

SUPREME COURT OF MISSISSIPPI

Mississippi Commission on Judicial Performance v. Agin

17 So. 3d 578 (Miss. 2009) · No. 2009-JP-00082-SCT · Decided September 17, 2009

SUMMARY

The Supreme Court of Mississippi reviewed a recommendation to publicly reprimand County Court Judge William Agin for delaying a ruling in a civil case. The court found that the delay constituted conduct prejudicial to the administration of justice under Mississippi Constitution article 6, section 177A(e), and violated Canons 1, 2A, 3B(8), and 3C(1) of the Code of Judicial Conduct, but did not establish willful misconduct or willful and persistent failure to perform judicial duties. The court imposed a public reprimand and assessed \$100 in costs.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Lamar, Justice; Waller, C.J.; Carlson, P.J.; Graves, P.J.; Dickinson, J.; Randolph, J.; Kitchens, J.; Chandler, J.; Pierce, J.
JURISDICTION	Mississippi
DECIDED	September 17, 2009
DOCKET	2009-JP-00082-SCT
DISPOSITION	approved
PROCEDURAL POSTURE	The Mississippi Commission on Judicial Performance recommended that the Supreme Court publicly reprimand County Court Judge William Agin and assess \$100 in costs after the parties submitted an agreed statement of facts and a joint motion for approval.
STANDARD OF REVIEW	De novo review of judicial-misconduct proceedings, with great deference to the Commission's findings when supported by clear and convincing evidence; the Supreme Court nevertheless exercises independent judgment because it has the sole power to impose sanctions.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Mississippi Commission on Judicial Performance v. County Court Judge William Agin

TOPICS

constitutional law

administrative law

remedies

PRACTICE AREAS

judicial discipline

constitutional law

administrative law

judicial ethics

remedies

QUESTIONS PRESENTED

1. Whether the record established willful misconduct in office or willful and persistent failure to perform judicial duties under Mississippi Constitution article 6, section 177A(b)-(c).
2. Whether Judge Agin's negligent delay in ruling was conduct prejudicial to the administration of justice that brought the judicial office into disrepute under Mississippi Constitution article 6, section 177A(e).
3. Whether Judge Agin violated Canons 1, 2A, 3B(1), 3B(8), and 3C(1) of the Mississippi Code of Judicial Conduct.
4. What sanction was appropriate for the misconduct.

HOLDINGS

1. The Commission failed to prove that Judge Agin's delay was willful, undertaken with gross unconcern, or committed in bad faith; therefore, the conduct did not constitute willful misconduct in office or willful and persistent failure to perform duties under section 177A(b)-(c).
2. A judge's negligent failure to timely render a decision may constitute conduct prejudicial to the administration of justice that brings the judicial office into disrepute under Mississippi Constitution article 6, section 177A(e). Judge Agin's delay fell within that provision.
3. Judge Agin violated Canons 1, 2A, 3B(8), and 3C(1), but the record did not establish a violation of Canon 3B(1), which was inapplicable to the case.
4. A public reprimand and assessment of \$100 in costs was an appropriate sanction.

KEY QUOTATIONS

"This Court conducts "de novo review of judicial misconduct proceedings, giving great deference to the findings, based on clear and convincing evidence, of the recommendations of the Mississippi Commission on Judicial Performance." (17 So. 3d at 580)

"The record simply does not support the Commission's finding that Judge Agin's delay in rendering an opinion in this case was willful or was done with gross unconcern or in bad faith." (17 So. 3d at 581)

"However, we do find that Judge Agin's conduct is "prejudicial to the administration of justice which brings the judicial office into disrepute." (17 So. 3d at 581)

"Therefore, this Court approves the recommendation made by the Commission and Judge Agin." (17 So. 3d at 583)

FACTUAL BACKGROUND

Judge Agin took a summary-judgment motion in Quick-N-Easy under advisement on January 31, 2008, but did not issue an order until January 12, 2009, after the litigant sought assistance from the Administrative Office of Courts and shortly after the Commission filed its complaint. The case presented an issue of first impression for Judge Agin, and he was undergoing treatment for a serious medical condition during part of the delay. The record also showed that he had previously been sanctioned for similar delays, establishing a recurring pattern of untimely decisions.

PROCEDURAL HISTORY

The Commission filed a formal complaint alleging that Judge Agin failed to timely rule on a summary-judgment motion and that the conduct reflected a recurring pattern of delay. The parties agreed to stipulated facts and a proposed recommendation, which the Commission accepted and submitted to the Supreme Court. The Supreme Court independently reviewed the matter, approved the recommended sanction, and ordered a public reprimand and \$100 in costs.

DISPOSITION

approved

CASES CITED

- Mississippi Comm'n on Judicial Performance v. Agin, 987 So. 2d 418 (Miss. 2008)
- Mississippi Comm'n on Judicial Performance v. Sanford, 941 So. 2d 209, 212 (Miss. 2006)
- Mississippi Comm'n on Judicial Performance v. Gibson, 883 So. 2d 1155, 1156-58 (Miss. 2004)
- Mississippi Comm'n on Judicial Performance v. Former Judge U.U., 875 So. 2d 1083, 1086, 1088-89, 1095 (Miss. 2004)