

SUPREME COURT OF INDIANA

In re Hawkins

902 N.E.2d 231 (Ind. 2009) · No. 49S00-0804-JD-157 · Decided March 11, 2009

SUMMARY

The Indiana Supreme Court addressed judicial disciplinary charges against Marion Superior Court Judge Grant W. Hawkins and Commissioner Nancy Broyles arising from delays in ruling on prisoners' post-conviction relief petitions and related investigative conduct. The Court concluded that Hawkins committed multiple violations of the Code of Judicial Conduct and conduct prejudicial to the administration of justice; Broyles had separately agreed to a permanent ban from judicial service. The excerpt states that three justices agreed Hawkins should be suspended without pay for at least sixty days.

CASE DETAILS

COURT	Supreme Court of Indiana
WRITING FOR THE COURT	Justice Dickson; Chief Justice Shepard; Justice Sullivan; Justice Boehm; Justice Rucker
JURISDICTION	Indiana
DECIDED	March 11, 2009
DOCKET	49S00-0804-JD-157
DISPOSITION	other
PROCEDURAL POSTURE	Original judicial disciplinary proceeding brought by the Indiana Commission on Judicial Qualifications against a superior court judge and a master commissioner. The Indiana Supreme Court exercised original jurisdiction, reviewed the special masters' findings de novo, found Judge Grant W. Hawkins committed judicial misconduct, and imposed a sixty-day suspension without pay.
STANDARD OF REVIEW	The Commission had to prove judicial misconduct by clear and convincing evidence. The special masters' findings and conclusions were not binding, and the Supreme Court reviewed the masters' report de novo.
PRECEDENTIAL VALUE	Published Indiana Supreme Court opinion; precedential

TOPICS

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PRACTICE AREAS

judicial discipline

post-conviction relief

criminal procedure

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QUESTIONS PRESENTED

1. Whether the Commission proved by clear and convincing evidence that Judge Hawkins committed judicial misconduct by failing to supervise Court 5, permitting delays in post-conviction-relief cases, allowing deficient file-management procedures, and permitting a master commissioner to enter final post-conviction orders.
2. Whether Judge Hawkins committed misconduct by failing to promptly report the location of the Buntin file and issuance of the post-conviction-relief order during the Commission's investigation.
3. Whether the Commission proved misconduct based on Hawkins's alleged misrepresentations concerning the file's archival history and the post-it note, his failure to secure evidence, and his failure to address bailiff Talley's conduct.
4. Whether Judge Hawkins committed misconduct by failing to ensure prompt processing of the Buntin relief order and prompt action concerning Buntin's custody, bail, discharge, or retrial.
5. What sanction was appropriate for the proven judicial misconduct.

HOLDINGS

1. A presiding judge with supervisory authority over a master commissioner violates the Code of Judicial Conduct and commits conduct prejudicial to the administration of justice by failing to take reasonable measures to ensure prompt disposition of post-conviction matters and proper performance of judicial responsibilities.
2. A master commissioner may not enter a final appealable order in the post-conviction matters at issue; the commissioner must report findings to the judge, who must enter the final order.
3. After granting post-conviction relief, the court must promptly process the order and enter supplementary orders concerning matters such as custody, bail, discharge, arraignment, or retrial when necessary and proper.
4. A judge commits conduct prejudicial to the administration of justice by failing to promptly notify the Commission after locating the relevant file and issuing the order under investigation.
5. A sixty-day suspension from the office of judge without pay was the appropriate discipline for Hawkins's proven misconduct.

KEY QUOTATIONS

“As a judge with supervisory authority over Commissioner Broyles, Judge Hawkins violated his duty to take reasonable measures to assure the prompt disposition of matters before judicial officers he supervised and

thus bears ultimate responsibility for Commissioner Broyles' delays.” (241)

“The Court agrees that a significant sanction is required but concludes that a period of suspension from office without pay is a significant sanction and the appropriate discipline for Judge Hawkins in this case.” (243)

“Judge Grant W. Hawkins, shall be suspended from the office of Judge in the Marion Superior Court without pay for sixty (60) days commencing the first day following the date of this opinion.” (247)

FACTUAL BACKGROUND

Judge Grant Hawkins presided over Marion Superior Court Criminal Division 5, where master commissioner Nancy Broyles primarily handled post-conviction-relief cases. In Harold Buntin's case, a DNA test undermined the prosecution's biological evidence, but the court delayed ruling for nearly two years; after relief was granted, the order was not promptly processed and Buntin remained incarcerated until a later hearing. The court also had delays in several other post-conviction cases, poor file-management procedures, and a practice of allowing the master commissioner to enter final post-conviction orders without the judge's review and entry. During the Commission's investigation, Hawkins delayed reporting the discovery of the file and order and provided incomplete or inaccurate information, although the Court found several alleged investigative misrepresentations were made in good-faith reliance on staff information.

PROCEDURAL HISTORY

The Commission initiated separate disciplinary actions against Judge Hawkins and Commissioner Nancy Broyles on April 9, 2008; the proceedings were consolidated on June 18, 2008. The Court approved Commissioner Broyles's conditional agreement on October 10, 2008, permanently banning her from judicial service. Special masters filed findings and recommendations concerning Judge Hawkins on October 30, 2008. After briefing and de novo review, the Court accepted most factual findings, rejected several misconduct counts, found Hawkins guilty of specified misconduct, and suspended him without pay for sixty days.

DISPOSITION

other

CASES CITED

- Matter of Drury, 602 N.E.2d 1000 (Ind. 1992)
- Ben-Yisrayl v. State, 738 N.E.2d 253, 264 n. 9 (Ind. 2000)
- Matter of Kouros, 816 N.E.2d 21 (Ind. 2004)
- Matter of Lamdin, 404 Md. 631, 948 A.2d 54 (2008)
- Matter of Williams, 169 N.J. 264, 777 A.2d 323 (2001)
- Matter of Hunter, 823 So. 2d 325 (La. 2002)
- Matter of Washington, 100 N.Y.2d 873, 768 N.Y.S.2d 175, 800 N.E.2d 348 (2003)
- Matter of Newman, 858 N.E.2d 632 (Ind. 2006)
- Matter of Lockwood, 167 Ariz. 9, 804 P.2d 738 (1990)

- Matter of Clark, 866 So. 2d 782 (La. 2004)
- Matter of Van Sharp, 856 So. 2d 1213 (La. 2003)
- Matter of Waddick, 232 Wis. 2d 733, 605 N.W.2d 861 (2000)

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