
(No. 76 CC 1.—Respondent removed from office.)

In re ASSOCIATE JUDGE WILLIAM D. VANDERWATER of the Sixteenth Judicial Circuit, Respondent.

Order entered April 26, 1976.

SYLLABUS

On March 22, 1976, the Judicial Inquiry Board filed a multi-paragraph complaint with the Courts Commission, charging the respondent with willful misconduct in office, conduct that is

prejudicial to the administration of justice and conduct that brings the judicial office into disrepute. In summary form, the complaint alleged that the respondent had an ownership and management interest in an apartment building, located in Aurora, Illinois; that, prior to October 16, 1975, Lopez, a former tenant of an apartment in said building, had returned to the apartment on at least one occasion after his tenancy had been terminated, and had been removed from the premises by the respondent; that on October 16, 1975, at about 11:00 p.m. the respondent was notified that Lopez was on the premises and was creating a disturbance, and he (the respondent) then proceeded to the building armed with a handgun and there, shortly before midnight, encountered Lopez.

The complaint further alleged that the respondent detained Lopez, caused the police to be summoned, caused Lopez to be arrested for criminal trespass and to be taken and detained in the booking area of the police station; that, while at the police station, the respondent observed that Lopez had a key to the apartment building and determined to charge Lopez with theft in that he exercised unauthorized control over the key which belonged to Gamble. The complaint further alleged that the respondent caused Gamble to be summoned to the police station and prepared a "Notice to Appear", charging Lopez with theft, which, along with a blank complaint form, Gamble signed; that the respondent at about midnight procured Lopez' signature on a document purporting to be a plea of guilty and waiver of jury; that the respondent then held court in the booking area of the police station and tried Lopez on the plea of guilty and sentenced him to a term of eight months of incarceration. The complaint against respondent also alleged that the blank complaint signed by Gamble was not filled in until the morning of October 17, although the complaint was certified by the respondent as having been subscribed and sworn to before the respondent on October 16; that on October 17 the respondent ordered a warrant for Lopez' arrest although he was then in custody; that during the above-described events the respondent did not contact the State's Attorney's office; and that the respondent knew that the policy of the State's Attorney provided that no criminal complaint could be filed or any warrant issued unless authorized by the State's Attorney's office.

Held: Respondent removed from office.

Devoe, Shadur & Krupp, of Chicago, for Judicial Inquiry Board.

Eugene T. Devitt, of Elgin, for respondent.

Before the COURTS COMMISSION: SCHAEFER, J., chairman, and EBERSPACHER, STAMOS, HUNT, and MURRAY, JJ., commissioners. ALL CONCUR.

ORDER

The Complaint filed by the Judicial Inquiry Board in this case is as follows:

“1. From and after December 1, 1974 and at all times material to this complaint, Respondent has occupied and now occupies judicial office as an Associate Judge of the Sixteenth Judicial Circuit.

2. On and for a substantial period of time prior to October 16, 1975, Respondent had been involved in the management of an apartment building located at 128 West New York Street in Aurora, Illinois which was owned by a partnership known as D & H Associates, in which partnership Respondent owned a one-fourth interest.

3. In the course of the management services he performed for D & H Associates, Respondent had become acquainted with one Flor Chacon Lopez ('Lopez'), who at one time occupied an apartment in the building. Lopez' tenancy of that apartment had been terminated prior to October 16, 1975, but Lopez had on one or more occasions prior to October 16, 1975, returned to the apartment and had thereupon been removed from the premises by Respondent.

4. At or about 11:00 p.m. on October 16, 1975, Respondent received a telephone call from one of the tenants of the building, informing Respondent that Lopez was on the premises and was creating a disturbance. Respondent proceeded to the building armed with a Colt .38 caliber revolver. Shortly before midnight Respondent encountered Lopez on the premises. Lopez, who had a prior record of arrests for drunk and disorderly conduct, appeared to have been drinking (but did not appear drunk) at that time.

5. Upon encountering Lopez at the premises, Respondent detained Lopez with the aid of the handgun and caused the police to be summoned. When the police arrived Respondent caused Lopez to be arrested for criminal trespass, to be taken to the Aurora Police Station and to be detained in the booking area of the station.

6. At the police station Respondent observed that Lopez had in his possession a key to the apartment building and determined to charge Lopez with the crime of theft 'in that he knowingly exerted unauthorized control over the property of Howard W. Gamble, being a key to the premises commonly known as 128 West New York Street.' Respondent caused Howard W. Gamble, a partner in the partnership which owned the building, to be summoned to the police station. Respondent prepared a handwritten 'Notice to Appear' setting forth the complaint of alleged theft, which Notice Gamble then signed. Respondent then and there also caused Gamble to sign a Complaint form in blank. All of the matters referred to in this Paragraph 6 took place shortly before midnight October 16, 1975.

7. At or about midnight on October 16, 1975, in the booking area in the police station, Respondent procured the signature of Lopez on a document purporting to be a plea of guilty and a waiver of a jury, using for this purpose a form entitled 'Plea of Not Guilty & Waiver/Election Re: Jury Trial' and normally used for the purposes of entering a plea of not guilty and of either demanding or waiving a jury trial.

8. Respondent then shortly after midnight on October 16, 1975, conducted a proceeding in the booking area of the police station in which Respondent purported to hold court and to try Lopez on a plea of guilty to the alleged offense of theft.

Respondent then and there purported to sentence Lopez to a term of eight months at the Vandalia Prison. There was in fact no trial and no appearance by Lopez in a courtroom.

9. The Complaint against Lopez previously signed in blank by Gamble was not actually filled in until some time after 9:00 a.m. on the morning of October 17, 1975, and after the purported proceedings referred to in Paragraph 8, although the Complaint was certified by Respondent as having been subscribed and sworn to before Respondent on October 16, 1975. On the morning of October 17, 1975 Respondent also ordered that a warrant be issued for the arrest of Lopez, although Lopez was then already in custody.

10. At no time during the events of October 16-17, 1975 referred to in this Complaint did Respondent communicate with the State's Attorney of Kane County or any representative of the State's Attorney's office. It was the policy of the State's Attorney's office, honored by the judges of the circuit and well known to the Respondent, who had himself served as an Assistant State's Attorney prior to becoming a judge, that no criminal complaint could be filed or any warrant issued unless it was authorized by the State's Attorney or one of his Assistants.

WHEREFORE, the Board, charging that the conduct of the Respondent above described constitutes willful misconduct in office, and conduct that is prejudicial to the administration of justice and brings the judicial office into disrepute, prays that the Illinois Courts Commission, after notice and public hearing, make such order in accordance with the provisions of Section 16 of Article VI of the Constitution of the State of Illinois as the Commission may deem meet."

All of the material allegations of the Complaint are

admitted by the respondent. On April 26, 1976, the Commission received a stipulation of facts submitted by the parties, and heard evidence.

The Commission finds that the charges of the Complaint have been proved by clear and convincing evidence. It is therefore ordered that the respondent, William D. Vanderwater, is removed from his office as associate judge of the circuit court for the Sixteenth Judicial Circuit.

Respondent removed from office.
