

(No. 84 CC 1.—Respondent suspended.)

*In re* ASSOCIATE JUDGE FRANCIS P. BUTLER  
of the Circuit Court of Cook County, Respondent.

*Order entered January 29, 1985.*

SYLLABUS

The Judicial Inquiry Board filed, on April 27, 1984, a multi-paragraph complaint with the Courts Commission, charging the respondent with willful misconduct in office and with conduct that is prejudicial to the administration of justice and that brings the judicial office into disrepute. The allegations in the complaint, in summary form, were that, on September 2, 1983, at about 3:15 p.m., the respondent was seen drinking beer in the branch office of the State's Attorney, located in a Cook County suburban courthouse; that later that same afternoon a 17-year-old girl, Susan, and her parents came to the State's Attorney's office to file a complaint against Susan's ex-boyfriend and his cousin; that a complaint, alleging the ex-boyfriend and his cousin were harassing Susan and her parents, was prepared by an assistant State's Attorney, who then put Susan and her parents in a conference room while he located a judge to attest to the complaint; that shortly thereafter the respondent entered the conference room, and his appearance and manner indicated that he was intoxicated and confused; that the respondent questioned Susan in an insulting and demeaning manner, asking her questions about her sexual experiences; that Susan became distraught and her father interrupted the respondent and left the room with his family to complain to the presiding judge; and that by engaging in such conduct the respondent violated Supreme Court Rules 61(c)(2), 61(c)(4) and (5), and 61(c)(8) (Ill. Rev. Stat., ch. 110A, pars. 61(c)(2), 61(c)(4), 61(c)(5), and 61(c)(8)).

*Held:* Respondent suspended for one month without pay.

Sidley & Austin, of Chicago, for Judicial Inquiry Board.

William J. Harte, Ltd., of Chicago, for respondent.

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

## ORDER

On April 27, 1984, the Judicial Inquiry Board filed a Complaint with the Courts Commission, charging the respondent, Francis P. Butler, with conduct that was prejudicial to the administration of justice and which brought the judicial office into disrepute. In summary form, the allegations were that on September 2, 1983, while performing his judicial duties, the respondent was under the influence of alcohol and made intemperate and injudicious remarks to a father, a mother, and their 17-year-old daughter, Susan. It was alleged in the Complaint that, on September 2, 1983, the respondent was sitting on a storage cabinet in the State's Attorney's office of the Sixth Municipal District drinking a can of beer at approximately 3:15 p.m. Later that afternoon the respondent was asked to meet with the individuals mentioned above. Susan and her parents had gone to the State's Attorney's office in the Markham courthouse to file a complaint against a former boyfriend of Susan's and the former boyfriend's cousin. The boys were alleged to have been harassing the family. After an assistant State's Attorney prepared their complaint, the family was escorted to a conference room. The respondent was then brought into the room to meet with them.

At the hearing before the Courts Commission, the father testified that when the respondent walked into the room he was "unsteady," "unsure of himself," and that his clothes were "disheveled." He stated, "His clothes were messy. His tie was crooked. His glasses were hanging off the end of his nose." The father went on to testify that the respondent started reading the complaint that he and his wife had signed and then began asking Susan questions regarding where she went to school,

where she worked, and then the respondent was alleged to have said, "Oh, I suppose you run around at the Charley Horse and Jeremiah Sweeney's, huh?" The father explained during his testimony that the Charley Horse and Jeremiah Sweeney's are "restaurant-type establishment[s]" near his daughter's place of employment. The father further testified that the respondent then looked at Susan and said, "Yes, uh-huh. Yes, I bet you give your parents a lot of trouble." He then began to lecture Susan, asking her if she knew that 17 years earlier her mother had the option of either giving her birth or aborting her and that she was lucky her mother had chosen to give her birth. According to the father, the respondent then asked, "[D]o you still like him [her ex-boyfriend]?" Susan allegedly replied, "[N]ot no more." Then, according to the father, the respondent said, "[W]hat?" And she replied, "[N]ot no more." The respondent then is alleged to have said, "[Y]ou say you're a whore?" The father testified that he told the respondent that his daughter had said, "[N]ot no more," but the respondent ignored him. The father testified that the respondent went on to say, "[D]on't you know that all these boys want from you is your body? That's all any of them are interested in? They're all after one thing, they just want to get you in bed, and that's all that any of them want. \* \* \* [A]re you pregnant? \* \* \* And he said something about—[H]ow many times have you had intercourse? \* \* \* [I]magine that, you, hanging out in a black bar."

The father testified that his daughter was "crying hysterically." The father also testified that at this point he stood up and stated that the respondent was drunk. Susan, he testified, "almost collapsed" and her mother grabbed her and got her out of the room. The father stated that the respondent said, "[S]it down, sit down,

where do you think you're all going?" The father testified that he told the respondent to "drop dead" and that they were not going to talk to him anymore. According to the father's testimony, there were two women in the outer office who asked what was going on. The father testified that he replied, "What's going on? \* \* \* You send the guy in there, he's drunk, insulting us, calling my daughter names, asking if she's pregnant." One of the women is then alleged to have said, "The judge is just trying to do you a favor." The father testified that he replied, "[A] favor, look at my daughter."

The father testified that during their meeting, the respondent was slurring his words and spitting when he spoke. He was also, according to the father, confused as to where he was, who the parties were that were involved in the complaint and what the problem was. The father testified that in his opinion the respondent was "intoxicated."

After meeting with the respondent, the father testified that he and his family went to the presiding judge's office in the Markham courthouse to complain of the respondent's behavior.

The mother also testified at the hearing in this matter. She testified that when the respondent came into the conference room to speak with them his appearance was "very messy looking," that his pants were wrinkled, his face was red, his eyes were bloodshot, and that she could smell alcohol on his breath. She stated that the respondent looked at the complaint and appeared confused. She testified that he was confused as to who they were because he asked if her husband was the defendant named in the complaint. The respondent, according to the mother, then began to ask Susan questions regarding where she worked, where she went

to school and about a bar located near where she worked. The mother testified that the respondent then began to lecture Susan. The mother stated, "He started saying—asking if she realized how precious life was, and how I, as her mother, had her growing in my body for so long, and he just seemed to keep repeating the same thing over and over, and seemed like he was—he wasn't making much sense at first, and then I realized it seemed like he was giving her a lecture, which seemed strange." According to the mother, the respondent then asked Susan "if she liked this boy." The mother stated that her daughter said, "No, not anymore." The respondent then said, "You're a whore?" and Susan said, "No, I said I don't like him anymore." The respondent, according to the mother, is then alleged to have asked a series of questions: "Don't you realize that this boy, all he wants is your body? Did you ever have intercourse and how many times? Were you—are you pregnant?" Then, according to the mother, the respondent said, "[S]omething towards the effect of, 'Oh, you're a bum now. You don't go to school, and why are you hanging out in black bars?'" The mother testified that Susan began "crying hysterically" and she ushered her daughter out of the room. The mother testified that, "At one point he [the respondent] even told her [Susan], 'You look at me. You look me straight in the eye.'" In concluding her testimony, the mother stated that in her opinion the respondent was "very intoxicated."

Susan also testified at the hearing. She testified that when the respondent entered the conference room and sat down he said, "Who is Susan?" and that after she said she was, he said, "Well, get over here and sit down." Apparently, she had been standing against the wall. She testified that the respondent then began to lecture her about how life was the most important thing one person

could give to another. She stated that the respondent told her that her parents could have aborted her. He then asked her if she still liked the boy. Susan testified that when she answered, "Not anymore," the respondent said, "What?" She replied, "Not anymore," and then the respondent said, "You are a whore." The respondent then asked her where she worked and where she went to school and he asked her if she "hung around the Charley Horse." Susan also stated, "He asked me if I was pregnant, and he asked me how many times I [had] intercourse, if I had had intercourse." Susan stated that she had been very upset and had put her head down. The respondent then said, according to Susan, "Look at me when I am talking." Then he said, "Who do you think you are hanging around in black bars?" Susan testified that she was crying and that she got up from her chair and walked out of the room with her mother. Susan stated that she and her parents went to the presiding judge's office to complain about the respondent.

The presiding judge of the Sixth Municipal District of the circuit court of Cook County testified at the hearing as well. He testified that he had spoken with the respondent after the respondent had met with the family. The presiding judge testified that the respondent told him that he (the respondent) had been in the State's Attorney's office prior to meeting with the family and had heard about a rape case "where two white young ladies were in this tavern and that they had subsequently been raped by some black individuals." The presiding judge then testified that the respondent told him that he thought Susan "was one of the young ladies that was in this tavern and was raped." The presiding judge, in his testimony, stated, "I'm not sure whether he used the word whore or slut in referring to the young lady in cross-examining her in regard to the issuance of a particular complaint." When the presiding judge was

asked to describe the respondent's condition, he stated, "He had obviously been drinking." He further testified that the respondent "was under the influence of liquor." He stated that the respondent was "somewhat flushed" and "his speech was somewhat slurred." He testified that after he spoke to the respondent he told the respondent to go home.

There were stipulations filed in regard to seven character witnesses and what their testimony would have been if called to testify. Each would have testified that the respondent's reputation for truthfulness and integrity was excellent.

The assistant State's Attorney who had met with the family prior to the respondent meeting with them testified that he had seen the respondent in the State's Attorney's office with a can of beer. He stated that at that time people were discussing two cases that had just come into the office about two girls who had allegedly been raped in the city of Harvey. The assistant State's Attorney testified that the respondent's speech was not slurred, that he was coherent and that his pants were not wrinkled. He also stated that the respondent's complexion was normal. In response to the respondent's attorney asking him, "In your opinion, was he [the respondent] intoxicated at that time?" the assistant State's Attorney replied, "That is not what I saw. No, I formed no opinion that he was intoxicated."

A retired secretary in the State's Attorney's office testified that she had seen the respondent on the date in question. She stated that she did not remember anything unusual about the respondent's appearance, that his speech was not slurred, that he spoke coherently, and that his complexion was the same as usual. She stated that she did see him drink one can of beer, but he was not intoxicated.

A secretary at the citizens' complaints desk in the

State's Attorney's office who had typed the family's original complaint testified that she had seen the respondent in the State's Attorney's office on the date in question. She stated that his appearance was normal. She also testified that he was not slurring his speech or spitting and that she did not smell alcohol on his breath when she handed him the complaint and summons. She stated that in her opinion she did not think the respondent was intoxicated.

The respondent testified at the hearing in his own behalf. He testified that on the date in question he had been leaning up against a "small credenza" in the State's Attorney's office drinking one can of beer and eating some peanuts. He stated that while he was there, he had heard about "two messy sex cases in the office [the State's Attorney's office] that they were processing that day, and apparently involved young white girls who would frequent black bars in the Harvey area, and they claimed they had been sexually assaulted."

The respondent denied that his clothes were disheveled on the date in question. He testified that he normally had a ruddy complexion and that he had no difficulty talking, walking or driving on the date in question. The respondent admitted in his testimony that he was confused about the nature of the complaint he was asked to discuss with the family. He testified that he believed that the family's case was one of the sex cases he had heard about earlier that day. He also stated that he did lecture Susan. However, he stated that it would not be unusual for him to lecture or admonish a girl that he thought was frequenting those bars. The respondent denied that he asked Susan whether or not she was a whore during his conversation with the family. The respondent stated, "I asked her the question, 'Are you seeing this boy anymore?' And she gave an answer that I wasn't sure I understood, so I said, 'She said no more?'"

She said, 'Yes.' That's what I—you know, I understood." The respondent testified that he never asked Susan if she knew her boyfriend wanted intercourse or whether or not she hung around in black bars. The respondent admitted that he had one can of beer on the date in question, but stated that he was not intoxicated.

The Judicial Inquiry Board alleged in its complaint that:

"By virtue of his intoxication and his judicial conduct while intoxicated, Respondent violated Rule 61(c)(2) of the Supreme Court of Illinois, which requires a judge to serve the public interest by promoting justice and to be alert at all times in conducting his judicial duties. By virtue of being intoxicated and through the use of insulting and injudicious language, Respondent also violated Rule 61(c)(4) which requires the official conduct of a judge to be free from impropriety and the appearance of impropriety and requires that his conduct, both on and off the bench, be beyond reproach. Respondent also violated Rule 61(c)(5), which requires a judge to be temperate and attentive, and Rule 61(c)(8), which requires a judge to be considerate and courteous to those who appear before him."

We believe that the Judicial Inquiry Board has proved, by clear and convincing evidence (see 1 Ill. Cts. Com., Rule 11, at page xxvi (1980)), that the respondent has violated these rules. He has brought the judicial office into disrepute by drinking alcoholic beverages in the State's Attorney's office for the Sixth Municipal District and thereafter meeting with members of the public and treating them in an injudicious manner.

Rule 61(c)(2) of the Illinois Supreme Court specifically provides:

“(2) *The Public Interest*. Courts exist to promote justice, and thus to serve the public interest. Their administration should be speedy and careful. Every judge should at all times be alert in his rulings and in the conduct of the court.” Ill. Rev. Stat., ch. 110A, par. 61(c)(2).

The people involved in this case are members of the general public, persons who came to the courthouse for legal assistance and deserved to be treated with the utmost respect and consideration. The respondent was not careful and alert in his conduct toward these people.

Illinois Supreme Court Rule 61(c)(4) 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 the performance of judicial duties, but also in his everyday life, should be beyond reproach.” Ill. Rev. Stat., ch. 110A, par. 61(c)(4).

When the family went to the courthouse to file a complaint against two young men for harassing and threatening them, they did not expect to have their daughter, who had done nothing wrong, lectured to and asked very personal questions which had no bearing on the complaint they wished to file. We also believe the respondent’s conduct—sitting on a storage cabinet in the State’s Attorney’s office and drinking beer—was improper conduct for a judge.

Rules 61(c)(5) and 61(c)(8) of the Illinois Supreme Court provide:

“(5) *Essential Conduct*. A judge should be temperate, industrious, attentive, patient, impartial, studious of the principles of law and diligent in endeavoring to ascertain the facts. He shall devote full time to his

judicial duties and shall normally conduct morning and afternoon sessions of court for hearing and deciding matters regularly assigned to him.

\* \* \*

(8) *Consideration for Counsel and Others.* A judge should be considerate of, and courteous to, counsel, especially the young and inexperienced, jurors, witnesses, and others in attendance upon the court." Ill. Rev. Stat., ch. 110A, pars. 61(c)(5), 61(c)(8).

The respondent was not temperate, industrious, attentive, patient, studious or diligent in his treatment of this family. The respondent even admits that he was confused about the basis of their complaint when he went into the conference room to speak with them. There is no question that these people deserved to be treated in a courteous and considerate manner. A 17-year-old girl, whose parents were bringing a complaint for harassment, should not have been questioned regarding her past sexual experience. This family was attempting to handle a very unpleasant situation in a legal manner. Their conduct should have been encouraged by the respondent, instead of discouraged by his inappropriate conduct.

In this cause, imposition of discipline is necessary because of all the factors taken together; namely, the fact that the respondent was drinking alcohol while performing his judicial duties, and that he made intemperate and injudicious comments to this family and asked inappropriate questions of this 17-year-old girl. We do not doubt the good faith statements made by the numerous character witnesses as to the respondent's reputation for truthfulness and veracity. However, the conduct of the respondent in this matter was inappropriate and brought the judicial office into disrepute.

It is hereby ordered that the respondent be

suspended for one month without pay, effective on March 1, 1985.

*Respondent suspended for one month without pay.*

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