

SUPREME COURT OF SOUTH CAROLINA

In re Jasper County Magistrate Lynah

345 S.C. 414 (2001) · Decided June 11, 2001

SUMMARY

The South Carolina Supreme Court accepted an agreement in a judicial disciplinary matter involving a Jasper County magistrate who issued a purported judicial-sale notice and bill of sale for a motor vehicle without complying with statutory requirements. The court found violations of Canons 1, 2, and 3 of the Code of Judicial Conduct and suspended the respondent for nine months, retroactive to October 6, 2000.

CASE DETAILS

COURT	Supreme Court of South Carolina
JURISDICTION	South Carolina
DECIDED	June 11, 2001
DISPOSITION	other
PROCEDURAL POSTURE	Judicial disciplinary matter submitted to the Supreme Court of South Carolina pursuant to an agreement between the respondent and Disciplinary Counsel under Rule 21, RJDE.
PRECEDENTIAL VALUE	Published opinion

TOPICS

administrative law

agency adjudication

PRACTICE AREAS

judicial discipline

administrative law

QUESTIONS PRESENTED

1. Whether the respondent's admitted conduct violated Canons 1, 2, and 3 of the Code of Judicial Conduct.
2. Whether the respondent should be suspended from judicial duties and, if so, for what period.

HOLDINGS

1. By issuing the notice of judicial sale and magistrate's bill of sale under the circumstances described in the agreement, the respondent violated Canon 1, Canon 2, and Canon 3 of the Code of Judicial Conduct;

those violations constituted grounds for discipline under Rule 7(a)(1), RJDE.

2. A nine-month suspension from judicial duties was warranted and was imposed retroactively to October 6, 2000.

KEY QUOTATIONS

“By her conduct, respondent has violated the following canons set forth in the Code of Judicial Conduct, Rule 501, SCACR: Canon 1 (a judge shall uphold the integrity and independence of the judiciary); Canon 2 (a judge shall avoid impropriety in all of the judge’s activities); Canon 3 (a judge shall perform the duties of judicial office impartially and diligently).” (416)

“Accordingly, we hereby suspend respondent for nine months, retroactive to October 6,2000, the date of her interim suspension.” (416)

FACTUAL BACKGROUND

While serving as a Jasper County Magistrate, respondent issued a notice purporting to authorize a judicial sale of a motor vehicle for alleged accrued charges owed to another magistrate. The other magistrate did not qualify for relief under the governing statute, no sale was actually conducted, required advertising and notice were absent, and respondent nevertheless issued a magistrate's bill of sale stating that the vehicle had been sold for \$30. The bill of sale was used to obtain a certificate of title, and the conduct discredited the South Carolina judiciary.

PROCEDURAL HISTORY

The respondent admitted misconduct and consented to the imposition of any sanction authorized by Rule 7(b), RJDE. The Supreme Court accepted the agreement and imposed a nine-month suspension, retroactive to October 6, 2000, the date of the respondent's interim suspension. The criminal or misconduct charges against the respondent had been dismissed, while related investigations continued.

DISPOSITION

other

CASES CITED

- In the Matter of Lynah, 342 S.C. 617, 539 S.E.2d 60 (2000)

OPINION

PER CURIAM.

PER CURIAM: In this judicial disciplinary matter, respondent and Disciplinary Counsel have entered into an agreement pursuant to *415Rule 21, RJDE, Rule 502, SCACR. In the agreement, respondent admits misconduct and consents to the imposition of any of the stated sanctions set forth in Rule 7(b), RJDE, Rule 502, SCACR.

We accept the agreement and suspend respondent for nine months, retroactive to October 6, 2000, the date she was placed on interim suspension. See *In the Matter of Lynah*, 342 S.C. 617, 539 S.E.2d 60 (2000). The facts as set forth in the agreement are as follows.

On or about July 29, 1999, respondent, while serving in her capacity as a Jasper County Magistrate, issued an order which purported to give public notice, pursuant to S.C.Code Ann. § 29-15-10 (1991), of a judicial sale of a motor vehicle for “accrued charges” allegedly due Jasper County Magistrate Joyce Lynn Leavell.

Although Judge Leavell was not the proprietor, owner or operator of any storage place, garage, or repair shop, as required in order to be granted relief under section 29-15-10, and although no judicial sale was actually conducted, respondent subsequently issued a Magistrate’s Bill of Sale which stated she had sold the motor vehicle at public auction for \$30 and that the buyer was Judge Leavell.

Respondent was aware that the motor vehicle in question was worth far more than \$30. Moreover, in further violation of section 29-15-10, respondent failed to advertise the sale, and she issued the Bill of Sale without any evidence that Gary Brown, holder of record title to the motor vehicle, had been given written notice by Judge Leavell that she was claiming a lien on the motor vehicle.

In issuing the Bill of Sale, respondent knew Judge Leavell was not seeking to recover the costs of repairs to or storage of the motor vehicle, but that she was simply seeking to obtain a certificate of title to the motor vehicle. Judge Leavell did in fact use the Bill of Sale to obtain a certificate of title to the motor vehicle from the South Carolina Department of Revenue.

Brown has since filed a civil action against Judge Leavell concerning the motor vehicle. Respondent and Judge Leavell were both charged with misconduct in office. Judge Leavell was also charged with breach of trust.

The arrest of the judges received widespread media attention and acted to discredit the judiciary in the State of South Carolina. Respondent maintains she signed the Notice of Judicial Sale and the Magistrate’s Bill of Sale at the request of Judge Leavell, *416who was respondent’s supervisor, and after certain representations were made to respondent by Judge Leavell.

The charges against respondent have been dismissed and she is cooperating fully in the investigation of this matter by the State Law Enforcement Division, the Office of Disciplinary Counsel, and the Fourteenth Circuit Solicitor’s Office. By her conduct, respondent has violated the following canons set forth in the Code of Judicial Conduct, Rule 501, SCACR: Canon 1 (a judge shall uphold the integrity and independence of the judiciary); Canon 2 (a judge shall avoid impropriety in all of the judge’s activities); Canon 3 (a judge shall perform the duties of judicial office impartially and diligently).

These violations also constitute grounds for discipline under Rule 7(a)(1), RJDE, Rule 502, SCACR. In our opinion, respondent's conduct warrants a suspension from her judicial duties for nine months. Accordingly, we hereby suspend respondent for nine months, retroactive to October 6, 2000, the date of her interim suspension. **DEFINITE SUSPENSION.**