

SUPREME COURT OF SOUTH CAROLINA

In the Matter of Kenneth E. Johns, Jr.

418 S.C. 364 (2016) · No. Appellate Case No. 2016-001996 · Decided November 16, 2016

SUMMARY

The South Carolina Supreme Court accepted an Agreement for Discipline by Consent and suspended Oconee County Probate Court Judge Kenneth E. Johns, Jr. for six months, retroactive to April 12, 2016. The suspension was based on social media posts concerning a probate estate, political endorsements, and fundraising activity, which violated provisions of the Code of Judicial Conduct and the Rules for Judicial Disciplinary Enforcement.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Per Curiam; Chief Justice Pleicones; Justice Beatty; Justice Kittredge; Justice Hearn; Justice Few
JURISDICTION	South Carolina
DECIDED	November 16, 2016
DOCKET	Appellate Case No. 2016-001996
DISPOSITION	other
PROCEDURAL POSTURE	Judicial disciplinary matter arising from an Agreement for Discipline by Consent between the respondent and the Office of Disciplinary Counsel.
PRECEDENTIAL VALUE	published disciplinary opinion

TOPICS

probate appellate procedure

PRACTICE AREAS

judicial discipline legal ethics probate

QUESTIONS PRESENTED

1. Whether the respondent's admitted Facebook comments, political activity, and fundraising activity violated the specified provisions of the South Carolina Code of Judicial Conduct and Rules for Judicial Disciplinary Enforcement.

2. What disciplinary sanction should be imposed under the Agreement for Discipline by Consent.

HOLDINGS

1. The respondent's Facebook comments concerning a probate matter, political posts, and fundraising activity violated the specified provisions of Canons 1, 2, 4, and 5 of the Code of Judicial Conduct and Rules 7(a)(1) and 7(a)(9) of the Rules for Judicial Disciplinary Enforcement.
2. The respondent's misconduct warranted a six-month suspension from judicial duties, retroactive to April 12, 2016, the date of his interim suspension.

KEY QUOTATIONS

"We therefore accept the Agreement for Discipline by Consent and suspend respondent from office for six (6) months." (418 S.C. 364)

FACTUAL BACKGROUND

Kenneth E. Johns was the Oconee County probate court judge during administration of an estate arising from a wrongful-death settlement that received extensive press coverage. On Facebook, he commented on the settlement, made political posts appearing to endorse a presidential candidate, and participated in fundraising for a local church. His public Facebook account identified him as a probate court judge, and he admitted that the conduct violated provisions of the South Carolina Code of Judicial Conduct and the Rules for Judicial Disciplinary Enforcement.

PROCEDURAL HISTORY

The respondent and the Office of Disciplinary Counsel entered into an Agreement for Discipline by Consent under Rule 21 of the Rules for Judicial Disciplinary Enforcement. The respondent admitted misconduct and consented to a public reprimand or suspension of up to six months, requesting that any suspension be made retroactive to his interim suspension. The Supreme Court of South Carolina accepted the agreement and imposed a six-month suspension retroactive to April 12, 2016.

DISPOSITION

other

OPINION

In the Matter of Kenneth E. Johns 418 S.C. 364

PER CURIAM.

THE STATE OF SOUTH CAROLINA

In The Supreme Court In the Matter of Kenneth E. Johns, Jr., Respondent. Appellate Case No. 2016-001996 Opinion No. 27677 Submitted October 26, 2016 – Filed November 16, 2016

DEFINITE SUSPENSION

Joseph P. Turner, Jr., Senior Assistant Disciplinary Counsel, of Columbia, for Office of

Disciplinary Counsel. John S. Nichols, of Bluestein Nichols Thompson & Delgado, LLC, of Columbia, for respondent. PER CURIAM: In this judicial disciplinary matter, respondent and the Office of Disciplinary Counsel have entered into an Agreement for Discipline by Consent pursuant to Rule 21 of the Rules for Judicial Disciplinary Enforcement contained in Rule 502 of the South Carolina Appellate Court Rules (SCACR). In the Agreement, respondent admits misconduct and consents to the issuance of a public reprimand or a suspension of up to six (6) months. Respondent requests that any suspension be imposed retroactively to April 12, 2016, the date of his interim suspension. We accept the Agreement and suspend respondent from office for six (6) months, retroactive to the date of respondent's interim suspension. The facts, as set forth in the Agreement, are as follows. Facts An estate was opened in Oconee County for the estate of Z.H. Z.H.'s parents had filed a wrongful death suit on behalf of the estate against the Seneca Police Department. The case was settled with the family for the sum of \$2,150,000. Due to the public nature of the case, the settlement received extensive press coverage. Despite the matter being before the probate court for administration of the estate, respondent expressed his opinion about the settlement on Facebook posting: "In the end it's all about the money. Always. Unfortunately, I see it EVERYDAY." Respondent later added: "Once ck is in hand, they'll disappear." A review of respondent's Facebook account revealed that he has made extensive political posts, including ones in which he appears to endorse the presidential candidacy of one candidate. A review of respondent's Facebook account further revealed a post in which he engaged in fundraising for a local church. Respondent's Facebook account identifies himself as the probate court judge for Oconee County and the account, along with all of respondent's posts, were accessible to all members of Facebook. Respondent greatly regrets his conduct with regard to the estate of Z.H. matter and is sorry for any distress that it may have caused Z.H.'s family. Respondent recognizes that, while he did not mention the estate of Z.H. by name on Facebook, it was inappropriate for him to make the statements as it would be clear in the community to what he was referring. Respondent also recognizes that it was inappropriate for him to make political posts and to post information about a fundraiser for a local church. Respondent has now removed reference to himself as a judge on his Facebook page. He submits that he is deeply embarrassed about the matter and seeks to assure the Court that, in the future, he will not make reference to anything involving his court and will refrain from making political posts or posting fundraising information on Facebook or any other social media. Respondent is extremely proud of the Oconee County Probate Court and wants to assure the Supreme Court that he will do nothing further that could damage the reputation of the probate court. Law Respondent admits that by his conduct he has violated the following provisions of the Code of Judicial Conduct, Rule 501, SCACR: Canon 1 (judge shall uphold integrity and independence of judiciary); Section 1A of Canon 1 (judge should participate in establishing, maintaining and enforcing high standards of conduct, and shall personally observe those standards so that integrity and independence of judiciary will be preserved); Canon 2 (judge shall avoid impropriety and appearance of impropriety in all judge's

activities); Section 2A of Canon 2 (judge shall respect and comply with the law and shall act at all times in manner that promotes public confidence in integrity and impartiality of judiciary); Section A(1) of Canon 4 (judge shall conduct all of judge's extra-judicial activities so that they do not cast reasonable doubt on the judge's capacity to act impartially as judge); Section A(2) of Canon 4 (judge shall conduct all of judge's extra-judicial activities so that they do not demean the judicial office); Section C(3)(b)(i) of Canon 4 (judge shall not personally participate in the solicitation of funds or other fundraising activities); and Section A(1)(b) of Canon 5 (judge shall not publicly endorse candidate for election to public office). Respondent also admits he has violated the following Rules for Judicial Disciplinary Enforcement, Rule 502, SCACR: Rules 7(a)(1) (it shall be ground for discipline for judge to violate Code of Judicial Conduct) and Rule 7(a)(9) (it shall be ground for sanction for judge to violate Judge's Oath of Office contained in Rule 502.1, SCACR). Conclusion We find respondent's misconduct warrants a six (6) month suspension from judicial duties, retroactive to April 12, 2016, the date of his interim suspension. We therefore accept the Agreement for Discipline by Consent and suspend respondent from office for six (6) months. DEFINITE SUSPENSION. PLEICONES, C.J., BEATTY, KITTREDGE, HEARN and FEW, JJ., concur.