

SUPREME COURT OF MISSISSIPPI

Mississippi Commission on Judicial Performance v. Buffington

55 So. 3d 167 (Miss. 2011) · No. No. 2010-JP-00871-SCT · Decided February 17, 2011

SUMMARY

The Supreme Court of Mississippi approved a joint motion adopting the Mississippi Commission on Judicial Performance's recommendation that Chancellor Larry Buffington be publicly reprimanded and assessed \$100 in costs. The court found that Buffington engaged in willful misconduct and conduct prejudicial to the administration of justice by issuing subpoenas that did not comply with Mississippi Rule of Civil Procedure 45 and expressing disregard for that noncompliance.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Presiding Justice Graves; Carlson, P.J.; Dickinson, J.; Randolph, J.; Lamar, J.; Kitchens, J.; Chandler, J.; Pierce, J.
JURISDICTION	Mississippi
DECIDED	February 17, 2011
DOCKET	No. 2010-JP-00871-SCT
DISPOSITION	approved
PROCEDURAL POSTURE	The Mississippi Commission on Judicial Performance and Chancellor Larry Buffington jointly moved for approval of the Commission's findings and recommended sanctions for judicial misconduct. The Mississippi Supreme Court reviewed the matter en banc and independently approved the recommendation.
STANDARD OF REVIEW	Judicial misconduct proceedings are reviewed de novo. The Court gives considerable deference to the Commission's findings, which must be supported by clear and convincing evidence, and to its recommendations, but independently reviews the matter and is not bound by the Commission's findings.
PRECEDENTIAL VALUE	Published, precedential decision of the Supreme Court of Mississippi; decided en banc.
PARTIES	Mississippi Commission on Judicial Performance v. Larry Buffington

TOPICS

constitutional law

appellate procedure

standard of review

civil procedure

remedies

PRACTICE AREAS

judicial discipline

constitutional law

appellate procedure

civil procedure

remedies

QUESTIONS PRESENTED

1. Whether Judge Buffington's issuance of subpoenas in violation of Mississippi Rule of Civil Procedure 45 constituted willful misconduct in office and conduct prejudicial to the administration of justice that brought the judicial office into disrepute.
2. Whether the Commission's recommended sanctions of a public reprimand and \$100 in costs should be approved.

HOLDINGS

1. Judge Buffington's knowing issuance of subpoenas that failed to comply with Rule 45, together with his admission that he did not care about the legal violation, constituted willful misconduct in office and conduct prejudicial to the administration of justice that brought the judicial office into disrepute.
2. A public reprimand and assessment of \$100 in proceeding costs were appropriate sanctions for Judge Buffington's misconduct.
3. Judicial-misconduct proceedings are reviewed de novo, with considerable deference to Commission findings supported by clear and convincing evidence and to the Commission's recommendations, while the Supreme Court retains an independent duty to review the matter.

KEY QUOTATIONS

“Willful misconduct in office is the improper or wrongful use of power of his office by a judge acting intentionally or with gross unconcern for his conduct and generally in bad faith.” (55 So. 3d at 168-169)

“However, this Court is obligated to conduct an independent inquiry.” (55 So. 3d at 168)

FACTUAL BACKGROUND

Judge Buffington, serving as chancellor of the Thirteenth Chancery Court District, issued subpoenas to two Simpson County supervisors in connection with his effort to determine who was upset about his appointment of a youth-court public defender and who had disclosed the appointment to the media. The subpoenas did not identify a title or cause number for a pending action and did not comply with Mississippi Rule of Civil Procedure 45. Although he later quashed the subpoenas, Buffington admitted that he had failed to comply with the law and stated that he was unconcerned about that failure.

PROCEDURAL HISTORY

After Judge Buffington issued subpoenas to two county supervisors without a pending action, title, or cause number, the supervisors moved to quash and the subpoenas were quashed. The Commission filed a formal judicial-misconduct complaint, and the parties later submitted an agreed statement of facts and proposed

recommendation. The Commission recommended a public reprimand and assessment of \$100 in costs, which the Supreme Court approved.

DISPOSITION

approved

CASES CITED

- Miss. Comm'n on Judicial Performance v. Boland, 975 So. 2d 882, 888 (Miss. 2008)
- Miss. Comm'n on Judicial Performance v. Boykin, 763 So. 2d 872, 874 (Miss. 2000)
- Miss. Comm'n on Judicial Performance v. Neal, 774 So. 2d 414, 416 (Miss. 2000)
- Miss. Comm'n on Judicial Performance v. Whitten, 687 So. 2d 744, 746 (Miss. 1997)
- Miss. Comm'n on Judicial Performance v. Carr, 786 So. 2d 1055, 1058-59 (Miss. 2001)
- Mississippi Comm'n on Judicial Performance v. Russell, 691 So. 2d 929, 937 (Miss. 1997)
- Miss. Comm'n on Judicial Performance v. Gibson, 883 So. 2d 1155, 1158 (Miss. 2004)
- Miss. Comm'n on Judicial Performance v. Jenkins, 677 So. 2d 171 (Miss. 1996)