

SUPREME COURT OF GEORGIA

Inquiry Concerning Judge Christian Coomer

No. S21Z0595, Supreme Court of Georgia (March 15, 2023)

SUMMARY

The Supreme Court of Georgia reviews a judicial-discipline proceeding involving Court of Appeals Judge Christian Coomer. The Court holds that the Georgia Code of Judicial Conduct does not apply to conduct occurring before an individual became a judge or judicial candidate, and that nonjudicial conduct warrants discipline only upon a showing of bad faith. Because the Judicial Qualifications Commission Hearing Panel made legal errors and unclear findings regarding bad faith, the Court remands for further findings.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Georgia
DECIDED	March 15, 2023
DOCKET	S21Z0595
DISPOSITION	remanded
PROCEDURAL POSTURE	Review of the Judicial Qualifications Commission Hearing Panel's report and recommendation that Judge Christian Coomer be removed from the Georgia Court of Appeals.
STANDARD OF REVIEW	Factual findings and credibility determinations are reviewed for clear error, legal determinations are reviewed de novo, and the Supreme Court independently determines what discipline, if any, is warranted.
PRECEDENTIAL VALUE	binding
PARTIES	Judge Christian Coomer v. Judicial Qualifications Commission

TOPICS

- administrative law
- appellate procedure
- standard of review
- constitutional law
- statutory interpretation

PRACTICE AREAS

- judicial discipline
- constitutional law
- administrative law
- appellate procedure
- statutory interpretation

QUESTIONS PRESENTED

1. Whether the Georgia Code of Judicial Conduct applies to conduct occurring before a person becomes a judge or judicial candidate.
2. Whether conduct outside a judge's judicial capacity may support discipline for conduct prejudicial to the administration of justice without a finding of bad faith.
3. Whether the JQC may investigate conduct that also falls within the authority of the State Bar of Georgia or the Georgia Government Transparency and Campaign Finance Commission.
4. Whether investigating conduct occurring while Coomer was both a judicial candidate and a legislator violated separation-of-powers principles.
5. Whether the Hearing Panel's ambiguous findings required remand rather than an immediate disciplinary decision by the Supreme Court.

HOLDINGS

1. The Code of Judicial Conduct does not apply to conduct undertaken before a person became a judge or judicial candidate; therefore, the JQC may not pursue disciplinary charges based solely on such pre-judicial conduct.
2. Conduct prejudicial to the administration of justice may support discipline for actions taken outside a judge's judicial capacity only when the actions were taken in bad faith; negligence alone is insufficient.
3. The Director must prove disciplinary charges by clear and convincing evidence; the Supreme Court defers to factual and credibility findings unless clearly erroneous, reviews legal questions de novo, and independently determines the appropriate discipline.
4. The JQC's authority to investigate judicial candidates and judges is not eliminated merely because the same conduct may also be investigated by the State Bar of Georgia or the Georgia Government Transparency and Campaign Finance Commission.
5. Because the Hearing Panel did not clearly determine whether the proved violations were committed knowingly and in bad faith or merely negligently, the Supreme Court could not determine what discipline was constitutionally authorized and was required to remand for additional findings.

KEY QUOTATIONS

“The Code of Judicial Conduct applies to judges and judicial candidates, a defined term that includes persons applying for judicial appointments, as well as elected candidates and announced appointees waiting to be sworn in.” (21)

“Here, by analogy, only the Code answers the question of whether conduct before a person became a judge or judicial candidate may subject that person to judicial discipline under the authority of this Court and the JQC.” (32)

“Bad faith is not simply bad judgment or negligence, but it imports a dishonest purpose or some moral obliquity, and implies conscious doing of wrong, and means breach of known duty through some motive of interest or ill will.” (45)

“We therefore must remand for the Hearing Panel to engage in that work.” (50)

FACTUAL BACKGROUND

Judge Christian Coomer became a Georgia Court of Appeals judge in October 2018 after practicing law, serving in the Georgia General Assembly, and pursuing judicial appointments. The JQC charged him with misconduct involving his representation of a client, campaign expenditures and disclosures, and alleged misrepresentations in a mortgage application, much of which occurred before he became a judge or judicial candidate. After a lengthy hearing, the Hearing Panel found most counts proved and recommended removal, but its findings did not clearly establish whether the relevant conduct was knowing and in bad faith or merely negligent.

PROCEDURAL HISTORY

The JQC filed amended formal charges alleging 36 violations of the Georgia Code of Judicial Conduct. The Hearing Panel rejected Coomer's jurisdictional challenge, conducted a lengthy evidentiary hearing, found that most counts had been proved by clear and convincing evidence, and recommended removal. The Supreme Court of Georgia held that the Panel applied the Code to pre-judicial conduct and applied an erroneous discipline standard to nonjudicial conduct, then remanded for new findings.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The Hearing Panel must issue a new report and recommendation within 60 days determining which proved counts fall within the Code of Judicial Conduct, which counts may support discipline under the constitutional framework, whether bad faith was proved by clear and convincing evidence, and what discipline, if any, is appropriate. The Panel must also make more precise factual findings, including concerning Coomer's representation of Filhart and the specific campaign expenditures at issue, and provide complete record citations.

CASES CITED

- Inquiry Concerning Crawford, 310 Ga. 403, 405, 407 n.5 (851 SE2d 572) (2020)
- In re Inquiry Concerning a Judge, 275 Ga. 404, 406 (566 SE2d 310) (2002)
- Nelson v. State, 312 Ga. 375, 377 (863 SE2d 61) (2021)
- In the Matter of Cook, 311 Ga. 206, 214-215 (1) (857 SE2d 212) (2021)
- Matter of Inquiry Concerning a Judge, 265 Ga. 843, 848 (4) (462 SE2d 728) (1995)
- In re Judicial Qualifications Comm'n Formal Advisory Opinion No. 239, 300 Ga. 291, 294-297 (794 SE2d 631) (2016)
- S&S Towing & Recovery, Ltd. v. Charnota, 309 Ga. 117, 120 (1) (844 SE2d 730) (2020)
- Collins v. Morris, 263 Ga. 734, 735-736 (1) (438 SE2d 896) (1994)
- City of Ludowici v. Stapleton, 258 Ga. 868, 869 (1) (375 SE2d 855) (1989)
- Baker v. State, 280 Ga. 822, 823 (2) (633 SE2d 541) (2006)

- Matter of Inquiry Concerning a Judge No. 94-70, 265 Ga. 326, 327-328 (1) (454 SE2d 780) (1995)
- Leitch v. Fleming, 291 Ga. 669, 674 (3) (732 SE2d 401) (2012)
- In re Inquiry Concerning Judge Robertson, 277 Ga. 831, 834 (3) (596 SE2d 2) (2004)
- State v. Bryant, 307 Ga. 850, 854 (2) (838 SE2d 855) (2020)
- Greenway v. Hamilton, 280 Ga. 652, 655 (3) (631 SE2d 689) (2006)
- Wachovia Bank of Ga., N.A. v. Namik, 275 Ga. App. 229, 234 (3) (b) (620 SE2d 470) (2005)
- Heiskell v. Roberts, 295 Ga. 795, 800-801 (3) (764 SE2d 368) (2014)
- Earl v. Mills, 275 Ga. 503, 504 (570 SE2d 282) (2002)
- Mireles v. Waco, 502 U.S. 9, 11-12 (112 S.Ct. 286, 116 L.Ed.2d 9) (1991)
- Ga. Dept. of Human Svcs. v. Steiner, 303 Ga. 890, 904 (V) (815 SE2d 883) (2018)
- Judicial Qualifications Comm'n v. Lowenstein, 252 Ga. 432, 433-434 (1) (314 SE2d 107) (1984)
- DeKalb County School Dist. v. Ga. State Bd. of Educ., 294 Ga. 349, 369 (4) (a) (751 SE2d 827) (2013)