

SUPREME COURT OF FLORIDA

In re Cope

848 So. 2d 301 (Fla. 2003) · No. SC01-2670; Inquiry Concerning a Judge, No. 01-244 · Decided May 29, 2003

SUMMARY

The Florida Supreme Court reviewed disciplinary findings against Circuit Judge Charles W. Cope arising from misconduct at an out-of-state judicial conference. The Court approved findings that Cope brought the judiciary into disrepute and imposed a public reprimand. It denied his requests for costs and attorneys' fees, concluding that the Judicial Qualifications Commission prevailed on the significant issues and that section 57.105 did not apply.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per curiam; Chief Justice Anstead; Justice Wells; Justice Pariente; Justice Lewis; Justice Quince; Justice Cantero; Justice Bell
JURISDICTION	Florida
DECIDED	May 29, 2003
DOCKET	SC01-2670; Inquiry Concerning a Judge, No. 01-244
DISPOSITION	approved
PROCEDURAL POSTURE	The Supreme Court of Florida reviewed findings and a recommended discipline issued by the Florida Judicial Qualifications Commission concerning Circuit Judge Charles W. Cope. Cope did not contest the findings or recommended public reprimand but sought recovery of costs and attorneys' fees.
STANDARD OF REVIEW	The Supreme Court gave great weight to the hearing panel's factual findings because the panel was positioned to evaluate the evidence firsthand, and it reviewed the JQC's findings and recommended discipline.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Florida Judicial Qualifications Commission v. Charles W. Cope

TOPICS

- administrative law
- remedies
- appellate procedure
- standard of review

PRACTICE AREAS

judicial discipline

administrative law

attorneys' fees and costs

judicial conduct

QUESTIONS PRESENTED

1. Whether the JQC's findings and recommendation of a public reprimand should be approved.
2. Whether Judge Cope was entitled to recover costs as the prevailing party under Florida Rule of Judicial Administration 2.140.
3. Whether Judge Cope was entitled to attorneys' fees under section 57.105, Florida Statutes (2002), for charges that were not proven.
4. Whether failure to report a minor misdemeanor citizen's arrest violated a canon of judicial conduct.

HOLDINGS

1. The Supreme Court approved the JQC's findings that Judge Cope's conduct brought the judiciary into disrepute and approved the recommended public reprimand.
2. The JQC was the prevailing party because it prevailed on the significant issue in the proceeding—whether Cope's conduct brought the judiciary into disrepute—and Cope was not entitled to recover costs.
3. Section 57.105 sanctions apply only to civil proceedings and do not authorize attorneys' fees in proceedings before the JQC.
4. No canon of judicial conduct required Judge Cope to report his citizen's arrest on a minor misdemeanor charge to the JQC or to parties appearing before him.

KEY QUOTATIONS

"The prevailing party for purposes of taxing costs is the party who prevailed on the significant issues below." (304)

"A candid admission required Judge Cope to answer 'yes.' An answer of 'yes, but' and 'yes, with qualifications' falls short of a genuine admission of wrongdoing." (305)

FACTUAL BACKGROUND

While attending a judicial conference in California in April 2001, Circuit Judge Charles W. Cope became publicly intoxicated on two nights, wandered public streets, and engaged in inappropriate conduct of an intimate nature with an intoxicated woman. The JQC found clear and convincing evidence supporting the public-intoxication and inappropriate-conduct charges, while the remaining charges were not proven. Cope admitted aspects of the conduct but denied the charges in his pleadings and gave qualified testimony at the hearing.

PROCEDURAL HISTORY

The JQC charged Judge Cope with six counts arising from conduct at an out-of-state judicial conference. The hearing panel found clear and convincing evidence supporting public intoxication and inappropriate intimate conduct, directed a verdict in Cope's favor on the remaining counts, and recommended a public reprimand. The

Supreme Court approved the findings and discipline, denied Cope's requests for costs and attorneys' fees, and ordered each party to bear its own costs.

DISPOSITION

approved

CASES CITED

- In re Crowell, 379 So. 2d 107 (Fla. 1979)
- In re Norris, 581 So. 2d 578 (Fla. 1991)
- Moritz v. Hoyt Enters., Inc., 604 So. 2d 807 (Fla. 1992)
- Procacci Commercial Realty, Inc. v. Dep't of Health & Rehab. Servs., 690 So. 2d 603, 608 n. 8 (Fla. 1st DCA 1997)