fields. On the night of December 29, 2016, respondent met Fields in the parking lot of a gas station in Belleville, Illinois. At that meeting, respondent gave Fields a bag containing some of Fields's personal effects that had been stored at respondent's home. Prior to or during this meeting, respondent returned the 650 phone to Fields.

During the evening of December 29, 2016, respondent and Fields communicated through text messages between the 650 phone and the 117 phone.

Early in the morning, at or about 5:00 a.m., of December 30, 2016, Carl Silas was murdered. The police investigating the homicide identified Fields as a suspect soon thereafter. Later in the morning of December 30, 2016, respondent received a phone call from a woman acquainted with Fields and she informed respondent that she had heard reports that Fields was involved in a murder. Shortly thereafter, Fields called respondent from the phone belonging to a different female acquaintance. Respondent and Fields had a conversation lasting just over three minutes. By no later than noon on December 30, 2016, respondent was aware that Fields was a suspect in a murder. Later that afternoon, respondent was contacted by two of the investigating police officers for an interview. A recorded interview took place at respondent's home around 4 p.m. on December 30, 2016.

The Board's complaint alleged that on December 30, 2016, while being interviewed by the police officers in connection with the criminal investigation of the murder of Silas, respondent made statements he knew to be false and deceptive, and omitted facts that he knew were relevant to the matters the officers were investigating. In May and June, 2017, respondent appeared before the Board and testified under oath about the events at issue in the Board's investigation of his alleged misconduct. The complaint alleged two counts. Count I charged respondent with making false and misleading statements to the police in violation of Rules 61 and 62. Count II charged respondent with providing false and misleading testimony before the Board in violation of Rules 61 and 62.

In his amended answer, filed May 3, 2019, respondent admitted to his relationship with Fields as well as the 650 phone in his name being used by Fields. Respondent denied that all of the alleged statements in the complaint were false and misleading. He also denied that he concealed facts from the police. He admitted that he testified before the Board, but denied all allegations of false and misleading statements made during his testimony.

The Illinois Courts Commission (Commission) has heard not only the testimony presented before it and stipulations between the Board and respondent, but also has had the benefit of the report of proceedings before the Board and the video recorded interview from December 30, 2016, as well as a transcription of that interview.

Special Agent Patrick McGuire of the Illinois State Police testified before the Commission that he was part of the major case squad of Greater St. Louis, which was an agreement between many departments to share personnel to work on a serious investigation. As part of the major case squad, Special Agent McGuire was assigned, with Detective Timothy Lawrence on December 30, 2016, to investigate the homicide of Carl Silas. Fields had been identified as a suspect and the officers began to investigate information related to Fields. They learned that Fields had previously resided at respondent's residence and that respondent owned firearms. They also learned that the 650 phone was a phone number associated with Fields, but was registered in respondent's name. Special Agent McGuire had never met respondent before December 30, 2016.

Special Agent McGuire and Detective Lawrence met with respondent at respondent's home on December 30, 2016, for a recorded interview. Special Agent McGuire testified that the recorded interview accurately reflected the interview and he did not recall that anything substantive to the investigation occurred off camera. At the time of the interview, Special Agent McGuire did not know whether Fields had used the 650 phone recently. The reasons for the interview were to make sure Fields had not stolen one of respondent's firearms, the officers wanted to confirm the firearms were present and accounted for, and to ask about the 650 phone in connection with Fields and any possible relevance the phone might have to the homicide investigation.

Special Agent McGuire testified that the officers specifically asked respondent where the 650 phone was and if Fields still had possession of it. Respondent told them that he received the phone back from Fields when Fields moved out of respondent's residence in late November or early December. According to Special Agent McGuire, respondent did not tell the officers that he had exchanged text messages with Fields the night before the interview or that respondent had texted Fields on the 650 phone. Special Agent McGuire did not ask respondent to give the 650 phone to the officers because, according to respondent, the 650 phone had been in respondent's possession for a month prior to the homicide and would not have been used in any way before or after the murder. He further testified that in other homicide investigations, the cell phone used by a suspect would be seized. He could not recall a homicide investigation in which the cell phone of a suspect was not seized.

Respondent told the officers he had met with Fields to return clothing to Fields the night before, December 29, 2016. Respondent detailed to the officers that he had received a phone call from Fields in which Fields asked for clothing that respondent possessed. Respondent agreed to meet Fields at a nearby gas station at approximately 8 p.m. At that meeting, Fields approached the vehicle, opened the vehicle door, took the bag of clothing, exchanged pleasantries with respondent, and left. But respondent did not tell the officers that he had given the 650 phone to Fields in the bag of Fields's clothing during the meeting.

Regarding respondent's personal 117 phone, respondent told the officers that he had received two calls from two different reporters that day. Respondent gave the officers the exact times of those calls by looking at his call history on the 117 phone. Respondent also told the officers that he had talked to Victoria, a friend of Fields, that day. Special Agent McGuire testified that respondent "advised us *if* he did have contact with David Fields, he would tell him to turn himself in to the police." Respondent did not tell the officers that he had already spoken with Fields that morning and had already advised Fields to turn himself in to the police.

When the interview concluded, Special Agent McGuire stated that he did not have any plan to return to respondent's house because he felt they "got as much information as we could" from respondent. At the time they left, Special Agent McGuire believed the 650 phone was in respondent's possession and had been in his possession since the end of November or beginning of December.

The officers returned to their command post in Belleville, Illinois. However, the officers later returned to respondent's house because they "found out that that phone had been used and

that the phone was still active and had been used the day of the murder.” Special Agent McGuire wanted to find out who was using the phone.

When the officers approached the residence, respondent was in the garage. The officers asked respondent if he could locate the 650 phone, and respondent said that he had found the phone and he then gave the phone to the officers. Special Agent McGuire testified that respondent did not amend his previous statements given during the recorded interview. Respondent did not tell the officers that he had given the phone to Fields the previous night, that respondent had texted with Fields on that phone the previous night, or that Fields had called respondent that morning. The officers then requested respondent to show them that all of his firearms were present at respondent’s friend’s house. The officers and respondent traveled to the friend’s house where they viewed a safe and respondent confirmed that all of his firearms were present. The officers made a recording at the friend’s house to memorialize that respondent acknowledged that all of his firearms were there. Special Agent McGuire testified, “Anything that you’re going to put in a report that’s substantive to the investigation, I like to record it ***.”

After the officers returned to their headquarters, they were told to return to the friend’s residence with a search warrant for respondent’s 117 phone. They returned to respondent’s friend’s house and obtained respondent’s 117 phone. Special Agent McGuire noted again in his testimony that respondent did not tell the officers at any point that he had given Fields the 650 phone the night before, he had texted with Fields the night before, or Fields had called respondent that morning.

During cross-examination, Special Agent McGuire explained that if any kind of conversation occurs prior to a recorded interview, he makes sure to have it included in “the interview that’s recorded.” He agreed, however, that he did not directly ask respondent if he had heard from Fields. At the end of the recorded interview, respondent volunteered to the officers, “*If I hear from him, I’ll let you know.*”

Detective Timothy Lawrence testified that he was a detective with the Madison County sheriff’s office, and he was a member of the major case squad of Greater St. Louis. In December 2016, he was assigned to investigate the murder of Carl Silas with Special Agent McGuire. On December 30, 2016, he reached out to respondent on the phone to set up an interview. During the phone call, respondent did not inform the detective that he had been in contact with Fields that morning, nor did respondent disclose that he had given the 650 phone to Fields or that he had texted Fields the prior evening. Detective Lawrence corroborated Special Agent McGuire’s testimony regarding the recorded interview. He stated that the recording accurately reflected the interview and no substantive information was left out of the video recording. Like Special Agent McGuire, Detective Lawrence had not met respondent before the interview.

Prior to the interview, Detective Lawrence was aware that the 650 phone was associated with Fields, but he did not know where the 650 phone was located at that time or if Fields had recently used the phone. During the interview, the detective asked respondent where the 650 phone was located and respondent “indicated that it was in his possession,” and had been in his possession since late November. He did not ask respondent for the 650 phone because the phone was not pertinent to the homicide investigation since Fields had not possessed the phone for a month.

According to Detective Lawrence, cell phones of murder suspects were seized whenever the police could do so. He was not aware of any instance in which the cell phone in possession of a suspect on the night of a murder was not seized.

Detective Lawrence testified that respondent did not disclose during the interview that he had given the 650 phone to Fields the night before and that he had subsequently been in contact with Fields via text messages. Respondent told the officers that “if he had contact with [Fields], he would advise him to turn himself in.” Respondent told the officers that he had not been in contact with Fields, and specifically did not disclose he had spoken with Fields that morning. Detective Lawrence did not recall respondent at any point telling the officers off camera that he had given the 650 phone to Fields the previous night, he had been in communication with Fields, or that Fields had called respondent that morning. When he left respondent’s house, Detective Lawrence believed the 650 phone was at respondent’s house.

After the officers left, Detective Lawrence learned that the 650 phone had been in use the prior evening so the officers returned to respondent’s house to retrieve it. Respondent gave them the phone from a drawer in the garage. The officers and respondent later went to the home of respondent’s friend to confirm the presence of all of respondent’s firearms. Detective Lawrence made an audio recording to memorialize that none of respondent’s firearms was missing. Detective Lawrence testified that he records anything that “seems important.”

After the officers left the house, they subsequently learned that the 117 phone and 650 phone had been in contact with one another within the past 24 hours. Detective Lawrence stated that it was a surprise to him because “[a]t no point in time had [Detective Lawrence and Special Agent McGuire] been told or believed that those two phones had contact.” Detective Lawrence would have remembered if respondent had disclosed that the 650 phone had been given to Fields the previous night, that respondent had texted with Fields on the 650 phone the previous night, and that Fields had called respondent that morning. In his initial assignment, Detective Lawrence knew that the 650 number was sometimes used by Fields and the subscriber was respondent.

Respondent testified before the Commission when called as a witness by the Board and in his own defense. In his testimony as a witness called by the Board, respondent confirmed his friendship with Fields dating back to 2013. Respondent provided the 650 phone to Fields in 2014, which was returned to respondent when Fields was in prison. Respondent gave the phone to Fields again after Fields’s release from prison in October 2016. Fields also had possession of the 650 phone when he moved out of respondent’s home on December 2, 2016. At some point later, but prior to Christmas, the phone was returned to respondent’s former office. Respondent put it in his drawer with miscellaneous items in his kitchen. Respondent put the phone in a plastic bag with some clothes belonging to Fields around Christmas and gave it to Fields on December 29, 2016, at the gas station meeting.

Respondent testified that he did not have a recollection of texting Fields on the night of December 29, 2016, but agreed that the phone records indicated that he had texted with Fields. Respondent received a phone call from Fields’s friend, Victoria, the morning of December 30, 2016, during which she disclosed that Fields may have been involved in a murder. Respondent then admitted that shortly thereafter, he received a call from Fields on a phone belonging to

Fields's girlfriend. During that call, respondent told Fields to turn himself in to police and to get a lawyer.

Respondent admitted that, according to the transcript of the police interview, he did not tell the officers that he had spoken with Fields on December 30, 2016, nor did he disclose that he had been in contact with Fields via text to the 650 phone on December 29, 2016. He agreed that the taped interview did not reflect that, but he testified that he spoke with the officers for additional time. Respondent "intended to cooperate to the fullest extent when they came to my house, so I answered their questions very literally, whatever they asked me, whether or not followed up on."

Respondent further admitted that he did not tell the officers in the taped interview that he had given Fields the 650 phone the night before the interview. When the officers had asked respondent directly, "Do you have that phone?", respondent agreed that he answered, "I do." Respondent then explained, "I answered the question, 'Do you have that phone,' as in do you have the line, do you own the phone, do you pay for it. They did not ask me if I possessed that phone. And that's --- I think I literally I answered their question." Respondent testified that he did not mean to communicate to the officers that he possessed the phone. Respondent then agreed that he told the officers he got the phone back from Fields in late November or early December. Respondent further admitted that he did not tell the officers during this interview that he had given Fields the 650 phone the previous night in the bag of belongings at the gas station meeting. Respondent testified, "I believed during this interview that I was in possession of the phone number, but not in possession of the phone, of the actual phone, because I wasn't."

Respondent also admitted that when he scrolled through his phone history during the interview, he did not disclose the call he received from Fields or any text messages exchanged with Fields. When asked why he did not disclose recent texts after an officer asked about recent text messages from Fields, respondent stated that he did not remember the text messages at the time because he had taken Benadryl the previous night. Respondent also testified that he was "petrified at that point" and did not know what he was seeing when he was scrolling through his phone history during the interview. At the end of the interview, the officers asked if there was anything else they might want to know about Fields, but respondent did not tell them about his recent contact with Fields. Respondent explained:

"Sir, I don't know that I was thinking very much except about being petrified that these people were not my friends, nor were the people that were trying to associate me with the murder. I had been told that the minute that even the mere allegation that my firearm was used in a crime would end my career. I wished that I had been better at what I did, but I wasn't. I don't remember specifically what I was thinking at that time, sir."

Respondent testified that he believed he told the officers that he had given the 650 phone to Fields the previous night off camera. Regarding when he told the officers this information, respondent stated,

"Either while these two officers were looking at my air rifles or in the garage. I don't have a specific recollection. I know that we discussed that. I felt very

intimidated, and I told them again in my bedroom that I was fearful that David would be killed and that I had will told [*sic*] him to turn himself in when he called me.”

Respondent further testified that he told the officers about Fields’s phone call to him that morning either in his bedroom or his garage after the videotaped interview. Respondent stated that he “made sure” the officers were informed about his communications with Fields on December 29 and 30, by telling his attorney, and then his attorney told the officers.

Respondent admitted that at the end of the taped interview, he said to the officers that if he thought of anything else or “if” Fields contacted him, respondent would let them know, but he did not let them know at that time that Fields had already contacted him.

After the officers left his house, respondent went outside to get the mail and as he was walking through the garage, he observed the 650 phone in a bin in the front of his garage. At the time of the interview, respondent believed that the 650 phone was with Fields and it was “inaccurate” when he told the officers that Fields did not have the phone at that time. When respondent found the 650 phone in his garage, he contacted the police. He later changed this statement and said the police came back before he called them. The police then returned to his house and respondent gave them the 650 phone. Respondent and the officers then went to respondent’s friend’s house to confirm that all of respondent’s firearms were present and accounted for. While at the friend’s house during a second trip there, the officers took possession of respondent’s 117 phone.

Respondent admitted that during his testimony before the Board, he testified that he told the officers during the interview that he received a phone call from Fields that day, and that he had exchanged text messages with Fields using the 650 phone the night before the interview. He stated that he did not differentiate between the recorded interview and the off camera conversation. According to respondent, he gave the officers all of the relevant information and he “gave them much information off camera.” Respondent testified before the Board that he had informed the officers about his text messages with Fields during the interview. Before the Commission, respondent admitted that he did not tell the officers about the text messages during the interview, but he later notified the officers about the text messages “afterward through [his] lawyer.” When asked if he told the Board that he informed the police about the text messages, respondent answered, “I told the Board that I had provided them the information, and I did.”

Respondent also agreed that in his testimony before the Board, he told the police he had given the 650 phone to Fields during the gas station meeting on December 29, 2016. Respondent maintained that he did tell the officers this information during the interview, but not on camera. Respondent testified that he had no knowledge as to how the 650 phone got into his garage.

The parties stipulated that if called to testify Lieutenant Robert Thompson¹ of the Belleville police department would testify that on January 1, 2017, he was contacted by respondent’s

¹ We note that the report of the proceedings from the hearing refers to Lieutenant Robert Thompson, but the stipulation refers to Lieutenant Robert Thomason. For clarity, we will refer to him as Lieutenant Thompson as stated in the transcript.

attorney. Respondent's attorney informed the lieutenant that respondent gave Fields the 650 phone on December 29, 2016, and respondent "did not originally tell investigators he gave Fields the cell phone that night." The attorney also told Lieutenant Thompson that respondent had exchanged a few text messages with Fields on December 29, 2016, and the next day, he received a call from Fields on a phone belonging to Fields's girlfriend. Respondent found the phone in his garage after his police interview.

Following the stipulation, the Board rested its case. Respondent testified on his own behalf. Respondent admitted that his answers in the police interview "could have caused a misperception," and he was "aghast about that." He did not call the police after he found the 650 phone in his garage, but the police called him again before he was able to call them.

Judge Stephen P. McGlynn testified as a character witness for respondent. He knew respondent as a lawyer when his office had been near respondent's office. Judge McGlynn was appointed to the bench in 2010. Respondent appeared as an attorney before Judge McGlynn. Judge McGlynn thought respondent did a "great job," and he appointed respondent to be guardian *ad litem* in several cases. The judge found respondent to be "very thorough in his research and writing." Judge McGlynn considered himself a "political mentor" to respondent when respondent ran for the judgeship. He was familiar with the charges before the Commission. He testified that respondent has "always been truthful and honest."

ANALYSIS

The Commission finds the Board has presented clear and convincing evidence that respondent violated the Code of Judicial Conduct and engaged in conduct that was prejudicial to the administration of justice and brought the judicial office into disrepute. See *In re Santiago*, No. 15-CC-1 (Aug. 18, 2016) (citing *In re Karns, Jr.*, 2 Ill. Cts. Com. 28, 33 (1982)).

Count I – Rules 61 and 62

Count I charged the respondent with making false and misleading statements to the detectives investigating Fields as a suspect in a homicide in violation of Supreme Court Rules 61 and 62, which are set forth in Canons 1 and 2 of the Judicial Code of Conduct. Ill. S. Ct. Rs. 61, 62 (eff. Oct. 15, 1993). The Commission finds that there was clear and convincing evidence to prove this charge.

The testimony of the detectives was credible, believable, and without bias. Neither of the officers had met respondent before the interview and had no professional interaction with him before December 30, 2016. Special Agent McGuire and Detective Lawrence both testified before the Commission that when asked who had the 650 phone, respondent answered that he did and that Fields had returned it to him in late November or early December. According to both officers, respondent did not disclose that he had returned the 650 phone to Fields the night before on December 29, 2016, in the bag of Fields's belongings. The officers also testified credibly that respondent did not inform them that he had been in communication with Fields using the 650 phone via text messaging on December 29, 2016, nor did respondent disclose that he had received a phone call from Fields earlier in the day on December 30, 2016. The officers each testified

credibly that nothing substantive to the investigation was discussed off camera after the interview. Only after the officers left respondent's residence did they learn that the 650 phone had been active and then returned to respondent's house to retrieve the 650 phone. At that meeting, respondent gave them the 650 phone, but did not disclose at any point that he had been in communication with Fields. Further, respondent stated on more than one occasion that day that "if" he heard from Fields, then he would tell Fields to turn himself in to the police.

In contrast, respondent testified that he believed he informed the officers after the recorded portion of the interview that he had been in communication with Fields. However, this testimony before the Commission directly conflicts not only with the officers' testimony but with the stipulation from Lieutenant Thompson who stated that respondent's attorney contacted the police two days after the interview to disclose information that had not been given during the interview. Specifically, in the parties' stipulation, Lieutenant Thompson would testify that respondent's attorney informed him that respondent did not originally tell the officers that the 650 phone had been given to Fields the night before the interview and respondent had communicated with Fields via text the previous night and in a phone call that morning. Based upon all the evidence, we flatly reject any suggestion that respondent informed the officers about his text communications and phone call with Fields during an alleged off camera interview. Had respondent actually informed the officers of these facts, they would have retrieved the 650 phone respondent told them he had and taken possession of respondent's 117 phone at that time as well. Respondent's testimony was misleading and untruthful. The evidence presented by the Board established that respondent knowingly failed to disclose relevant information to the investigation of a homicide when questioned by the officers as well as providing explicitly false statements to the officers.

Respondent's lack of credibility was also evidenced by his attempt to explain his false and misleading answers to the police. Specifically, we must again reject as false respondent's testimony that he understood the question asked by the officers, "Do you have the phone?", to mean who owned the line, and not who had physical possession of the 650 phone. For respondent, a former defense attorney and an elected judicial officer to make such an argument is both insulting and disturbing to the Commission. We find this testimony seriously wanting and unworthy of any belief. Respondent's explanation also lacks any credibility when considered against his next response to the officers that he obtained the 650 phone from Fields in late November or early December. If respondent had not intended for his response to mean he had physical possession of the phone, then he would not have told the officers that he received the phone back from Fields in late November or early December. These statements are inconsistent, false and misleading. The more likely reason for respondent's implausible testimony before the Commission was that he reviewed his recorded statement to the officers, realized he lied, and in response, crafted a new explanation to somehow explain that he was not lying during the police interview.

Finally, respondent's statement that "if" he heard from Fields, he would notify the officers was also both misleading and untruthful. This statement was clearly misleading as it suggested to the officers that respondent had not yet heard from Fields. Untruthful, because the contrary was true, respondent had heard from Fields that day and he failed to inform the officers of that contact. During the interview, respondent even scrolled through his call history, noting communications from two reporters as well as a female acquaintance of Fields, but intentionally withheld his contact

with Fields and later implied that he had not had contact with Fields on December 30, 2016. Later, however, he testified he did not know what he was seeing when he scrolled through his phone.

Through evidence of these false and misleading statements, the Board established that respondent intentionally led the police officers astray. Rather than being forthcoming about his contact with Fields, respondent purposely deceived the investigators by failing to provide significant information he knew was relevant to the investigation. At the time of the interview, respondent knew that Fields was a suspect in a homicide. Respondent also knew that Fields's possession and use of the 650 phone would be highly relevant to the police investigation, but instead of giving honest and truthful answers, he intentionally chose to withhold this information. Rather, respondent spoke extensively about extraneous communications with reporters and while scrolling through his call history, he excluded the only relevant history—his communications with Fields.

The implications of respondent's false and misleading testimony were significant because his answers effectively misdirected the police investigation of a homicide. Both officers testified that they did not ask for the 650 phone because respondent had indicated that the phone had been in his possession for nearly a month and, thus, was not relevant to the investigation. This was false information that hindered the investigation. His lack of truthfulness required the officers to return twice, once to respondent's home and once to his friend's home, after they learned new information that contradicted what respondent had previously disclosed. Specifically, the officers returned after learning that the 650 phone had been active in the previous 24 hours, which was counter to respondent's statement. And next, the officers returned to respondent's friend's home to take possession of respondent's 117 phone after learning that respondent's 117 phone had been in contact with the 650 phone in the last day. This wasted significant police time and the use of personnel during the critical investigation of a homicide. The impediment was due to respondent's conduct and his complete lack of candor with the investigation.

Rule 61 requires judges to observe "high standards of conduct so that the integrity and independence of the judiciary may be preserved." Rule 62 requires that 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." We find the Board demonstrated by clear and convincing evidence that respondent violated these rules by his falsehoods, deception, and misconduct. As we have discussed above, respondent's failure to be truthful and forthcoming with the officers was a violation of the high standard of conduct required of judges and demonstrates a failure to respect and comply with the law. And accordingly, Count I has been proven.

Count II – Rules 61 and 62

Count II charged the respondent with providing false and misleading testimony before the Board in violation of Supreme Court Rules 61 and 62, which are set forth in Canons 1 and 2 of the Judicial Code of Conduct. Ill. S. Ct. Rs. 61, 62 (eff. Oct. 15, 1993). The Commission finds the Board has proved this charge by clear and convincing evidence.

As previously discussed, the Commission finds that the officers' testimony was credible and respondent's testimony was untruthful and not credible. At the hearing before the Board, respondent gave testimony that contradicted his statements to the police and was false and misleading. In contrast with his statements to the police, respondent testified before the Board that Fields had possession of the 650 phone until mid-December. Respondent also testified that he had returned the 650 phone to Fields on December 29, 2016.

Before the Board and under oath, respondent testified that he had been forthcoming in his interview with the police. Respondent testified that he told the officers during the interview that the 650 phone was in Fields's possession. Respondent further stated that he informed the officers about his text communications with Fields on the night of December 29, 2016, and that he had spoken with Fields the morning of December 30, 2016. Respondent also testified before the Board that he told Fields to turn himself in to the police. These statements were false and misleading. Rather, in the recorded interview, respondent told the officers "if" he heard from Fields, he would advise Fields to turn himself in to the police. Respondent testified before the Board that his statements to the police were truthful and he told them everything that was relevant to the homicide investigation. These statements were also false and misleading. Respondent did not provide an explanation regarding why he was not truthful with the officers, but instead lied and misled the Board with his statements during the police interview and by claiming that he had been truthful with the police. As discussed in this decision, respondent withheld pertinent information and misled the officers at several turns. The Commission finds the detectives' testimony credible, and the respondent's testimony unbelievable, false, and misleading. The respondent's false and misleading testimony before the Board violated Rules 61 and 62 in that the respondent failed to meet the high standard of conduct required of judges and failed to conduct himself in a manner that promotes confidence in the integrity of the judiciary.

The Commission also finds that respondent was untruthful in his testimony before us. For the first time, respondent testified that he told the officers about his communication with Fields on December 29 and 30, 2016, in an alleged off camera conversation after the recorded interview. This is an additional falsehood manufactured by respondent and extremely disturbing. Again, we find both officers testified credibly that respondent never informed them of these communications.

Respondent also testified not credibly that the questions from the officers about the 650 phone related to ownership of the line, not the physical possession of the phone. However, in the interview, the officer specifically asked respondent when respondent received the phone back from Fields, and respondent answered he received it in late November or early December. Respondent tried to explain these false and misleading statements by suggesting he was petrified when speaking with the officers. However, respondent's perceived fear does not excuse lying to the police during a homicide investigation, nor does it absolve his subsequent lies and misstatements in attempting to explain his actions in deceiving and misleading the investigators.

As noted in Count I, Rule 61 requires judges to observe "high standards of conduct so that the integrity and independence of the judiciary may be preserved." Rule 62 requires that 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 established by clear and convincing evidence that respondent violated these rules in his

testimony at his hearing. Respondent gave untruthful and misleading testimony before the Board, which clearly was in contradiction to his original statements to the police. Thus, Count II has been proven.

In summary, the respondent's conduct, as charged in the Board's complaint and proved by clear and convincing evidence, was prejudicial to the administration of justice and brought the judicial office into disrepute.

SANCTION

"Our main concern in determining the appropriate sanction is to protect the public by ensuring the integrity of the judicial system. Our goal is to maintain public confidence in our court system and its judicial officers." *In re Brim*, 13-CC-1 (May 9, 2014). Recently in *In re O'Shea*, 18-CC-3 (September 27, 2019), the Commission cited with approval several factors that can be used in determining an appropriate sanction for judicial misconduct: (1) whether the misconduct is an isolated instance or a pattern of conduct; (2) the nature, extent and frequency of occurrence of the acts or misconduct; (3) whether the misconduct occurred in or out of the courtroom; (4) whether the misconduct occurred in the judge's official capacity or in his private life; (5) whether the judge has acknowledged or recognized that the acts occurred; (6) whether the judge has evidenced an effort to change or modify his conduct; (7) the length of service on the bench; (8) whether there have been prior complaints about this judge; (9) the effect the misconduct has upon the integrity of and respect for the judiciary; and (10) the extent to which the judge exploited his position to satisfy his personal desires. See also *In re Polito*, 12-CC-1 (Feb. 1, 2013) (citing *In re Deming*, 736 P.2d 639, 659 (1987)); *In re Spurlock*, 4 Ill. Cts. Com 74 (2001). Many of these factors weigh heavily against the respondent.

Respondent's misconduct was not an isolated incident. Rather, the Board proved that respondent gave false and misleading statements to the police and later, in testimony to the Board. Respondent further gave false and misleading testimony before this Commission. It is totally unacceptable that respondent twice gave untruthful testimony under oath before the Board and this Commission. Giving false testimony under oath is an affront to our system of justice where truth and the sanctity of the oath are paramount.

While respondent's false and misleading statements to the officers were given outside the courtroom and in his private life, we believe respondent's repeated falsehoods are intolerable for a sworn officer of the court. Respondent then gave false testimony under oath before the Board and before this Commission during its hearing on the Board's complaint. All witnesses are expected to testify in courtrooms with honesty and candor. Respondent failed to adhere to this basic tenet of our legal system. As a judge, respondent represents the judiciary at all times not simply while performing his official duties in court. Justice demands that a member of the judiciary cooperate fully with law enforcement and provide truthful statements during a criminal investigation. Respondent's behavior was repugnant to our truth seeking system of justice.

Respondent has not acknowledged or recognized his own wrongdoing. When faced with the transcript of the recorded police interview which disproved respondent's testimony before the Board, respondent crafted new statements in his testimony before the Commission to explain its

lack of truthfulness with the police. As noted previously, he explained in his statement to the police that he possessed the 650 phone at the time of the homicide as his intention to admit ownership of the line, not physical possession. When the transcript from the police interview clearly showed that respondent failed to disclose his communications with Fields, respondent testified that he informed the officers of these facts after the recording had ceased. Both officers testified credibly that no substantive discussion occurred after the recording ended. Respondent attempted to explain his lack of candor by testifying that he was “petrified” about the investigation into Fields and the impact on respondent. Respondent lied under oath both before the Board and this Commission. Given the repeated falsehoods, respondent has not shown an evidenced effort to change or modify his conduct.

Respondent had been sworn into office as a circuit judge less than a month before these acts of misconduct. He was sworn in on December 5, 2016, and he gave his false and misleading statements to the officers on December 30, 2016, and continued the deception before the Board and this Commission. His brief tenure as a judge does not mitigate his actions. Rather, it shows a lack of respect for the office and the Code of Judicial Conduct. While we acknowledge that, given his brief time in the judiciary, respondent has not received any additional complaints, we find the fact that respondent intentionally withheld relevant information for a homicide investigation within a month of being sworn in as a judge, again, to be totally unacceptable.

Respondent’s misconduct demonstrates an utter disregard for the integrity and respect of the judiciary. Respondent intentionally withheld relevant information from the officers in a homicide investigation and misdirected the course of the investigation by his false statements. As an officer of the court, respondent had a duty to act with integrity and in the interest of justice. He failed to do so. Respondent lied under oath before the Board and this Commission. It cannot be overstated that the judiciary’s values of truth and honesty are pillars of our legal system. As stated above, lying under oath is an attack on our legal system, which depends on truth and credibility. Respondent violated his oath by repeatedly lying under oath. The administration of justice demands honesty from all its participants. It is particularly egregious when a sworn member of the bench provides false and misleading statements on multiple occasions. We cannot condone the acts of lying under oath.

Finally, respondent exploited his position to satisfy his personal desires. He was motivated to shift the focus away from his involvement with Fields and discussed press coverage and that reporters had contacted him. Respondent placed a higher value on his reputation and position as a judge over providing truthful statements to the police, which we cannot overlook.

We find this case similar to the proceedings in *In re O’Shea*, 18-CC-3 (September 27, 2019), which included counts of providing false and misleading statements to police and the Board. There, the judge fired a handgun inside his bedroom that went through a wall and into the neighboring apartment. The judge was questioned by the police after the neighbors found the bullet in their unit. The judge initially gave a false statement to the police and claimed there were two holes from a screwdriver and nail gun. When confronted with the recovery of a bullet, the judge then claimed his son must have fired the handgun. The judge eventually admitted to firing the gun. Later, in his hearing before the Board, the judge admitted that he fired the handgun and denied telling the police that the hole was caused by a screwdriver or nail gun, or that his son had fired

the gun. In determining the sanction, the Commission considered, among other factors, the impact of lying by a member of the judiciary to be “unacceptable” and respondent was subsequently removed from the bench. *Id.* pp. 11-12.

The Board has proven by clear and convincing evidence respondent’s repeated acts of lying under oath and giving false and misleading statements related to a police investigation. Respondent continued this pattern of giving false testimony before this Commission. “ ‘A judge has a position of power and prestige in a democratic society espousing justice for all persons under law. The role of the judge in the administration of justice requires adherence to the highest standard of personal and official conduct. Of those to whom much is committed, much is demanded. A judge, therefore, has the responsibility of conforming to a higher standard of conduct than is expected of lawyers or other persons in society.’ ” *In re O’Shea*, 18-CC-3 (quoting *In re Winton*, 350 N.W. 2d 337, 340 (Minn. 1984)). Based on the facts of this case, and the standard of conduct required of all judges, the appropriate remedy is to remove respondent from the office of Circuit Court Judge, effective immediately. It is so ordered.

Respondent removed from office.