

INDIANA SUPREME COURT

In the Matter of the Honorable Geoff L. Robison, Judge of the New Haven City Court

116 N.E.3d 452 (Ind. 2019) · No. 18S-JD-466 · Decided February 4, 2019

SUMMARY

The Indiana Supreme Court explains its dismissal as moot of judicial-discipline proceedings against Geoff L. Robison, a non-attorney judge of the New Haven City Court, following his resignation, closure of the court, and agreement prohibiting future judicial service. The opinion discusses municipal courts' limited authority over infraction deferral programs and cautions judges against assuming prosecutorial functions. The proceedings were terminated without a hearing or finding of misconduct, and no costs were assessed.

CASE DETAILS

COURT	Indiana Supreme Court
WRITING FOR THE COURT	Per Curiam; All Justices
JURISDICTION	Indiana
DECIDED	February 4, 2019
DOCKET	18S-JD-466
DISPOSITION	dismissed
PROCEDURAL POSTURE	Judicial disciplinary proceedings were initiated against a municipal court judge. Before the scheduled hearing, the parties entered a conditional agreement prohibiting the respondent from future judicial service and sought dismissal as moot. The Indiana Supreme Court accepted the agreement, dismissed the matter as moot, discharged the Masters, and issued this opinion to explain the disposition and clarify municipal courts' authority over infraction deferral matters.
PRECEDENTIAL VALUE	Published Indiana Supreme Court opinion; precedential legal guidance on municipal courts' authority over infraction deferral programs, although the disciplinary proceeding was dismissed as moot without a merits finding.
PARTIES	Indiana Commission on Judicial Qualifications

TOPICS

municipal law

statutory interpretation

administrative law

PRACTICE AREAS

judicial discipline

municipal law

statutory interpretation

administrative law

QUESTIONS PRESENTED

1. Whether the judicial disciplinary proceeding should be dismissed as moot after the respondent resigned, the municipal court closed, and the respondent agreed to a prohibition on future judicial service.
2. Whether municipal trial courts may sua sponte dismiss infraction deferral cases or use a prosecutor's signature stamp to administer or execute infraction deferral agreements.
3. Whether a municipal court judge may assume duties assigned by statute to a prosecuting attorney in the administration of infraction deferral programs.

HOLDINGS

1. The disciplinary matter was properly dismissed as moot because the respondent was no longer a judge, the court over which he presided no longer existed, and the conditional agreement prohibited him from future judicial service; continued litigation would inefficiently consume limited judicial resources.
2. Trial courts may neither dismiss infraction deferral cases sua sponte nor use the prosecutor's signature stamp to administer or execute infraction deferral agreements.
3. Municipal court judges, including non-attorney judges, must maintain, preserve, and protect the independence of Indiana's judiciary and comply with the ethical duties applicable to judges.

KEY QUOTATIONS

“Put simply, trial courts may neither dismiss these deferral cases sua sponte nor use the prosecutor’s signature stamp to administer or execute infraction deferral agreements.” (slip op. at 4)

“With this opinion, we terminate the disciplinary proceedings relating to the circumstances giving rise to this case.” (slip op. at 4)

FACTUAL BACKGROUND

Geoff L. Robison served as the non-attorney judge of the New Haven City Court until his resignation effective December 26, 2018; the City Council then voted to close the court. The court and the Allen County prosecutor had an agreement under which the Prosecutor's Diversion Fund paid the city for infraction deferral contracts, but after the prosecutor ended authorization to use the prosecutor's signature stamp and stopped filing infraction cases in the city court, Robison and his staff continued using the stamp. Robison also placed juveniles into an infraction deferral program despite statutory restrictions and dismissed certain partially paid infraction cases without adjudication, preventing refiling in Allen Superior Court. The conditional agreement accepted by the Supreme Court prohibited Robison from future judicial service.

PROCEDURAL HISTORY

The Indiana Commission on Judicial Qualifications filed formal disciplinary charges on September 21, 2018. Respondent Geoff L. Robison answered, and a panel of Masters was appointed. Before the scheduled January 2019 hearing, the parties tendered a conditional agreement and petition to dismiss as moot; the Supreme Court accepted the agreement on January 15, 2019, dismissed the matter, discharged the Masters, and terminated the disciplinary proceedings without a hearing or finding of misconduct.

DISPOSITION

dismissed

CASES CITED

- In re Chapala, 902 N.E.2d 218, 219 (Ind. 2009)
- State ex rel. City of New Haven v. Allen Superior Court, 699 N.E.2d 1134, 1136 (Ind. 1998)
- Public Admonition of the Honorable Martha C. Hagerty, Fremont Town Court (Feb. 9, 2015)
- Public Admonition of the Honorable Martha C. Hagerty, Fremont Town Court (Nov. 19, 2012)
- Public Admonition of the Honorable Roger L. Huizenga, Walkerton Town Court (June 22, 2009)
- In re Harkin, 958 N.E.2d 788 (Ind. 2011)

OPINION

PER CURIAM.

FILED Feb 04 2019, 2:12 pm CLERK Indiana Supreme Court Court of Appeals and Tax Court IN THE Indiana Supreme Court Supreme Court Case No. 18S-JD-466 In the Matter of the Honorable Geoff L. Robison, Judge of the New Haven City Court, Respondent. Decided: February 4, 2019 Judicial Discipline Action Per Curiam Opinion All Justices concur. Per Curiam.

On September 21, 2018, the Indiana Commission on Judicial Qualifications filed a “Notice of the Institution of Formal Proceedings and Statement of Charges” (“Complaint”) against the Respondent, Geoff L. Robison. Respondent timely filed an Answer, and a panel of Masters was appointed on November 1, with a hearing scheduled to commence on January 24, 2019.

On December 31, 2018, the parties tendered a “Conditional Agreement and Petition to Dismiss Matter as Moot.” On January 15, 2019, the Court issued an order accepting the conditional agreement, dismissing this matter as moot, and discharging the appointed Masters.

We now write to further explain this disposition. Stipulated Facts Respondent, at all times pertinent to the charges, was the judge of the New Haven City Court. Respondent is not an attorney. Respondent resigned as judge of the New Haven City Court effective December 26, 2018. That same day, the New Haven City Council unanimously voted to close the New Haven City Court, effective December 31.

The parties' Conditional Agreement, which this Court accepted on January 15, 2019, prohibits Respondent from future judicial service. Discussion When Respondent took office in 2000, only circuit court, superior court, and appellate judges were required to be Indiana-licensed attorneys. Ind. Const. Art. 7, §§ 7, 10; Ind. Code § 33-29-1-3.

In 2015, Indiana Code section 3-8-1-1.5 was amended to require judicial candidates of all town courts and certain city courts to be Indiana attorneys in good standing. Non-attorney judges, like attorney judges, are ethically bound by the Rules of the Code of Judicial Conduct. See Ind. Code of Judicial Conduct, Application 1(A). Indiana Supreme Court | Case No. 18S-JD-466 | February 4, 2019 Page 2 of 6 The Complaint alleges, and Respondent admits, that in 2003, the New Haven City Court and the Allen County prosecutor entered into a written Agreement by which the Prosecutor's Diversion Fund would pay the City of New Haven up to \$25 for each infraction deferral contract the New Haven City Court executed.

In April 2015, the prosecutor informed Respondent that he and his staff were no longer authorized to use the prosecutor's signature stamp to execute infraction deferral agreements and that infraction cases would no longer be filed in New Haven City Court.

After this conversation, Respondent and his staff continued to use the prosecutor's signature stamp to execute infraction deferral agreements pursuant to the 2003 Agreement. In his Answer, Respondent claims that the prosecutor's unilateral change in filing policies breached this Agreement, and argues that it was the prosecutor's responsibility, not the court's, to ensure that local law enforcement agencies were made aware of this policy change and amended their filing practices accordingly.

Indiana Code section 34-28-5-1(f) provides that individuals who were under 18 at the time of an offense are not eligible for an infraction deferral program if the alleged violation falls under certain categories, including traffic regulations, driver's license violations, and open alcoholic beverage violations. Respondent admits that he placed juveniles in the infraction deferral program, thereby violating section 34-28-5-1(f), and explains he was unaware of the change in Indiana law that made minors ineligible for infraction deferrals.

Finally, the Complaint alleges that during the course of the prosecutor's investigation into juvenile infraction deferral agreements, she discovered that Respondent had accepted payments on 10 or more infraction cases without adjudicating the cases.

In September 2017, while dismissing juvenile infraction cases, Respondent also dismissed some of these partial-payment cases. Such dismissals prevented the prosecutor from refiling these infractions in Allen Superior Court.

The Commission charged Respondent with violating five provisions of the Code of Judicial Conduct: Indiana Supreme Court | Case No. 18S-JD-466 | February 4, 2019 Page 3 of 6 • Rule 1.1,

requiring judges to comply with the law; • Rule 1.2, requiring judges to avoid impropriety and act at all times in a manner promoting public confidence in the judiciary's integrity; • Rule 2.2, requiring judges to uphold and apply the law and to perform all judicial duties fairly and impartially; • Rule 2.9(A), prohibiting judges from initiating, permitting, or considering ex parte communications; and • Rule 2.12(A), requiring judges to ensure that court staff, court officials, and others subject to the judge's direction and control act in a manner consistent with the judge's obligations under the Code.

Respondent, who admits many of the Commission's factual assertions but denies that he committed judicial misconduct, is not an attorney and is no longer a judge. The court over which he presided no longer exists, and he has consented to a prohibition on future judicial service.

In the order dismissing this matter, we explained that continued litigation would be an inefficient use of limited judicial resources. See *In re Chapala*, 902 N.E.2d 218, 219 (Ind. 2009). But we write to clarify municipal courts' power to administer infraction cases and infraction deferral agreements and to caution judicial officers on the impropriety of assuming the prosecutor's duties.

Infraction proceedings are civil, as opposed to criminal, in nature. *State ex rel. City of New Haven v. Allen* Superior Court, 699 N.E.2d 1134, 1136 (Ind. 1998). The prosecuting attorney is empowered to enforce infraction statutes on behalf of the State. Ind. Code § 34-28-5-1(a). Pursuant to this authority, prosecuting attorneys and attorneys for municipal corporations can establish infraction deferral programs by which defendants may seek dismissal of an infraction by paying certain fees and fulfilling other conditions.

Ind. Code § 34-28-5-1(g). When a defendant complies with the terms of an infraction deferral agreement, "the prosecuting attorney or the attorney for the municipal corporation shall request the court to dismiss the action." *Id.* Put simply, trial courts may neither dismiss these deferral cases sua sponte nor use the prosecutor's signature stamp to administer or execute infraction deferral agreements.

Either action is an improper assumption of Indiana Supreme Court | Case No. 18S-JD-466 | February 4, 2019 Page 4 of 6 the prosecutor's distinct role and flouts the Code of Judicial Conduct's overarching goal of an independent, fair, and impartial judiciary. Respondent is not the first Indiana judge to face such allegations. See Public Admonition of the Honorable Martha C. Hagerty, Fremont Town Court (Feb.

9, 2015) (admonishing non-attorney judge for repeatedly engaging, or allowing staff to engage, in ex parte conversations with a traffic infraction litigant and his attorney); Public Admonition of the Honorable Martha C. Hagerty, Fremont Town Court (Nov. 19, 2012) (admonishing non-attorney judge for repeatedly engaging in ex parte conversations with the prosecutor and traffic infraction litigants); Public Admonition of the Honorable Roger L. Huizenga, Walkerton Town Court (June

22, 2009) (admonishing non-attorney judge for participating in an ex parte conversation with a defendant about the status of her traffic infractions and for assuming the role of the prosecutor when negotiating a resolution to the defendant's case).

See also *In re Harkin*, 958 N.E.2d 788 (Ind. 2011) (attorney judge suspended without pay for 60 days for establishing unauthorized deferral program for traffic offenses). While municipal courts are created by statute and empowered to decide only certain cases, their status as "special courts" does not absolve them of the duties of a separate but co-equal branch of government.

Municipal court judges, like all judges, must endeavor to maintain, preserve, and protect the independence of Indiana's judiciary, even when administering the lowest-level civil and criminal offenses. With this opinion, we terminate the disciplinary proceedings relating to the circumstances giving rise to this case.

Because this action was dismissed without a hearing and without a finding of misconduct by the panel of Masters, Respondent will not be assessed costs. See Ind. Admis. Disc. R. 25(IV). All Justices concur. Indiana Supreme Court | Case No. 18S-JD-466 | February 4, 2019 Page 5 of 6
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Indianapolis, Indiana Indiana Supreme Court | Case No. 18S-JD-466 | February 4, 2019 Page 6 of 6