
(Supreme Court Docket No. M.R. 1324.—Respondent removed from office.)

In re CIRCUIT JUDGE RICHARD A. NAPOLITANO
of the Circuit Court of Cook County, Respondent.

Order entered July 14, 1970.

SYLLABUS

On February 13, 1970, the Courts Commission requested the Attorney General to prepare a complaint against the respondent, and on March 19, 1970, the Attorney General filed a two-count complaint with the Courts Commission. The complaint recited section 16 of amended article VI of the Constitution of 1870, which in part required judges to devote full-time to judicial duties and prohibited judges from holding positions of profit under the State or any political subdivision thereof, and the Canons of Judicial Ethics, which were adopted by the Illinois Judicial Conference in 1959 and 1964 (1959 Ill. Jud. Conf. Rept., 147 *et seq.*; 1964 Ill. Jud. Conf. Rept., 166 *et seq.*), in particular canon 4—Avoidance of Impropriety, canon 23—

Inconsistent Obligations, canon 25—Personal Investments and Relations, and canon 31—Social Relations.

Specifically, Count I alleged that the respondent appeared as a witness before the Sangamon County Grand Jury which was investigating possible wrongdoing in connection with the 1968 and 1969 Illinois State Fairs; that the respondent, in response to inquiries directed to him before the grand jury, invoked his constitutional privilege against self-incrimination; that the respondent on January 29, 1970, appeared before a judge of the Seventh Judicial Circuit (Sangamon County) and in open court stated that he had invoked his constitutional privilege against self-incrimination in connection with his possible wrongdoing regarding the State Fair; that on motion of the State's Attorney, without objection by the respondent, the court granted the respondent immunity as provided in article 106 of the Illinois Code of Criminal Procedure; that the respondent then testified before the grand jury; that the indictments returned by the grand jury alleged the respondent's participation in misconduct but did not name the respondent as a defendant; and that the conduct of the respondent described above constituted judicial impropriety.

Count II alleged that the respondent for many years was engaged in the business of selling merchandise and had been a concessionaire at fairs, including the State Fair; that subsequent to January of 1964, the respondent improperly engaged in a scheme with persons managing the State Fair to obtain 40 to 70 contracts covering desirable concession spaces at the State Fair; that during 1967, 1968 and 1969, the respondent caused numerous contracts to be issued in fictitious names and to fictitious addresses, and he personally, or others under his direction, executed said contracts; that the respondent personally operated about 12 of said concessions and, when other concessionaires were unable to obtain concession spaces, the management of the State Fair would refer said concessionaires to the respondent who would sublease spaces to said concessionaires at a substantial profit; that the respondent spent considerable time negotiating contracts, assigning contracts to other concessionaires and making other necessary arrangements in connection with said contracts.

Count II also alleged that the respondent was guilty of additional improprieties in connection with the State Fair, to wit: (a) the respondent concealed from the public and State officials through the use of fictitious names his large scale involvement in the State Fair's concession activities; (b) the respondent assigned contracts under fictitious names thereby denying the State Fair officials the opportunity to screen, supervise and examine the fiscal records of the

actual concessionaires; (c) the respondent annually accepted \$1,000 from a concessionaire for the respondent's influence with State Fair officials to obtain a favorable concession location for said concessionaire; (d) the respondent sent an attorney, who regularly appeared in court before the respondent, to State Fair officials to retrieve contracts which were subject to cancellation because said officials could not locate the fictitious holders of the contracts; and (e) the respondent violated the Canons of Judicial Ethics and was guilty of improprieties in his judicial and personal conduct which brought disrepute upon the courts of Illinois.

Held: Respondent removed from office.

Prior to the hearing before the Courts Commission, the respondent filed, in the Federal District Court for the Northern District of Illinois, an application for a temporary restraining order, enjoining the Courts Commission from proceeding, but the application was denied. After the Courts Commission entered the order of removal from office, the respondent sought review in the Illinois Supreme Court (Supreme Court Docket No. 43508); however, his petition was dismissed by the Supreme Court on September 23, 1970, and the Court noted that the Illinois Constitution of 1870, as amended, did not provide for appeals from the orders of the Courts Commission. The respondent then continued to seek relief and review on grounds of violations of his constitutional rights in the Federal courts, but he was unsuccessful. See *Napolitano v. Ward* (N.D. Ill. 1970), 317 F. Supp. 79, and *Napolitano v. Ward* (N.D. Ill. 1970), 317 F. Supp. 83, *aff'd*, (7th Cir. 1972), 457 F.2d 279, *cert. denied* (1972), 409 U.S. 1037, 93 S. Ct. 512, *reh. denied* (1973), 410 U.S. 947, 93 S. Ct. 1351. See also, *Napolitano v. Illinois Courts Com.* (*appeal dismissed*, 1971), 401 U.S. 951, 91 S. Ct. 978.

William J. Scott, Attorney General, of Springfield, for Courts Commission.

John E. Cassidy, Jr., of Peoria, and James P. Chapman, of Chicago, for respondent.

Before the COURTS COMMISSION: WARD, J., chairman, and BURKE, SMITH, DUNNE and REARDON, JJ., commissioners. ALL CONCUR.

ORDER

This matter coming on to be heard on the pleadings filed in this cause, the evidence of witnesses produced,

examined and heard in open court, the exhibits identified and received in evidence, the arguments of counsel and the authorities, and the Illinois Courts Commission being now fully advised in the premises, on consideration thereof finds:

1. That this Commission has been duly and properly convened;

2. That it has jurisdiction of the parties and the subject matter of this proceeding;

3. That the evidence in this case is clear and convincing that the conduct of Judge Richard A. Napolitano concerning certain concession contracts with the Illinois State Fair Agency while a member of the judiciary and the circumstances surrounding his testifying and the content of his testimony before the Sangamon County Grand Jury while a member of the judiciary, constitutes conduct unbecoming a judge in that it violates applicable canons of judicial ethics, including canon No. 4 of the Canons of Judicial Ethics adopted by the Illinois Judicial Conference and constitutes cause within the meaning of section 18, article VI of the Illinois Constitution warranting his removal from office.

It is therefore ordered that Richard A. Napolitano be, and he is hereby removed from his office as a judge of the circuit court (Cook County, Illinois), effective this date.

Respondent removed from office.