

(No. 77 CC 2.—Respondent reprimanded.)

In re ASSOCIATE JUDGE JAMES A. CONDON of the
Circuit Court of Cook County, Respondent.

Order entered August 25, 1978.

SYLLABUS

On June 1, 1977, the Judicial Inquiry Board filed a multi-paragraph complaint (later amended) with the Courts Commission, charging the respondent with willful misconduct in office and other conduct that is prejudicial to the administration of justice and that brings the judicial office into disrepute. In summary form, the allegations were: that the respondent was asked by an acquaintance to assist two persons who had traffic complaints pending in court against them; that the respondent advised the defendants not to appear in court; that *ex parte* judgments were entered against the defendants; that the respondent caused said judgments to be non-suited and the proceedings to be terminated; that these events occurred while the respondent was not assigned to adjudicate said traffic complaints; and that by engaging in said conduct, the respondent violated Supreme Court Rules 61(c)(4), 61(c)(12) and 61(c)(23) (Ill. Rev. Stat. 1977, ch. 110A, pars. 61(c)(4), (12) and (23)).

Held: Respondent reprimanded.

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

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

Before the COURTS COMMISSION: GOLDENHERSH, J., chairman, and EBERSPACHER, LORENZ, SCOTT (alternate) and DUNNE (alternate), JJ., commissioners. ALL CONCUR.

ORDER

By its amended Complaint, the Illinois Judicial Inquiry Board (the "Board") acting under and pursuant to the provisions of section 15(c) of article VI of the Constitution of the State of Illinois, charged the respondent, James A. Condon, as an associate judge of the circuit court of Cook County with conduct which

violated Illinois Supreme Court Rules 61(c)(4), 61(c)(12) and 61(c)(23) (Ill. Rev. Stat., ch. 110A, pars. 61(c)(4), (12), (23)) and which conduct constituted willful misconduct in office and conduct that is prejudicial to the administration of justice and brings the judicial office into disrepute. The Board prayed that the Illinois Courts Commission (the "Commission") after notice and public hearing, make such order in accordance with the provisions of section 15 of article VI of the Constitution of the State of Illinois as the Commission may deem meet. By virtue of said section 15(e), the Commission is authorized to remove from office, suspend without pay, censure or reprimand for willful misconduct in office, or for other conduct that is prejudicial to the administration of justice or that brings the judicial office into disrepute.

The Standards of Judicial Conduct embraced in paragraph (c) of Supreme Court Rule 61 with which the respondent is charged with violating are as follows:

"(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.

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(12) *Self-Interest and Freedom from Influence.* A judge should neither perform nor take part in any judicial act in which his personal interests or those of a relative are involved. He should not allow any person to influence him improperly or enjoy his favor; he should not be affected by the kinship, rank, position or influence of any litigant or other person and he should not convey the impression by his conduct that he can be so influenced or affected.

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(23) *Social Relations.* A judge should be particularly

careful to avoid any action that tends reasonably to arouse the suspicion that his social or business relations or friendships influence his judicial conduct." (Ill. Rev. Stat., ch. 110A, pars. 61(c)(4), (12), (23).)

Supreme Court Rule 62 provides:

"Violations of Standards. A judge who violates the Standards of Judicial Conduct may be subject to discipline by the Courts Commission. The Standards, due to their general terms, may be inadvertently violated on occasion by a judge and such conduct may be too insignificant to call for official action." (Ill. Rev. Stat., ch. 110A, par. 62.)

Due to the general terms in which the Standards are cast, we find that there must be a case by case application of the alleged and proven facts in order to determine whether the conduct charged as well as the conduct proven is of sufficient significance "to call for official action". Having made such determination, we have denied motions to dismiss at the pleading and evidentiary stages of these proceedings.

After reviewing the evidence presented by testimony and stipulation, the Commission has concluded that there is not clear and convincing evidence of the respondent's conduct violating Supreme Court Rule 61(c)(12), "Self-Interest and Freedom from Influence", nor violating Supreme Court Rule 61(c)(23), "Social Relations." The Commission has concluded that the conduct of the respondent violated Supreme Court Rule 61(c)(4), "Avoidance of Impropriety", in that the official conduct of the respondent was not free from the appearance of impropriety.

The parties have stipulated that complaints were issued to James B. Pruitt and Roy R. Pruitt on February 22, 1976, charging each of them with driving around lowered railroad crossing gates in violation of an ordinance of the city of Chicago; that said complaints required the Pruitts to appear in courtroom 4 of Traffic

Court¹ on March 22, 1976, at 1 p.m., unless a fine was paid prior thereto; that neither appeared nor paid a fine and that on March 22, 1976, *ex parte* judgments were entered against each of them and a fine and costs were imposed upon each of them. In accordance with the practice in effect in all such cases in which the defendant failed to appear, a motion to vacate the aforesaid judgments was also reflected as entered on March 22, 1976 and continued to the complaining officer's next court date so as to afford the absent defendants an additional opportunity to appear. In the cases of the Pruitts, the motions to vacate the judgments were continued to April 28, 1976.

On March 26, 1976, motions to vacate the *ex parte* judgments imposed upon the Pruitts on March 22, 1976, and motions to non-suit the complaints against each were placed upon the docket sheet of the supervising judge of Traffic Court, Richard LeFevour, who granted said motions.

Judge LeFevour testified that under the practice in the Traffic Court the 20 judges there are rotated into the various courtrooms daily and that what judge is sitting in any particular courtroom is not known until approximately 9 o'clock each morning when an assignment order is issued and published; that clerks and prosecutors are likewise rotated possibly monthly. Judge LeFevour testified that when a person charged does not appear at the particular time indicated on the ticket for a minor violation, a continuance is automatically given after an *ex parte* judgment is entered and a notice will be mailed to the person charged advising of the new court date; that the only person who could effect a non-suit was a corporation counsel of the city of Chicago; and that the only reason that these complaints appeared on the

¹ The circuit court of Cook County is divided into the county department and municipal department. The municipal department includes the First Municipal District within which is the traffic division—"Traffic Court."

docket of March 26 for non-suit instead of waiting until April 28 was the intervening cause of a corporation counsel presenting the tickets at his office on that date to have them non-suited. Judge LeFevour had no recollection of who appeared in his office to request the non-suits in these particular cases, but stated that it would have to have been a corporation counsel because entry on the sheet would not have been made otherwise; and that non-suits were entered only by action and recommendation of the corporation counsel.

Judge Condon had been assigned to Traffic Court for approximately 9 months in 1972 and a short period in 1974 and was acquainted with the assignment procedures there.

Mr. Hilbert Hase, an acquaintance of the respondent of some 9 or 10 years, was the employer of James B. Pruitt in a business known as Turbine Transmission when in March of 1976 Judge Condon took his car in to have the transmission checked. At that time he became acquainted with James B. Pruitt and was advised of the issuance of the two tickets to the Pruitts at the railway crossing and according to Hase, Judge Condon stated "he would look into it", and that he did not remember being present at any other conversation between Pruitt and the respondent except that he believed Judge Condon said "the officers should have just let him go anyway because of that situation there" referring to the fact that trains frequently blocked the crossing for long periods resulting in people driving around the lowered gates.

Roy R. Pruitt testified that a couple of weeks after receiving the ticket, he gave it to his brother James at Turbine Transmission, and that the bond card which the police had taken at the time of issuance of the ticket was subsequently returned to him by his brother.

James B. Pruitt testified that at the time of receiving

his ticket, the police took his driver's license and that subsequently he had two conversations with Judge Condon in the presence of Hase at Turbine Transmission prior to March 22, 1976, with reference to the tickets; that Judge Condon took the number of his ticket, wrote it down, and that he also asked if the judge could do anything about his brother's ticket. On direct examination, he testified that Judge Condon said he would see what he could do about the tickets and that he would get his license back to him as soon as possible and that he could not remember whether he got his license back in the mail or whether Judge Condon brought it back. On direct he also testified that Judge Condon told him not to appear in court. On cross-examination, he testified that he didn't think Judge Condon said he would take care of the tickets, that "I just took it for granted" and that Judge Condon just explained the procedure at Traffic Court and did not tell him not to go to court; and that it was the entire dangerous and bad situation at the railroad crossing and "ticket trap" that Judge Condon was going to try to take care of; and that it was his best recollection that he got his license and his brother's bond card back in the mail rather than from Judge Condon, but he could not remember for sure.

Nancy Rupp, a housewife who resided in Palos Heights, in March of 1976, was serving as a court-watcher for a project for the League of Women Voters. At approximately 9 o'clock on the morning of March 22, 1976, she went to the bond hearing courtroom at the Markham, Illinois, courthouse. She introduced herself as a court-watcher and the judge introduced himself to her as Judge Condon. She was seated approximately 8 to 9 feet from the judge and remained so seated throughout the forenoon while 10 or 11 bond hearings were conducted. Between 11 and 11:30 in the morning, an unidentified man approached the judge and inquired if

the judge could help him with a traffic ticket, to which the judge replied to the effect that he could, and called to a clerk for the number of the downtown Traffic Court. The judge then dialed a number and stated that he was unable to get through and that he would try later. After another bond hearing or possibly two, the judge remarked to a gentleman present that "Well I have to take care of something first" and then dialed a number on the telephone and spoke to a woman calling her by name and "asked what Judge was presiding in Courtroom 4 that day at 1:30" and asked her to speak to that judge or to be put through to that judge's secretary. He then asked the first person to whom he had spoken to take down information that he read from a paper which he had before him. He said, "Would you see that the Judge gets this?" Mrs. Rupp remembered him reading over the phone "J. Pruitt", "Courtroom 4" and "1:30 that day." She testified that she was able to hear everything the judge said on the telephone, and that he made no reference to a railroad crossing or railroad gate. She testified that it was her impression "that there was an attempt to fix some tickets."

Called under section 60 of the Civil Practice Act (Ill. Rev. Stat., ch. 110, par. 60), Judge Condon, the respondent, testified concerning his serving in Traffic Court in 1972 and in 1974, his acquaintance of Gilbert Hase of approximately 9 to 10 years and his remembrance of Hase mentioning that a traffic ticket had been given to an employee at 74th Street and Western Avenue and that he was "very, very familiar with that", explaining that he had lived in that neighborhood; that he did not recall talking to Mr. Pruitt but recalled the conversation with Hase about the tickets which refreshed a problem with the police giving tickets to motorists but never to the train personnel; that as a result of the conversation with Hase concerning the tickets given to the Pruitts, he made one call to the corporation counsel's office and

"told them about the unfair situation out there." He did not remember the name of the person he called, when he made the call nor whether he made the call from his home or from elsewhere; that he had not talked to the police officer who had issued the tickets but had lived in the neighborhood, had been a policeman and an alderman of the city of Chicago and knew "all about that crossing, what a terrible, dangerous situation it was" but knew none of the officers' version of the facts and that he assumed after he had called the corporation counsel's office "that they would check into it and they would handle it equitably"; and that during discovery he was asked, "Was it your expectation that the Corporation Counsel would not proceed with the prosecution on those tickets?" to which he answered, "I would say yes."

On cross-examination, the respondent stated that he believed the conversation with Hase took place in an automobile but may have occurred in "the station" and that Mr. Pruitt could have been there, and that he could have made two telephone calls.

Called on his own behalf, Judge Condon testified that he did not recall Pruitt being present at the conversation with Hase, but that he could have been, that the circumstance of giving the tickets was fully explained to him and repeated that he had been acquainted with this crossing for many years, its hazards and dangers and that in calling the corporation counsel's office he wanted to bring to attention "the hazards and the dangers and the ticket fixing—and the ticket trap over there." He further testified that he did not state to Pruitt or anyone that he would obtain his license back for him. He testified that he remembered making a call but could not recall whether it was made "from my home or from the courtroom or where."

There was evidence of the general situation of the crossing at which the tickets were issued, the police practices there, as well as reports of the Illinois

Commerce Commission with references to accidents at the crossing, all offered in support of the respondent's theory of defense—that he was only acting as an interested citizen in calling to the attention of the corporation counsel that there existed a situation which the respondent and other persons considered dangerous and the source of improper issuance of tickets by the police; and that this conduct in this matter was consistent with a practice in the Traffic Court of the supervising judge bringing to the attention of the police department and the corporation counsel locations which are dangerous and appear to be “ticket traps” and the issue of “quantity tickets” as compared to “quality tickets” and the action of the corporation counsel in non-suiting approximately 10% of the estimated 3 million tickets issued annually.

The Commission having found that the evidence is clear and convincing that the respondent's conduct was in violation of Supreme Court Rule 61(c)(4) (Ill. Rev. Stat., ch. 110A, par. 61(c)(4)) in that the official conduct was not free from the appearance of impropriety, it is the order of the Commission that the respondent, James A. Condon, be, and the said James A. Condon is, reprimanded for conduct that brings the judicial office into disrepute.

Respondent reprimanded.