

SUPREME COURT OF NEBRASKA

In re Complaint Against Gregory M. Schatz

287 Neb. 952 (2014) · No. No. S-13-139 · Decided April 18, 2014

SUMMARY

The Nebraska Supreme Court reviewed allegations that District Judge Gregory M. Schatz improperly used his judicial authority to secure the release of a friend from jail before arraignment. The court found clear and convincing evidence of violations of the Nebraska Code of Judicial Conduct and Neb. Rev. Stat. § 24-722(6), but imposed a public reprimand based on the isolated nature of the misconduct and mitigating circumstances.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Per Curiam; Wright, J.; Connolly, J.; Stephan, J.; McCormack, J.; Miller-Lerman, J.; Cassel, J.
JURISDICTION	Nebraska
DECIDED	April 18, 2014
DOCKET	No. S-13-139
DISPOSITION	other
PROCEDURAL POSTURE	Original judicial-disciplinary proceeding reviewing the findings and recommendation of the Commission on Judicial Qualifications.
STANDARD OF REVIEW	De novo review of the record. The Nebraska Supreme Court independently determines whether the charges are supported by clear and convincing evidence, which judicial-conduct provisions were violated, and what discipline, if any, is appropriate.
PRECEDENTIAL VALUE	Published Nebraska Supreme Court opinion; precedential.
PARTIES	State of Nebraska ex rel. Commission on Judicial Qualifications v. Gregory M. Schatz

TOPICS

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

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether clear and convincing evidence established that Schatz committed judicial misconduct by using his judicial authority to obtain the prearrest release of a friend.
2. Which provisions of the Nebraska Code of Judicial Conduct, Nebraska Constitution article V, section 30, and Neb. Rev. Stat. § 24-722(6) Schatz violated.
3. What sanction was appropriate in light of the misconduct and the mitigating circumstances.

HOLDINGS

1. The Nebraska Supreme Court reviews the Commission's findings and recommendations de novo, independently determines whether the charges are supported by clear and convincing evidence and which provisions were violated, and determines the appropriate discipline.
2. Schatz committed willful misconduct prejudicial to the administration of justice and bringing the judicial office into disrepute by using his judicial authority to obtain the release of a friend before arraignment and outside the normal bond-setting process.
3. A public reprimand was the appropriate sanction for Schatz's misconduct.

KEY QUOTATIONS

“Schatz improperly exercised his judicial authority for Davlin, a friend. Such misconduct cannot be condoned.” (959)

“Considering the nature of the misconduct and the various mitigating circumstances, we agree.” (959)

FACTUAL BACKGROUND

Gregory M. Schatz, a Nebraska district judge, learned that his friend Michael Davlin was in jail in connection with a felony drunk-driving case. Schatz contacted the jail, identified himself as a judge, and ordered Davlin released on his own recognizance before arraignment and without payment of bond. Schatz promptly acknowledged the mistake, apologized, cooperated with the disciplinary process, completed a judicial ethics course, and had no prior disciplinary history.

PROCEDURAL HISTORY

The Commission charged District Judge Gregory M. Schatz with judicial misconduct after he used his judicial authority to direct jail personnel to release a friend before arraignment without payment of bond. A special master found violations and recommended no more than a public reprimand; the Commission independently adopted the findings and recommended a public reprimand. Schatz filed a consent to reprimand, and the Nebraska Supreme Court independently reviewed the record and imposed a public reprimand.

DISPOSITION

other

CASES CITED

- In re Complaint Against Florom, 280 Neb. 192, 784 N.W.2d 897 (2010)
- In re Complaint Against Lindner, 271 Neb. 323, 710 N.W.2d 866 (2006)
- In re Complaint Against White, 264 Neb. 740, 651 N.W.2d 551 (2002)
- In re Complaint Against Jones, 255 Neb. 1, 581 N.W.2d 876 (1998)
- In re Complaint Against Krepela, 262 Neb. 85, 628 N.W.2d 262 (2001)
- In re Complaint Against Staley, 241 Neb. 152, 486 N.W.2d 886 (1992)
- In re Complaint Against Reagan, No. S-35-030003 (Neb. Comm. on Jud. Qual. June 2, 2003)
- In re Complaint Against Swartz, No. S-35-000003 (Neb. Comm. on Jud. Qual. Sept. 8, 2000)
- In re Complaint Against Huber, No. S-35-050003 (Neb. Comm. on Jud. Qual. Aug. 11, 2005)

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