

SUPREME COURT OF APPEALS OF WEST VIRGINIA

In the Matter of: The Honorable C. Carter Williams, Judge of the
Twenty-Second Judicial Circuit

In re Williams · No. 21-0878 · Decided May 4, 2023

SUMMARY

The Supreme Court of Appeals of West Virginia reviews judicial disciplinary proceedings involving C. Carter Williams, a judge of the Twenty-Second Judicial Circuit. The court found that Williams violated multiple provisions of the Code of Judicial Conduct and Rules of Professional Conduct following his conduct during and after a traffic stop. The court imposed a six-month suspension without pay, along with censure, a \$5,000 fine, two years of monitoring, and payment of certain disciplinary costs.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Walker
JURISDICTION	West Virginia
DECIDED	May 4, 2023
DOCKET	21-0878
DISPOSITION	other
PROCEDURAL POSTURE	Judicial disciplinary proceeding arising from consolidated complaints filed against a circuit judge. The Judicial Hearing Board found multiple violations by clear and convincing evidence and recommended a partially stayed suspension, censure, fine, monitoring, and costs. The Judicial Disciplinary Counsel sought additional violations and a harsher sanction, while the respondent challenged the findings and sanction.
STANDARD OF REVIEW	The Supreme Court independently evaluates the record and the Judicial Hearing Board's recommendations, gives substantial consideration to the Board's factual determinations, reviews whether violations were proved by clear and convincing evidence, and may accept or reject the recommended sanction.
PRECEDENTIAL VALUE	published precedential opinion

TOPICS

administrative law

appellate procedure

standard of review

remedies

writ of certiorari

PRACTICE AREAS

judicial discipline

professional responsibility

constitutional law

appellate procedure

remedies

QUESTIONS PRESENTED

1. Whether the evidence established by clear and convincing evidence that Respondent violated provisions of the West Virginia Code of Judicial Conduct and Rules of Professional Conduct through his conduct during and after the July 2021 traffic stop.
2. Whether Respondent's identification of himself as a judge and communications with law-enforcement officials constituted an impermissible abuse of judicial prestige rather than protected First Amendment activity.
3. Whether the evidence established additional violations based on alleged racial or age bias, the Wal-Mart incidents, alleged grabbing of his license, hanging up on the police chief, or a pattern of violating traffic laws.
4. Whether the Judicial Hearing Board's factual findings established violations of the duties of candor and cooperation with disciplinary authorities, including Rules 2.16(A), 8.4(a), and 8.4(c).
5. What sanction was appropriate for the established judicial and professional misconduct.

HOLDINGS

1. The Supreme Court independently evaluates the record and the Judicial Hearing Board's recommendations, reviews alleged violations for clear and convincing evidence, and has authority to accept or reject the Board's recommended sanction.
2. A judge retains First Amendment protections but may be disciplined when speech or conduct violates specific provisions of the Code of Judicial Conduct; identifying oneself as a judge and invoking judicial office to obtain favorable treatment or retaliate against law-enforcement personnel is not protected merely because it arises during a personal traffic stop.
3. Clear and convincing evidence established violations of Rules 1.1, 1.2, 1.3, 2.8(B), 2.10(A), 3.1(A), 3.1(B), 3.1(C), and 3.1(D) of the West Virginia Code of Judicial Conduct and Rule 8.4(d) of the Rules of Professional Conduct.
4. The findings supporting Charge VI established an additional violation of Code of Judicial Conduct Rule 2.16(A) and Rules of Professional Conduct 8.4(c) and 8.4(a).
5. The evidence did not establish by clear and convincing evidence that Respondent's use of the phrase 'your boy' created an appearance of racial or age bias.
6. The evidence did not establish by clear and convincing evidence that the Wal-Mart incidents constituted shoplifting, preferential treatment, an appearance of impropriety, or a lack of candor warranting discipline.

7. A six-month suspension without pay, two years of JLAP monitoring, censure, a \$5,000 fine, and assessment of disciplinary costs, excluding costs associated with Dr. Clayman's review of VCAP records, was appropriate.

KEY QUOTATIONS

“Judges do not lose all First Amendment protections when taking the robe.” (33-34)

“the Code of Judicial Conduct works weekends too.” (36)

“Here, too, the presumption of preferential treatment in law enforcement matters over which judges preside daily is a display of arrogance repugnant to the fair administration of justice.” (53-54)

FACTUAL BACKGROUND

Respondent, a West Virginia circuit judge, was stopped for a traffic violation after an officer observed him holding a cell phone while driving. During and after the stop, Respondent identified himself as a judge, contacted the officer's supervisors and local officials, complained about the stop and the officer, and made comments that could be understood as threatening retaliation or changing rulings in cases involving the police department. The conduct continued through several telephone calls and resulted in Respondent's voluntary disqualification from the department's criminal cases. The Judicial Hearing Board also considered earlier traffic stops in which Respondent identified himself as a judge and avoided citations, but the Supreme Court found the principal misconduct to be the abuse of judicial office and coercive and retaliatory communications connected with the July 2021 stop.

PROCEDURAL HISTORY

The West Virginia Judicial Investigation Commission issued formal statements of charges concerning the respondent's conduct during and after a traffic stop, prior traffic encounters, and two Wal-Mart incidents. The complaints were consolidated and tried before the Judicial Hearing Board over three days. The Board sustained most of the traffic-stop-related charges, rejected the Wal-Mart charge and certain alleged violations, and recommended a one-year suspension with only three months served without pay, together with probation, censure, a fine, and costs. The Supreme Court independently reviewed the record, affirmed the supported findings, added violations of Rules 2.16(A), 8.4(a), and 8.4(c), rejected the additional alleged racial-bias and Wal-Mart violations, and increased the sanction to a six-month suspension without pay.

DISPOSITION

other

CASES CITED

- In the Matter of Gorby, 176 W. Va. 16, 339 S.E.2d 702 (1985)
- W. Va. Judicial Inquiry Comm’n v. Dostert, 165 W. Va. 233, 271 S.E.2d 427 (1980)
- In re Pauley, 173 W. Va. 228, 314 S.E.2d 391 (1983)
- Matter of Hey, 192 W. Va. 221, 452 S.E.2d 24 (1994)

- Matter of Starcher, 202 W. Va. 55, 501 S.E.2d 772 (1998)
- In re Crislip, 182 W. Va. 637, 391 S.E.2d 84 (1990)
- Scott v. Flowers, 910 F.2d 201 (5th Cir. 1990)
- Morial v. Judiciary Comm’n, 565 F.2d 295 (5th Cir. 1977) (en banc), cert. denied, 435 U.S. 1013 (1978)
- Matter of Cullins, 481 P.3d 774 (Kan. 2021)
- In re Cruickshanks, 220 W. Va. 513, 648 S.E.2d 19 (2007)
- Lawyer Disciplinary Bd. v. Schillace, 2022 WL 17038201
- Lawyer Disciplinary Bd. v. Dues, 218 W. Va. 104, 624 S.E.2d 125 (2005)
- Matter of Ferguson, 242 W. Va. 691, 841 S.E.2d 887 (2020)
- In re Toler, 218 W. Va. 653, 625 S.E.2d 731 (2005)
- In re Fouty, 229 W. Va. 256, 728 S.E.2d 140 (2012)

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