

2019 IL Cts Com 001

(No. 18-CC-3 Respondent removed.)

In re PATRICK J. O'SHEA,
Judge of the Circuit Court, Eighteenth Judicial Circuit
of the State of Illinois, Respondent

Order entered September 27, 2019

SYLLABUS

On October 25, 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, 62, and 63. In summary, the complaint alleged that the respondent discharged a firearm in his apartment and made false and misleading statements to detectives investigating the matter. Additionally, respondent retaliated against two employees after they filed sexual harassment allegations against him. Finally, the complaint alleged that, during investigation of these incidents by the Judicial Inquiry Board, the respondent's testimony contained misrepresentations, omissions, and deceptions.

Held: Respondent removed.

Sidley Austin LLP, of Chicago, for Judicial Inquiry Board.
Collins Bargione & Vuckovich, of Chicago, for Respondent.

Before the COURTS COMMISSION: BURKE, Chair, McBRIDE, REDDICK, DeSAINT PHALLE, SCHOSTOK, WEBER and WOLFF, commissioners. ALL CONCUR.

ORDER

In a complaint filed October 25, 2018, the Judicial Inquiry Board (Board) charged the respondent, PATRICK J. O'SHEA, a Judge of the Circuit Court of DuPage County, 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; Rule 62, Canon 2; and Rule 63, Canon 3; which provide as follows:

Rule 61: "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): "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."

Rule 63:

“(B)(1) A judge should diligently discharge the judge’s administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials.”

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

In support of the charges, the complaint stated that, in September 2017, the respondent fired a revolver inside the bedroom of his apartment. The bullet went through a mirror and the wall and into the neighboring apartment. Soon after, the respondent went to the apartment complex management office and told the assistant manager and a maintenance worker that he had accidentally pushed a screwdriver through the wall. About nine days later, the respondent’s neighbors found a bullet inside their apartment and contacted the police. Three days after that, detectives assigned to investigate the matter went to the respondent’s apartment. The respondent told them that there were two holes in his bedroom wall, one made by a screwdriver and the other by a nail gun. The respondent invited the detectives to view his bedroom wall. When the detectives expressed skepticism and informed the respondent that the neighbors had found a bullet in their apartment, the respondent stated that his son must have accidentally fired one of his firearms into the neighbors’ apartment. The respondent eventually admitted that he had fired a revolver through his bedroom wall. The complaint alleged that the respondent’s lies, misrepresentations, deceptions and omissions during the discussion with the detectives were prejudicial to the administration of justice and brought his judicial office into disrepute.

The complaint further stated that, on April 13, 2018, the respondent testified in front of the Judicial Inquiry Board (Board) that, when he spoke to the detectives, he originally told them that the hole in the wall was from a bullet. He denied telling the detectives that the hole in the wall was from a screwdriver or a nail gun and he denied telling detectives that his son might have fired a bullet through the wall. The complaint alleged that the respondent did not originally admit to the detectives that the hole was from a bullet and that the respondent’s false and misleading testimony before the Board was prejudicial to the administration of justice and brought his judicial office into disrepute.

The complaint also alleged that the respondent had taken actions against two female court employees in attempted retaliation for sexual harassment complaints they had filed against him. One instance of attempted retaliation occurred in September 2017 against a DuPage County Circuit Court Deputy Clerk (clerk) who was assigned to work in the respondent’s courtroom. One afternoon, in August 2017, after the court call was complete, the respondent moved into close physical proximity to the clerk and made comments about the clerk’s physical appearance that made her uncomfortable. She reported these comments to the chief judge. An official internal investigation ensued that concluded the allegations were credible and substantiated, and met the definition of sexual harassment as defined in the Illinois Supreme Court Sexual Harassment Policy and Procedures. In September 2017, the respondent was informed of the conclusions of the investigation and given a copy of the Illinois Supreme Court Sexual Harassment Policy and Procedures. The respondent was admonished that he was prohibited from retaliating against the complainant. Nonetheless, within two weeks, the respondent filed a

formal complaint against the clerk alleging an “unacceptable job performance” and directly attacking the sexual harassment allegations she had made against him. The complaint alleged that the respondent’s formal complaint against the clerk was retaliatory and that, in taking such action, the respondent compromised the integrity and public confidence in the judiciary, failed to maintain professional competence in judicial administration, and brought his judicial office into disrepute.

The complaint further alleged that during March and May of 2016, the respondent made repeated comments to an associate judge and the associate judge’s assistant which made them uncomfortable. The associate judge and his assistant both filed written complaints. The complaints were investigated and the allegations against the respondent were substantiated. The respondent was informed of the investigation and its findings and again given a copy of the sexual harassment policy. Thereafter, the respondent, who also worked with the same assistant, reduced the amount of work he gave to the assistant and stopped allowing her to enter his office while he was present. The respondent met with the assistant’s supervisor on numerous occasions to complain about the assistant. The complaint alleged that the respondent’s actions toward the assistant were retaliation in response to her sexual harassment allegation and that, in taking such actions, the respondent compromised the integrity and public confidence in the judiciary, failed to maintain professional competence in judicial administration, and brought his judicial office into disrepute.

The complaint alleged four counts. Count I charged the respondent with making false and misleading statements to the detectives in violation of Rules 61 and 62. Count II charged the respondent with making false and misleading testimony before the Board in violation of Rules 61 and 62. Count III charged the respondent with attempting to retaliate against the court clerk, for her filing of a sexual harassment complaint against the respondent, in violation of Rules 61, 62 and 63. Count IV charged the respondent with attempting to retaliate against the assistant, for her filing of a sexual harassment complaint against the respondent, in violation of Rules 61, 62, and 63.

In his answer, the respondent denied that he made any false statements to the detectives or the Board concerning the accidental discharge of his firearm into his bedroom wall. He denied that the formal complaint he filed against the clerk was in retaliation for her claims of sexual harassment. He also denied that he took any inappropriate actions against the administrative assistant.

The Illinois Courts Commission (Commission) has heard not only the testimony presented before it but also has had the benefit of the report of proceedings before the Board. At the hearing before the Board, the respondent testified that, when questioned by the detectives, he immediately told them that the hole in his bedroom wall was the result of him firing a bullet through the wall. When further questioned, he explained to the detectives that the hole was larger than bullet size because he had later pushed a screwdriver through the hole. He denied telling the detectives that he made the bullet hole with a screwdriver or that his son had shot a bullet through the wall.

The respondent further testified before the Board that he never made comments about the associate judge and the assistant dating or kissing and hugging in the associate judge's chambers with the lights dimmed. The respondent later testified that he had spoken only with the assistant about seeing her in the associate judge's chambers with the lights dimmed and the door almost closed. He made a comment to her that people are going to talk about such occurrences. He only warned her because he had observed this situation on two or three prior occasions. The respondent later acknowledged that he had, on one occasion, stuck his head in the associate judge's chambers when the assistant and the associate judge were in there with the lights dimmed and the door mostly closed. He stuck his head in and told them the situation looked bad. He acknowledged that he made comments to the assistant about searching for women's shoes and lingerie on her computer at work. But he testified it was not done to harass her, it was to let her know that people could see what she was doing on her computer.

Finally, the respondent acknowledged that a clerk who worked in his courtroom for three or four days alleged that she was sexually harassed by him. He testified that the allegations were untrue. He believed she made up the allegations to get out of his courtroom because the workload was heavy. He filed a formal complaint against her because he wanted people to know why she was making up the sexual harassment allegations and "in case she ever tries it again." He stated that the complaint was a "response" to the sexual harassment allegations.

At the hearing before the Commission, the detectives' testimony corroborated the allegations set forth in the complaint regarding the interview with the respondent about the hole in his bedroom wall. The detectives testified that they interviewed the respondent for at least 15 minutes before he finally admitted he shot a bullet through his bedroom wall. He first told them the bullet hole was from a screwdriver. The respondent also talked about a hole being caused by a nail gun, but it was not clear if the respondent was referring to the bullet hole or one of two other drywall anchor holes in the wall. Detective Edward Waterous testified that, after they told the respondent that the neighbors had found a bullet in their apartment, the respondent asked if it was a bullet fragment or a whole bullet. After Waterous told the respondent it was a whole bullet, the respondent asked what caliber it was. Waterous said there were no labs yet, but that it was about 9 millimeters wide. The respondent then told Waterous that it was a .38 and suggested that his son may have accidentally fired the bullet through the wall. Upon further questioning, the respondent finally admitted that he accidentally discharged a firearm and that the bullet went through the wall.

Kristin Jacobs testified that in August 2017 she was working as a clerk at the DuPage County Courthouse and was assigned to the respondent's courtroom. The first two days there she felt uncomfortable. The respondent asked her to pull something up on her computer and then he leaned over her shoulder a little too closely. Another time, when she had to go into his chambers, he made a comment that if she worked for him, he would let her do whatever she wanted. On the third day, she came in late because she took her daughter to her first day of school. After she told the respondent why she was late, he made a comment to the effect of "Oh, you wore that to drop your daughter off at school?" Then he said, "You should wear that every day." Jacobs testified that this made her uncomfortable because the respondent was standing very close to her and the statement sounded more like a "come on" rather than a compliment. After that, she went down to the clerk's office and discussed the situation with her coworkers.

She decided to contact her supervisor to request to be removed from the respondent's courtroom. She did not request that the events be investigated, but she was later interviewed about her experiences in the respondent's courtroom. During the ten years she was employed in the DuPage County courthouse, she worked for 10 to 15 judges and none of them ever complained about her work performance.

Judge Robert Kleeman testified that he was one of two people assigned to investigate Jacobs' complaints about the respondent. He interviewed Jacobs about the allegations and he found her to be credible. He interviewed the respondent on September 11 or 13, 2017. The respondent refused to respond to the substance of the allegations because he did not have an attorney present. During the interview, the respondent was advised that retaliation was prohibited. Kleeman testified that he also interviewed another courthouse employee, John Wilson, because he was told Wilson could have some relevant information. Kleeman concluded that the complaints were credible and constituted sexual harassment as defined by the Illinois Supreme Court policy.

John Wilson testified that he had worked in the DuPage County clerk's office for 22 years. He had worked with Jacobs during this time and had a favorable impression about the quality of her work. In 2017, the respondent told Wilson that Jacobs had filed a complaint against him, that "she started something," and "she does not know what she started." The respondent told Wilson that he was unsatisfied with Jacobs' work and that Jacobs was not always in the courtroom when she needed to be. Wilson found the conversation disturbing and informed his manager of it.

Olga Renteria testified that in 2016 she worked as a judicial assistant for the respondent and Judge Michael Wolfe. During that time, the respondent made unwelcome comments to her and Judge Wolfe. She documented those comments at the time they were made. She later filed a complaint and submitted the document with it. On one occasion, when she was cleaning the office, the respondent made a comment, in front of another clerk, that Olga should clean his car too. Olga responded that she would need to know which car was his. The respondent then stated that she should know because she drove it every weekend. She told the respondent not to say such things and stated that she did not drive his car. On a couple other occasions, the respondent walked past her desk and asked her if she was buying lingerie. She testified that she was not buying lingerie and she told the respondent to stop making such comments. Another time, in May 2016, she was standing in the door frame of Judge Wolfe's chambers. Judge Wolfe was at his desk. The respondent passed by and said, "What are you guys doing in there, hugging and kissing?" He passed by again soon after and stated, "Yeah you guys are always in there with the door closed, the lights off, hugging and kissing." The next day she was walking past the respondent's chambers and he said, "Hey, Olga, I have my lights dimmed for you just how you like them."

Renteria further testified that, after she submitted her complaint, the matter was investigated. After the investigation started, the respondent became very hostile towards her. He would not speak to her and would not let her in his chambers. He would stare her down and make her feel intimidated. He acted so angry that she was worried that he would physically harm her. One day in July 2016, she tried to walk into his chambers to hand him a pretrial

memo. She knocked on his door to alert him that she was entering. He jumped away from his desk and screamed for her to wait. She said, "Wait what," but then the respondent shut the door in her face. She denied pushing the respondent or having any physical contact with him during the incident. She testified that, while she did raise her voice, she did not yell. She was later reprimanded for yelling at the respondent. We note that, shortly thereafter, the respondent complained to Renteria's supervisor about her behavior and also that she had what appeared to be gang-related tattoos. At the hearing, Renteria acknowledged that she had tattoos but testified that none of them were gang related. Near the end of 2016 she transferred to the court reporting department and thus no longer worked with the respondent.

Sue Makovec testified that she was Renteria's supervisor at the time Renteria was an assistant to the respondent. In mid-July 2016, she had multiple meetings with the respondent. The first meeting was on the same day following the incident between the respondent and Renteria when Renteria tried to enter his chambers. The respondent was very agitated and upset. The respondent stated that Renteria was "nasty and loud," that he wanted to sue her, wanted her fired, and she was not doing a good job at work. He also stated that he wanted to file a grievance with the human resources department. Makovec testified that she never considered firing Renteria because Renteria was a hard worker and very intelligent. The respondent had never complained about Renteria until after she filed her complaint against him.

Makovec further testified that, a few days later, the respondent requested another meeting. At that meeting, the respondent asked who the human resources person was for judicial assistants, what Renteria's position was, and whether Makovec ever dealt with a hostile work environment or insubordination complaints. The respondent told Makovec that he did not want Renteria to work for him, that he did not like her tattoos, and that he would hold her in contempt and have her taken into custody "if he has to." Makovec testified that Renteria was not nasty or loud. Makovec acknowledged that Renteria was reprimanded over the incident when she tried to enter the respondent's chambers. Makovec testified, however, that she had not wanted Renteria to be reprimanded. Makovec took written notes during the meeting and the notes were admitted into evidence. The notes indicated that the respondent said he was writing up Renteria for everything she did wrong, he did not like her tattoos, and he believed her tattoos were gang related. The notes also indicated that the respondent said he was building a case against Renteria for human resources and the ethics office.

Robin Partin testified that she was Makovec's supervisor in 2016. Partin acknowledged that Renteria was reprimanded in July 2016 for raising her voice to the respondent. She and the others involved in determining whether discipline should be imposed, decided to issue a verbal reprimand to Renteria in the hopes it would satisfy the respondent and he would not pursue having Renteria fired. Partin testified that Renteria was an exceptional worker. Renteria had never been disciplined before and no other judges had ever complained about her.

Judge Wolfe testified that he was an associate judge but had recently retired. He had worked in the DuPage County courthouse along with the respondent. Renteria was an administrative assistant for him and other judges, including the respondent. Judge Wolfe testified that he submitted a written complaint about the respondent because he wanted the respondent's inappropriate conduct to stop. In his complaint, he stated that on one occasion,

Renteria was standing in the doorway to his chambers and they were discussing upcoming cases. The respondent walked by and stated, "You guys are always in here with the door closed kissing and hugging." Wolfe said, "What?" and Renteria told the respondent to stop saying such things. On another occasion, Renteria walked into his chambers to deliver mail. The respondent walked by, reached in, and turned part of the chamber's lights off. While doing so the respondent stated, "You guys are always in here in the dark, hugging and kissing." Judge Wolfe told the respondent that the lights were only off when Judge Wolfe was not in his chambers working. The respondent stated, "You can start rumors about me." When Judge Wolfe said he did not want to start rumors about the respondent, the respondent stated that he was insulted. Judge Wolfe testified that he did not have any issues with Renteria's job performance.

The respondent testified that, after he shot through his bedroom wall, he told the people working in his apartment complex management office that he damaged the wall with a screwdriver. The respondent acknowledged that he never called the police to report the incident. About twelve days later, however, detectives came to question him. They requested to see the hole in his wall so he took them to his bedroom. He told them that he had shot a hole through the wall with a gun and then put a screwdriver in the hole. The respondent testified that he never told the detectives that the bullet hole was caused by a screwdriver. The respondent later testified that the first explanation he gave was that the hole was caused by a screwdriver, but that a few seconds later he admitted he had fired a bullet through the wall. The respondent testified that he never told the detectives that his son had fired the bullet through the wall. The respondent explained that it was not inaccurate to say that the hole was from a screwdriver because he used the screwdriver to make the hole bigger after the bullet was shot through the wall. The respondent explained that he put the screwdriver in the hole as a way to catch the mirror frame wire in case he accidentally dropped the mirror while trying to take it down.

The respondent further testified that, one day when Jacobs worked in his courtroom, she came into court late and he commented about her tardiness. Jacobs explained that she had to take her daughter to school. The respondent then stated "Oh, you wore a different dress. You look very nice. You ought to wear it more often." The respondent testified that on another occasion, he walked into the courtroom at the end of the day to ask Jacobs about the next day's call. Jacobs could not answer his questions so she turned her computer screen toward him. He was about two feet from Jacobs when he looked at the screen and he did not make any comments to her at that time. The respondent acknowledged that Judge Kleeman investigated Jacobs' claim of sexual harassment and that the respondent refused to be interviewed without an attorney. During the investigation, the respondent stated that he was told and understood that retaliation was prohibited. The respondent acknowledged that he nonetheless filed a complaint against Jacobs. The complaint alleged that Jacobs had exhibited poor work performance but also responded to her claims of sexual harassment. The respondent wanted his complaint to go into Jacobs work record because he believed that her claims of sexual harassment stemmed from a desire to get a transfer because she did not like the heavy case load in his courtroom.

The respondent also testified that, on one occasion, he was walking past Judge Wolfe's chambers. The drapes were drawn and the room was dark. The door was open about a foot and Renteria was standing in the office near Judge Wolfe, who was seated at his desk. The respondent said he had observed this situation a few times before so he told them that people

were going to start talking. The respondent denied ever making comments about Renteria and Judge Wolfe dating. The respondent also acknowledged that he had commented on Renteria looking at lingerie and shoes on her computer. He testified that she often did online shopping on her computer. He walked by once and said, "Oh, lingerie. That's good. And shoes, my wife has a lot of shoes." The respondent denied ever making a comment that Renteria should wash his car. The respondent acknowledged that the interactions with Renteria and Judge Wolfe were investigated and substantiated. He was told that he could not be alone in his chambers with Renteria. He continued to work with Renteria after the investigation. The respondent denied withholding work from her following the investigation. On one occasion Renteria was going to enter his office so he told her to wait. He went to his office door and put his arm in front of it. Renteria said, "Wait for what?" and ran into the respondent's arm to knock him out of the way to enter his office. After Renteria ran into his arm, he told her supervisor that he wanted her fired and wanted to sue her. He also told her supervisor that he believed that one of Renteria's tattoos was gang related. He wanted Renteria's supervisor to talk to her about covering up the tattoos. He made a comment that if he told Renteria to do something, and she did not do it, he would have to hold her in contempt. The respondent denied that he filed complaints against Jacobs and Renteria in retaliation for their sexual harassment complaints.

The Commission finds that the Board introduced 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. The specific provisions of the Code, and whether the Board proved a violation of each provision, are discussed below.

Count I – Rules 61 and 62

Count I charged the respondent with making false and misleading statements to the detectives investigating the bullet hole in his bedroom wall. The Commission finds that there was clear and convincing evidence to prove this charge. The testimony of the detectives was credible, believable, and the detectives had no basis for any bias. The detectives' testimony indicated that the respondent was not forthcoming with the truth when he was being questioned regarding the incident. He did not divulge the truth until after he was questioned for at least 15 minutes. Further, the Commission finds that the respondent's testimony was not credible, not believable, and not truthful. He testified to the Board that he immediately informed the detectives that he had accidentally discharged a firearm, which caused the hole in his bedroom wall. At the hearing before the Commission, he testified that he first told the detectives that the hole was from a screwdriver. He asserted that he was not untruthful by originally saying it was from a screwdriver because, after he shot the hole in the wall, he made the hole bigger with a screwdriver. The Commission finds that the respondent's testimony was inconsistent and untruthful. The respondent's lack of credibility is further demonstrated by his lack of truthfulness with the apartment complex management office following the incident.

As noted above, 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

respondent's failure to be truthful and forthcoming with the detectives was a violation of the high standards of conduct required of judges and demonstrates a failure to respect and comply with the law. As noted by the Board, "eventually truthful" is not the standard for judges under the canons.

Count II – Rules 61 and 62

Count II charged the respondent with providing false and misleading testimony before the Board. The Commission finds that the Board has provided clear and convincing evidence to prove this charge. As noted, the Commission finds that the detectives' testimony was credible and the respondent's testimony was untruthful and not credible. The detectives' testimony indicated that the respondent was not honest about the cause of the hole in his bedroom wall until after it was clear that the detectives knew the hole was caused by a bullet. At the hearing before the Board, the respondent testified that he was immediately truthful with the detectives. The Commission finds the detectives' testimony credible, and we find 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 standards of conduct required of judges and failed to conduct himself in a manner that promotes confidence in the integrity of the judiciary.

Count III – Rules 61, 62, and 63

Count III charged the respondent with attempting to retaliate against Jacobs because she filed a sexual harassment complaint against him. The Commission finds that the Board has provided clear and convincing evidence to prove this charge. Jacobs testified that when she worked in the respondent's courtroom she immediately felt uncomfortable. The respondent made comments that she perceived as a "come on" and, on one occasion, the respondent came too close to her when speaking. On the third day, she spoke to her supervisor and requested a transfer. The Commission finds that Jacobs' testimony was credible. The evidence shows that a sexual harassment investigation ensued as a result of Jacobs' complaints to her supervisor. The complaints were found to be credible. The respondent was interviewed during the investigation and was admonished that retaliation was prohibited. Nonetheless, the respondent, about two weeks after the investigation, and about six weeks after Jacobs stopped working in his courtroom, filed a complaint against Jacobs alleging claims of poor work performance and responding to the claims of sexual harassment.

The Commission finds that the purpose of the respondent's complaint was retaliation. The respondent filed his complaint about six weeks after Jacobs had ceased working in his courtroom. The respondent addressed the claims of sexual harassment in the written complaint and, at the hearing before the Board, specifically testified that his formal complaint against Jacobs was "in response" to her sexual harassment allegations. Further, at the hearing before the Commission, Wilson testified that the respondent told him that Jacobs "started something" and that "she did not know what she started." Although the respondent tried to characterize his complaint as necessary based on Jacobs poor work performance, the evidence indicated that Jacobs had worked in the courthouse for many years and no one else had complained about her work performance. Further, we find the respondent's testimony, that the complaint was not

retaliatory, to be untruthful and unbelievable. The foregoing is clear and convincing evidence that the respondent's complaint against Jacobs was retaliatory. The respondent's failure to adhere to the Supreme Court policy prohibiting retaliation in response to claims of sexual harassment violated Rules 61, 62, and 63 in that the respondent failed to meet the high standards of conduct required of judges, failed to conduct himself in a manner that promotes confidence in the integrity of the judiciary, and failed to appropriately discharge his administrative responsibilities.

Count IV – Rules 61, 62, and 63

Count IV charged the respondent with attempting to retaliate against Renteria because she filed a sexual harassment complaint against him. The Commission finds that the Board has provided clear and convincing evidence to prove this charge. The evidence demonstrates that Renteria filed a complaint against the respondent, which was investigated and determined to be sexual harassment. Renteria testified that, after the investigation, the respondent became very hostile. He would not speak to her and would not let her in his chambers. He acted so angry that she was worried that he would physically harm her. Makovec testified that the respondent did not complain about Renteria's work performance until after Renteria filed her complaint.

Both the respondent and Renteria testified as to one event when Renteria tried to enter the respondent's chambers. Renteria testified that the respondent shut his chambers' door in her face. The respondent testified that Renteria forced her way into his office and ran into his arm in the process and was yelling at him. The Commission finds Renteria's testimony to be credible and the respondent's testimony to be untruthful. The Commission acknowledges that Renteria was reprimanded for allegedly raising her voice to the respondent. However, Makovec testified that she did not think Renteria should have been reprimanded. Partin testified that Renteria was given a verbal reprimand in order to satisfy the respondent. Both Makovec and Partin testified that Renteria was an exceptional employee.

The Commission finds that the respondent's hostile conduct following the filing of Renteria's complaint was retaliatory. The Commission finds that the respondent was attempting to damage Renteria's standing with her employer and dissuade her from filing any future complaints. The respondent's failure to adhere to the Supreme Court policy prohibiting retaliation in response to claims of sexual harassment violated Rules 61, 62, and 63 in that the respondent failed to meet the high standards of conduct required of judges, failed to conduct himself in a manner that promotes confidence in the integrity of the judiciary, and failed to appropriately discharge his administrative responsibilities.

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

In determining an appropriate sanction, our primary goal is to maintain public confidence in the judiciary, ensure the integrity of the judicial system, and protect the administration of

justice from reproach. In *In re Spurlock*, 4 Ill. Cts. Com 74 (2001), 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 that 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 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. *Id.*; see also *In re Polito*, 12-CC-1 (Feb. 1, 2013) (citing *In re Deming*, 736 P.2d 639, 659 (1987)). Many of these factors weigh heavily against the respondent.

The respondent's misconduct was not an isolated incident. Rather, the Board proved multiple instances of misconduct. The respondent made false and misleading statements to detectives and to the Board. The untruthful testimony before the Board was particularly egregious because the respondent was under oath. Giving false testimony under oath is an assault to our legal system, as our system of justice rests on the truth and upon the sanctity of the oath. The respondent also engaged in a pattern of harm against two court employees, who had good work records and were considered by many to be valuable employees. The respondent used his position of power to retaliate against both of the employees for filing legitimate claims of sexual harassment.

While the firing of the bullet through his bedroom wall was extrajudicial in nature, the respondent's response to the incident was unacceptable for an officer of the court. The respondent lied to the employees in the apartment's management office and did not notify the police. When the respondent's neighbors found a bullet in their apartment, the police questioned the respondent. During that interview, the respondent was not forthcoming with the truth. Additionally, the testimony provided before the Board and the Commission was not truthful. While the behavior that resulted in the allegations of sexual harassment did not occur on the bench, the respondent's retaliatory conduct occurred in his official capacity as a judge. The respondent used his position of power to file complaints against the court employees in his capacity as a judge.

The respondent has not acknowledged any real wrongdoing. The respondent disputed the actual allegations and still maintains that the allegations were untrue. The respondent never suggested that he may have been untruthful or even the slightest bit misleading or deceptive at any time. The respondent lied under oath to the Board and again provided unbelievable testimony at the hearing before the Commission. With respect to the allegations of sexual harassment, the respondent indicated that he would change his behavior in the future. However, this was not because he was remorseful for his conduct, rather it was because he believed his comments and actions were misconstrued.

The respondent does not have a long or distinguished career on the bench, having just been elected in 2012. The respondent's six years on the bench does not significantly mitigate the respondent's multiple acts of misconduct.

The respondent's misconduct reflects poorly upon the integrity of and respect for the judiciary. The respondent lied under oath before the Board. As stated, lying under oath is an attack on our legal system, which depends on truth and credibility. Although the respondent was not charged with sexual harassment, that behavior was established, found credible, and was the genesis of the retaliation. The acts of retaliation and lying before the Board reflect badly upon the integrity and respect for the judiciary. The respondent's retaliatory conduct resulted in much turmoil in the courthouse and was a distraction to the administration of justice.

Finally, the respondent exploited his position to satisfy his personal concerns and misplaced personal grievance. The respondent used his position to retaliate against two court employees and to attempt to have them both lose their positions within the court system. The respondent's conduct tarnished the reputations of Jacobs and Renteria. Renteria had to transfer to another division of the courthouse because of the respondent's misconduct.

The Board has proven by clear and convincing evidence multiple instances of misconduct. The respondent was totally unapologetic with respect to that misconduct, lied under oath, and abused his position of power. "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 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 only appropriate remedy is to remove and dismiss respondent from the office of Circuit Court Judge, effective October 1, 2019. It is so ordered.

Respondent removed from office.