

COURTS COMMISSION OF THE
STATE OF ILLINOIS



EXECUTIVE DIRECTOR & GENERAL
COUNSEL, ILLINOIS COURTS
COMMISSION

In re SHELDON A. HARRIS)
Justice of the First District) No. 22CC-1
Appellate Court, State of Illinois)
)

ANSWER BY RESPONDENT JUSTICE SHELDON A. HARRIS

Respondent Justice Sheldon A. Harris (“Respondent”), by and through his counsel Warren Lupel and Marissa Downs, states as follows for his Answer to the Complaint of the Illinois Judicial Inquiry Board:

SUMMARY OF ALLEGATIONS

1. On March 10, 2016, the Third Division of the Illinois Appellate Court entered an order in a case where Respondent’s nephew was a party. The Justices of the Third Division who entered that order were Presiding Justice Mary Anne Mason, Justice Terrence Lavin, and Justice James F. Smith. Thereafter, in March 2016 Respondent initiated and engaged in an improper *ex parte* communication with Justice Lavin about the order.

ANSWER: Respondent admits that on or around March 10, 2016, an order was entered in a case involving his nephew. Respondent admits that he discussed the order with Justice Lavin. Respondent denies the last sentence of this paragraph and any remaining allegations of Paragraph 1 and specifically denies that any such conversation with Justice Lavin constituted an “*ex parte* communication” as alleged.

2. On March 29, 2016 Respondent met with Presiding Justice Mary Anne Mason and engaged in an improper *ex parte* communication with her regarding the same order.

ANSWER: Respondent admits that he spoke with Justice Mason about the order sometime in March 2016. Respondent denies the remaining allegations of Paragraph 2 and specifically denies that this conversation constituted an “*ex parte* communication” as alleged.

3. On February 14, 2020 Respondent made statements he knew to be false while testifying before the Illinois Judicial Inquiry Board. The deceptions before the Board were made

under oath and concerned facts Respondent knew were relevant to the Judicial Inquiry Board's investigation into his conduct.

ANSWER: Respondent admits that he testified before the JIB on or around February 14, 2020. Respondent was never provided a transcript of his testimony but denies that he gave knowingly false testimony before the JIB or knowingly deceived the JIB. Any remaining allegations in Paragraph 3 are denied.

STATEMENT OF FACTS

I. Respondent Initiated and Engaged in *Ex Parte* Communication with Justice Lavin.

4. In March 2016 Respondent was an Appellate Court justice in the First District, First Division, State of Illinois. He remains an Appellate Court justice in the First District, Sixth Division as of the filing of this Complaint.

ANSWER: Admitted.

5. On March 10, 2016, in the matter of *Reava King v. Jason Harris*, 2016 IL App (1st) No. 1-14-3007, the Third Division of the Illinois Appellate Court, First Judicial District, entered an order denying Respondent's nephew, Appellant Jason Harris, leave to file his opening brief *instanter* and dismissed the appeal for want of prosecution. The order was decided and entered by Third Division Appellate Court Justices Mary Anne Mason, Terrence Lavin, and James F. Smith.

ANSWER: Admitted upon information and belief.

6. In March 2016, after the order of the Third Division had been entered, Respondent approached Justice Lavin and had a conversation with him. During that conversation, Respondent showed Justice Lavin a copy of the order, and told him that Jason Harris was his nephew, and asked Justice Lavin if he didn't think that the order was a "little harsh" or words to that effect.

ANSWER: Respondent admits that he discussed the order with Justice Lavin and expressed his view that the result was a little harsh.

7. In response to Respondent's question, Justice Lavin told him that perhaps Respondent should speak with Presiding Justice Mary Anne Mason because she was the one who drafted the order.

ANSWER: Admitted.

8. During his conversation with Justice Lavin, Respondent told him that he had already spoken with Illinois Supreme Court Justice Charles Freeman about the Illinois Supreme Court entering a supervisory order directing the Third Division to accept the brief.

ANSWER: Denied.

II. Respondent Engaged in *Ex Parte* Communication with Justice Mason.

9. On March 24, 2016 Presiding Justice Mason received a text message from Justice Lavin reading: “Let’s talk before you consider the motion to reconsider our order to deny the filing of appellant’s brief instanter in the case involving Jason Harris.” As the Presiding Justice of the division, Justice Mason was usually the first to see any motions in cases assigned to her division that are in motion status, and she had not seen any motion to reconsider the March 10, 2016 order.

ANSWER: Respondent lacks the knowledge sufficient to form a belief as to the truth of the allegations contained in this Paragraph 9 and, on that basis, denies the same.

10. On March 28, 2016 Justice Lavin and Presiding Justice Mason spoke in Justice Lavin’s chambers. Justice Lavin informed her that he had been approached by Respondent regarding the order. Justice Lavin further informed her that Respondent had told him that Jason Harris was his nephew and asked him if he didn’t think the order was a “little harsh,” or words to that effect. Justice Lavin also told Presiding Justice Mason that Respondent had told him that he had already spoken to Illinois Supreme Court Justice Freeman about the Illinois Supreme Court entering a supervisory order directing the Third Division to accept the brief.

ANSWER: Respondent lacks the knowledge sufficient to form a belief as to the truth of the allegations contained in this Paragraph 9 and, on that basis, denies the same.

11. On March 29, 2016 Presiding Justice Mason placed a telephone call to Respondent in his chambers but was unable to make direct contact with him at that time. When Respondent returned Presiding Justice Mason’s call, he told her: “I think I have a good idea of what you want to talk about,” or words to that effect, and agreed to meet Presiding Justice Mason in her chambers that afternoon at 1:00 p.m. In advance of that meeting, Justice Lavin went to Presiding Justice Mason’s chambers with a copy of the Jason Harris motion to reconsider the March 10, 2016 order, and left it with her.

ANSWER: Respondent admits that, sometime in March 2016, Justice Mason

attempted to contact Respondent by telephone to discuss the order. Respondent does not recall ever actually speaking with Justice Mason by telephone about the order. Respondent denies that he ever went to Justice Mason's chambers to discuss the *Harris* case. Respondent lacks the knowledge sufficient to form a belief as to the truth of the allegations contained in the last sentence of this Paragraph 11 as to what may have transpired between Justice Lavin and Justice Mason and, on that basis, denies the same. Respondent denies any remaining allegations in Paragraph 11.

12. When Respondent arrived at Presiding Justice Mason's chambers that afternoon, he informed her that he had received a call from his nephew's mother. Presiding Justice Mason then interrupted Respondent and told him that she did not want to talk about his nephew and that she only met with him so that he could explain to her why his conversation with Justice Lavin was not unethical.

ANSWER: Denied.

13. At that time, Respondent confirmed with Presiding Justice Mason that he did have a conversation with Justice Lavin about the *Harris* order and admitted that he had told Justice Lavin that Jason Harris was his nephew. Respondent also admitted to Presiding Justice Mason that he had talked to Justice Lavin about the March 10, 2016 order, that he thought the order was "too harsh," or words to that effect, and that he mentioned getting a supervisory order from the Illinois Supreme Court directing the Third Division to accept the brief.

ANSWER: Denied.

14. Upon further questioning by Presiding Justice Mason, Respondent confirmed that the reason he cared about the order was because it concerned his nephew and that otherwise he would not pay attention to orders entered on motions by another division.

ANSWER: Denied.

15. On March 29, 2016, because of the *ex parte* communication Justice Harris had with her, Presiding Justice Mason had the *Harris* case reassigned to a different appellate division.

ANSWER: Respondent lacks the knowledge sufficient to form a belief as to what

might have motivated Justice Mason to reassign the *Harris* case and, on that basis, denies the allegations of Paragraph 15 on this basis. Inasmuch as the JIB alleges here that his communications with a fellow justice about a case on appeal constitutes an “*ex parte* communication,” those allegations are specifically denied.

III. Respondent’s False and Misleading Testimony Before the Judicial Inquiry Board

16. On February 14, 2020, Respondent appeared before the Illinois Judicial Inquiry Board and testified under oath about the events at issue in the Board’s investigation of his alleged misconduct.

ANSWER: Admitted.

17. Respondent testified before the Board that when he talked with Justice Lavin about the March 10, 2016 order on *Harris*, he did not discuss the fact that one of the parties to the appeal was his nephew. This testimony was false and Respondent knew it was false at the time he made the statement. In his *ex parte* conversation with Justice Lavin in March 2016, Respondent told Justice Lavin that Jason Harris was his nephew.

ANSWER: Respondent denies the allegations of Paragraph 17 inasmuch as, and to the extent that, they are inconsistent with his 2020 testimony which has been presumably memorialized in a written transcript that has been certified by the court reporter and accordingly speaks for itself. Respondent denies that he gave knowingly false testimony at the 2020 hearing.

18. Respondent testified before the Board that he did not meet with Presiding Justice Mason in her chambers on March 29, 2016 and discuss with her the Third Division’s March 10, 2016 order in the *Harris* case. This testimony was false and Respondent knew it was false when he made the statement. Respondent went to Presiding Justice Mason’s chambers on March 29, 2016 and had a conversation with her regarding the *Harris* case, a case in which his nephew, Jason Harris was a party.

ANSWER: Respondent denies the allegations of Paragraph 18 inasmuch as, and to the extent that, they are inconsistent with his 2020 testimony which has been presumably

memorialized in a written transcript that has been certified by the court reporter and accordingly speaks for itself. Respondent denies that he gave knowingly false testimony at the 2020 hearing and further denies that he ever went to Justice Mason's chambers to discuss the *Harris* case.

19. Respondent further testified before the Board that the first time he spoke with Presiding Justice Mason about the *Harris* case was after a different appellate panel vacated her order and allowed his nephew, Jason Harris, to file his brief instant. This testimony was false and Respondent knew it was false when he made the statement. Respondent met with Presiding Justice Mason in her chambers on March 29, 2016 and discussed the *Harris* case with her at that time.

ANSWER: Respondent denies the allegations of Paragraph 19 inasmuch as, and to the extent that, they are inconsistent with his 2020 testimony which has been presumably memorialized in a written transcript that has been certified by the court reporter and accordingly speaks for itself. Respondent denies that he gave knowingly false testimony at the 2020 hearing and further denies that he ever went to Justice Mason's chambers to discuss the *Harris* case.

20. Respondent testified before the Board that the fact that his nephew, Jason Harris, was involved was "incidental" and didn't concern him. This testimony was false and Respondent knew it was false when he made the statement. When Respondent spoke with Presiding Justice Mason on March 29, 2016, he told her that the reason he cared about the order was because it involved his nephew.

ANSWER: Respondent denies the allegations of Paragraph 20 inasmuch as, and to the extent that, they are inconsistent with his 2020 testimony which presumably has been memorialized in a written transcript certified by the court reporter and accordingly speaks for itself. However, Respondent denies that he gave knowingly false testimony at the 2020 hearing and further denies that he ever went to Justice Mason's chambers to discuss the *Harris* case.

21. Respondent's false testimony before the Board was prejudicial to the administration of justice and brought his judicial office into disrepute.

ANSWER: Denied.

COUNT I
Initiated an Improper *Ex Parte* Conversation with Justice Lavin

22. The Board incorporates paragraphs 1-21 above.

ANSWER: Respondent incorporates his answers to paragraphs 1-21 above as though fully restated herein.

23. In March 2016 Respondent initiated a discussion with Justice Terrence Lavin, an Appellate Court justice assigned to a division of which Respondent was not assigned, regarding a decision made by Justice Lavin, Presiding Justice Mason, and Justice Smith in a case where Respondent's relative was a party.

ANSWER: Respondent admits that, in or around March 2016, he discussed Justice Mason's decision in the *Harris* case with Justice Lavin, who was in a different division of the Court at the time. Respondent denies the remaining allegations of Paragraph 23 including any suggestion that it is improper for one sitting justice to discuss a case with another justice from a different division.

24. In doing so, Respondent violated the Code of Judicial Conduct, Illinois Supreme Court Rule 61, which provides:

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.

ANSWER: Denied.

25. Through this conduct, Respondent also violated the Code of Judicial Conduct, Illinois Supreme Court Rule 62(A), which provides, in pertinent part:

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.

ANSWER: Denied.

26. Through this conduct, Respondent also violated the Code of Judicial Conduct, Illinois Supreme Court Rule 62(B), which provides, in pertinent part:

A judge should not allow the judge's family, social or other relationships to influence the judge's judicial conduct or judgment. A judge should not lend the prestige of judicial office to advance the private interests of others...

ANSWER: Denied.

27. The above-described conduct of Respondent also violated the Code of Judicial Conduct, Illinois Supreme Court Rule 63(A)(5), which provides, in part:

A judge shall not initiate, permit, or consider *ex parte* communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding.

ANSWER: Denied.

COUNT II

Participated in an Improper *Ex Parte* Communication with Justice Mason

28. The Board incorporates paragraphs 1-27 above.

ANSWER: Respondent incorporates his answers to paragraphs 1-27 above as though fully restated herein.

29. Respondent discussed with Presiding Justice Mary Anne Mason, an Appellate Court justice in a division other than the division to which Respondent was assigned, a decision made by Presiding Justice Mason, Justice Lavin, and Justice Smith, in a case involving a party who was a relative of Respondent.

ANSWER: Respondent admits he discussed the *Harris* case with Justice Mason and

that she was assigned to a different division within the Court. Respondent denies the remaining allegations in Paragraph 29 including any allegation that his actions constituted sanctionable misconduct.

30. In doing so, Respondent violated the Code of Judicial Conduct, Illinois Supreme Court Rule 61, which provides:

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.

ANSWER: Denied.

31. Through this conduct, Respondent also violated the Code of Judicial Conduct, Illinois Supreme Court Rule 62(A), which provides, in pertinent part:

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.

ANSWER: Denied.

32. Through this conduct, Respondent also violated the Code of Judicial Conduct, Illinois Supreme Court Rule 62(B), which provides, in pertinent part:

A judge should not allow the judge's family, social or other relationships to influence the judge's judicial conduct or judgment. A judge should not lend the prestige of judicial office to advance the private interests of others...

ANSWER: Denied.

33. The above-described conduct of Respondent violated the Code of Judicial Conduct, Illinois Supreme Court Rule 63(A)(5), which provides:

A judge shall not initiate, permit, or consider *ex parte* communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding.

ANSWER: Denied.

**COUNT III
False Testimony Before the Judicial Inquiry Board**

34. The Board incorporates paragraphs 1-33 above.

ANSWER: Respondent incorporates his answers to paragraphs 1-33 above as though fully restated herein.

35. Respondent made what he knew were false and deceptive statements while testifying under oath before the Illinois Judicial Inquiry Board on February 14, 2020.

ANSWER: Denied.

36. In so doing, Respondent violated the Code of Judicial Conduct, Illinois Supreme Court Rule 61, which provides:

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.

ANSWER: Denied.

37. Through his conduct, Respondent also violated the Code of Judicial Conduct, Illinois Supreme Court Rule 62(A), which provides, in pertinent part:

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.

ANSWER: Denied.

WHEREFORE, Justice Sheldon Harris respectfully requests that the Illinois Courts Commission *dismiss* the Complaint of the Illinois Judicial Inquiry Board and grant any such further relief as the Commission deems just and proper.

Dated: June 14, 2022

Respectfully submitted,

/s/Warren Lupel

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