

MICHIGAN SUPREME COURT

In re The Honorable Sheila Ann Gibson

SC: 147235 · No. SC: 147235 · Decided March 7, 2014

SUMMARY

The Michigan Supreme Court rejected the Judicial Tenure Commission’s recommended discipline for Judge Sheila Ann Gibson, concluding that the proposed discipline was insufficient in light of alleged repeated tardiness and absences from the courthouse. The Court remanded the matter for further proceedings and directed the Commission to submit a new decision and recommendation or a status report within 42 days. Justice Cavanagh dissented, stating that he would accept the recommendation of public censure.

CASE DETAILS

COURT	Michigan Supreme Court
WRITING FOR THE COURT	Per Curiam; Robert P. Young, Jr.; Michael F. Cavanagh; Stephen J. Markman; Mary Beth Kelly; Brian K. Zahra; Bridget M. McCormack; David F. Viviano
JURISDICTION	Michigan
DECIDED	March 7, 2014
DOCKET	SC: 147235
DISPOSITION	remanded
PROCEDURAL POSTURE	The Judicial Tenure Commission filed a decision and recommendation based on an agreement between its examiner and Judge Sheila Ann Gibson. The Michigan Supreme Court rejected the proposed discipline as insufficient and remanded the matter to the Commission for further proceedings.
PRECEDENTIAL VALUE	published

TOPICS

- administrative law
- judicial review of agency action
- appellate procedure
- standard of review

PRACTICE AREAS

- judicial discipline
- administrative law
- appellate procedure

QUESTIONS PRESENTED

1. Whether the Judicial Tenure Commission's proposed discipline was sufficient in light of the stipulated facts and the alleged repeated and sustained nature of Judge Gibson's tardiness and absences.
2. Whether the matter should be remanded for further investigation into similar instances of tardiness or absence over a longer period.

HOLDINGS

1. The proposed discipline was insufficient in light of the facts presented to the Michigan Supreme Court.
2. The matter must be remanded to the Judicial Tenure Commission for further proceedings, including examination of whether the one-week period adequately reflected the alleged ongoing misconduct.

KEY QUOTATIONS

“everything else being equal,” misconduct constituting part of a pattern or practice is more serious than an isolated instance of misconduct; misconduct on the bench (including, in our judgment, misconduct centered on the failure to take the bench) is more serious than the same misconduct off the bench; misconduct that is deliberate is more serious than misconduct that is spontaneous; and misconduct prejudicial to the actual administration of justice is more serious than conduct that is not.” (at 1)

“We REMAND this matter to the Judicial Tenure Commission for further proceedings. The Commission shall present either a new decision and recommendation or a status report to this Court within 42 days of the date of this order. We retain jurisdiction.” (at 2)

FACTUAL BACKGROUND

The Judicial Tenure Commission found that Judge Sheila Ann Gibson repeatedly failed to appear at the courthouse punctually, leaving litigants, attorneys, and witnesses waiting. The Commission characterized the conduct as repeated and sustained but limited its investigation to a one-week period. The Supreme Court determined that this limited investigation may have understated the burdens imposed on participants in the justice system and may not have captured the full extent of the alleged ongoing misconduct.

PROCEDURAL HISTORY

The Judicial Tenure Commission investigated alleged repeated tardiness and absences by Judge Gibson and submitted a decision and recommendation founded on a settlement agreement. The Supreme Court concluded that the proposed discipline did not adequately account for the facts presented, including the acknowledged repeated and sustained nature of the misconduct and the Commission's limited one-week investigation. The Court remanded for further investigation and required a new recommendation or status report within 42 days, retaining jurisdiction.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The Judicial Tenure Commission must conduct further proceedings and present either a new decision and recommendation or a status report to the Michigan Supreme Court within 42 days of March 7, 2014. The Court retained jurisdiction.

CASES CITED

- In re Brown, 461 Mich. 1291, 1292-1293 (2000)

OPINION

PER CURIAM.

Order Michigan Supreme Court Lansing, Michigan March 7, 2014 Robert P. Young, Jr., Chief Justice 147235 & (4) Michael F. Cavanagh Stephen J. Markman Mary Beth Kelly Brian K. Zahra _____ Bridget M. McCormack David F. Viviano, Justices In re: The Honorable Sheila Ann Gibson SC: 147235 Judge, 3rd Circuit Court Detroit, Michigan _____/ On order of the Court, the Judicial Tenure Commission having filed a Decision and Recommendation on the basis of an agreement between the Examiner and the respondent judge, we REJECT the recommendation on the ground that the proposed discipline is insufficient in light of the facts presented to the Court.

See In re Brown, 461 Mich 1291, 1292-1293 (2000), in particular its admonitions that, “everything else being equal,” misconduct constituting part of a pattern or practice is more serious than an isolated instance of misconduct; misconduct on the bench (including, in our judgment, misconduct centered on the failure to take the bench) is more serious than the same misconduct off the bench; misconduct that is deliberate is more serious than misconduct that is spontaneous; and misconduct prejudicial to the actual administration of justice is more serious than conduct that is not.

Despite the Commission’s own acknowledgment that respondent’s conduct was “repeated and sustained,” the Commission limited its investigation to a one-week period. By so doing, the Commission may have given substantially less consideration than was warranted to the burdens and inconveniences imposed by respondent upon parties, witnesses, attorneys, employers and employees, court staff, and members of the public.

As the Commission concluded, “[t]he stipulated facts demonstrate that Respondent did not confer the necessary regard for the value of time of all of the other people involved in the justice system,” as she “returned to her earlier pattern of not coming to the courthouse in a punctual manner, leaving litigants, lawyers, and witnesses waiting for her to make her appearance.” In further investigating this matter—the Commission asserts that “presumably there were other instances” of respondent’s misconduct—this Court urges the Commission to examine whether the one-week period under investigation sufficiently reflects respondent’s ongoing misconduct.

We further urge the Commission not to “refrain from [deciding] whether similar examples of tardiness or absence, or repeated instances of the same behavior over a longer period or in the future, warrant a greater sanction.” We REMAND this matter to the Judicial Tenure Commission for further proceedings.

The Commission shall present either a new decision and recommendation or a status report to this Court within 42 days of the date of this order. We retain jurisdiction. CAVANAGH, J. (dissenting). After reviewing the recommendation of the Judicial Tenure Commission, the settlement agreement, the standards set forth in *In re Brown*, 461 Mich 1291, 1292-1293 (2000), and the commission’s findings and conclusions, I would accept the recommendation of the commission and order that the Honorable Sheila Ann Gibson be publicly censured.

KELLY, J., not participating. I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.
March 7, 2014 h0304 Clerk