

NORTH DAKOTA SUPREME COURT

In the Matter of the Application for Disciplinary Action Against Richard L. Hagar, Judge of the District Court Judicial Conduct Commission, Petitioner v. Richard L. Hagar, Respondent

2012 ND 19 (N.D. 2012) · No. 20110331 & 20110378–20110380 · Decided January 18, 2012

SUMMARY

The North Dakota Supreme Court adopted an Affidavit of Consent and Agreement and censured District Judge Richard L. Hagar for failing to promptly decide assigned matters, in violation of Canons 3(B)(1) and 3(B)(8) of the North Dakota Code of Judicial Conduct. The Court also ordered Judge Hagar to pay \$500 in costs and adopted his plan for meeting docket currency standards. Although the supplied document title references Koenig v. N.D. Department of Transportation, the text identifies a judicial disciplinary matter involving Richard L. Hagar.

CASE DETAILS

COURT	North Dakota Supreme Court
WRITING FOR THE COURT	Per Curiam; Gerald W. VandeWalle, C.J.; Daniel J. Crothers; Mary Muehlen Maring; Carol Ronning Kapsner; Dale V. Sandstrom
JURISDICTION	North Dakota
DECIDED	January 18, 2012
DOCKET	20110331 & 20110378–20110380
DISPOSITION	other
PROCEDURAL POSTURE	The Judicial Conduct Commission and Judge Hagar submitted an Affidavit of Consent and Agreement recommending censure and assessment of costs. The North Dakota Supreme Court reviewed the recommendation and entered an order of discipline by consent.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion
PARTIES	Judicial Conduct Commission v. Richard L. Hagar

TOPICS

administrative law

appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Supreme Court should accept the Affidavit of Consent and Agreement and the Judicial Conduct Commission's recommendation that Judge Hagar be censured for violating Canons 3(B)(1) and 3(B)(8) of the North Dakota Code of Judicial Conduct.
2. Whether Judge Hagar should be ordered to pay the costs and expenses of the disciplinary proceeding.

HOLDINGS

1. The Supreme Court accepted the Affidavit of Consent and Agreement and censured Judge Hagar for violating Canon 3(B)(1), requiring a judge to hear and decide assigned matters except when disqualification is required, and Canon 3(B)(8), requiring prompt, efficient, and fair disposition of judicial matters.
2. Judge Hagar was ordered to pay \$500 in costs and expenses of the disciplinary proceedings to the Office of Disciplinary Counsel.

KEY QUOTATIONS

“Judge Richard Hagar is CENSURED for his violations of Canon 3(B)(1), N.D. Code Jud. Conduct, which provides a judge shall hear and decide matters assigned to the judge except those in which disqualification is required, and Canon 3(B)(8), N.D. Code Jud. Conduct, which provides a judge shall dispose of all judicial matters promptly, efficiently and fairly.” (¶ 6)

FACTUAL BACKGROUND

Judge Richard L. Hagar served as a district judge in North Dakota's Northwest Judicial District beginning January 1, 2007. He failed to promptly issue decisions in multiple matters, including cases in which trials occurred in 2009 and 2010 but findings, conclusions, and judgments were not entered until substantially later. The presiding judge reassigned Hagar's case duties temporarily and directed him to bring his docket current, but the alleged failures continued.

PROCEDURAL HISTORY

Formal charges were served on September 6, 2011, alleging that Judge Hagar failed to promptly decide multiple judicial matters. He answered the charges and entered into an agreement for discipline by consent on October 17, 2011. The Commission's Hearing Panel approved the agreement and forwarded it to the Supreme Court. The Supreme Court remanded the matter for inclusion of a written plan addressing docket currency, received the approved plan, adopted the agreement and recommendation, and ordered censure and payment of \$500 in costs.

DISPOSITION

other

OPINION

PER CURIAM.

Filed 1/18/12 by Clerk of Supreme Court IN THE SUPREME COURT STATE OF NORTH DAKOTA 2012 ND 19 In the Matter of the Application for Disciplinary Action Against Richard L. Hagar, Judge of the District Court Judicial Conduct Commission, Petitioner v. Richard L. Hagar, Respondent Nos. 20110331 & 20110378 - 20110380 CENSURE ORDERED. Per Curiam. [¶1] The Supreme Court has before it an Affidavit of Consent and Agreement by the Judicial Conduct Commission and the Honorable Richard L. Hagar, Judge of the District Court in the Northwest Judicial District recommending Judge Hagar be censured by the Supreme Court and assessed \$500 in costs for his violations of Canon 3(B)(1), N.D.

Code Jud. Conduct, which provides a judge shall hear and decide matters assigned to the judge except those in which disqualification is required, and Canon 3(B)(8), N.D. Code Jud. Conduct, which provides a judge shall dispose of all judicial matters promptly, efficiently and fairly.

We accept the Affidavit of Consent and Agreement and censure Judge Hagar for his conduct and order him to pay \$500 costs of the disciplinary proceeding. [¶2] Richard Hagar began serving as a judge of the district court in the Northwest Judicial District on January 1, 2007.

On September 6, 2011, Judge Hagar was served Formal Charges alleging he did not promptly decide the case of Ringuette v. Ringuette, Civil Case No. 51-09-C-1744, when a trial was held before him on September 21, 2010, and Judge Hagar did not enter the Findings of Fact, Conclusions of Law and Order for Judgment and Judgment until March 10, 2011. It was further alleged that since some time in the year 2009, Judge Hagar had a number of cases assigned to him that he did not promptly decide which resulted in the Presiding Judge of the Northwest Judicial District entering an Order of Reassignment of Case Duties on July 11, 2011, which removed Judge Hagar from all new case assignments for a period of thirty days, and required Judge Hagar to devote himself full time to bring his docket current and resolve all matters pending before him which require immediate judicial decision.

The order listed ten cases which Judge Hagar had not promptly decided as of the date of the order. Additionally, during this same period, the Presiding Judge spoke with, encouraged and counseled Judge Hagar to fulfill his duty to promptly decide all matters assigned to him. Nevertheless, Judge Hagar did not meet the obligation he had under the North Dakota Code of Judicial Conduct to decide matters assigned to him and to dispose of all judicial matters promptly.

Finally, it was alleged Judge Hagar did not promptly decide the case of Thomas v. Jewett, Civil Case No. 51-08-C-728, when a bench trial was held before him on November 24, 2009, and Judge Hagar did not enter the Findings of Fact, Conclusions of Law and Order for Judgment and Judgment until August 5, 2011. [¶3] Judge Hagar served his written answer to the Formal Charges

on September 27, 2011, and on October 17, 2011, he and disciplinary counsel entered into an agreement for discipline by consent under Rule 14, R. Jud.

Conduct Comm., which includes Judge Hagar's Affidavit acknowledging the misconduct cited in paragraph 2 and consenting to censure. [¶4] On November 15, 2011, a Hearing Panel of the Judicial Conduct Commission accepted the Affidavit of Consent and Agreement and forwarded the matter to the Supreme Court for approval and entry of an order of censure. [¶5] On December 7, 2011, the Supreme Court remanded the matter to the Hearing Panel for the Discipline by Consent to include Judge Hagar's written plan for meeting docket currency standards.

On January 10, 2012, the Hearing Panel forwarded Judge Hagar's approved plan. [¶6] ORDERED, that the Affidavit of Consent and Agreement, and Recommendation of the Hearing Panel is adopted and Judge Richard Hagar is CENSURED for his violations of Canon 3(B)(1), N.D. Code Jud. Conduct, which provides a judge shall hear and decide matters assigned to the judge except those in which disqualification is required, and Canon 3(B)(8), N.D.

Code Jud. Conduct, which provides a judge shall dispose of all judicial matters promptly, efficiently and fairly. [¶7] IT IS FURTHER ORDERED, that Judge Hagar pay the costs and expenses of these proceedings in the amount of \$500, payable to the Office of Disciplinary Counsel. [¶8] Gerald W. VandeWalle, C.J. Daniel J. Crothers Mary Muehlen Maring Carol Ronning Kapsner Dale V. Sandstrom