

IN THE  
ARKANSAS JUDICIAL DISCIPLINE AND DISABILITY COMMISSION

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JUDICIAL DISCIPLINE  
AND  
DISABILITY COMMISSION

IN THE MATTER OF

JUDGE O. JOSEPH BOECKMANN JR. 14-310, 14-312, 14-313 & 14-314

RESPONSE TO ALLEGATIONS

Comes the Respondent, Judge O. Joseph Boeckmann Jr, through his attorney, Jeff Rosenzweig, and for his Response states:

1. Boeckmann generally and specifically denies the allegations made in JDDC Case No. 14-310 and JDDC Cases No. 14-312, 313 and 314 unless specifically admitted. Any omission of a response to a specific allegation of fact should be treated as a denial. In general, Boeckmann denies that he has “improperly acted with undignified and discourteous temperament toward litigants, acted with bias and prejudice toward litigants, and acted in a personal, extrajudicial capacity with litigants before him which would interfere with the proper performance of his judicial duties and should have led to frequent disqualification, as a result of the nature of the relationships he maintains with criminal and traffic defendants before Cross County District Court.” Boeckmann denies violation of any of the provisions of the Code of Judicial Conduct alleged by the Commission.

2. Boeckmann admits that he is a part time district court judge in the First

Judicial District, serving Cross County, Arkansas and has served in this capacity since January 1, 2009. He understands Kimberly Warmath to be an investigator for the Adult Protective Services Division of Arkansas Department of Human Services. He understands Harriet Gold, Martha Dixon, and Barri Copete, to be heirs of or next of kin of Luther and Winifred Sigman, clients of Wynne Elder Care, LLC.

3. Boeckmann admits he was admonished by the Judicial Discipline and Disability Commission (*hereinafter referred to as "JDDC"*), in JDDC Case #2009-308, on March 18, 2011 for conduct involving members of the Avellino family in and around Cross County, Arkansas.

4. Boeckmann admits that an "own recognizance" bond was set in Cross County District Court. However, Boeckmann states that the recognizance bond was at the specific recommendation of law enforcement. The complainants and the Commission apparently conceive of bond as a form of prejudgment punishment, but instead it is merely a device to assure a person's appearance at trial. For example, Rule 9.2, A,R.Crim.P. provides that "(T)he judicial officer shall set money bail only after he determines that no other conditions will reasonably ensure the appearance of the defendant in court."

5. Boeckmann states that he has not presided over any contested matter involving Anthony Avellino and Joseph Avellino since the 2011 judicial discipline

matter involving them. Boeckman admits that Crystal Avellino is also the biological mother of his niece. Boeckmann admits that his sisters have a relationship with Wynne Elder Care, LLC. Boeckmann's checks to Wynne Elder Care were for care rendered to a relative and not for any control of the business. Boeckmann has never had any ownership interest in the company.

6. Boeckmann has no knowledge of statements alleged to have been made to Kimberly Warmath by other individuals. He has no control whatever over what other persons may have said or not said to Warmath. He specifically denies any overt or implicit attempt to influence any investigation.

7. Boeckmann states that he has not presided over any contested matter involving Anthony or Joseph Avellino since the resolution of JDDC#2009-308. Specifically, if one of the Avellinos had a traffic ticket and paid the preset fine, Boeckmann would not even have heard of their involvement and would have had neither the knowledge of or a reason to recuse. The same applies to his nephew, Chuck Carter.

8. Boeckmann denies awarding community service to certain litigants based on gender. Boeckmann denies any sexual or otherwise improper motivation for any photography; any photography was solely for the purpose of recording proof of community service. Boeckmann denies using judicial status to form personal or

sexual relationships with any litigants. Boeckmann denies engaging in any pattern of seeking out young Caucasian male litigants for the purpose of forming personal, sexual relations with the litigants. Boeckmann denies allowing "certain male litigants to linger after court and receive instructions on where and how these "substitutionary sentences" shall be conducted. On one occasion involving two persons who committed Game and Fish violations, Boeckmann authorized community service in addition to a fine in the anticipation that the service would help them with their administrative issues with the Game and Fish Commission. When it turned out that the community service would not help, Boeckmann excused them from the service. Boeckmann denies depriving court staff of information concerning these sentences. Boeckmann denies soliciting any of these litigants for sexual relations. Boeckmann denies calling male litigants on their personal telephone numbers to offer community service.

9. Boeckmann denies any improper, illegal or unethical relationship with K.B. Boeckmann denies any photography with K.B.. Any financial payments Boeckmann made to K.B. were for computer services or for a transaction which could be termed either as a loan or as prepayment for computer services. K.B. did not remove any child pornography from Boeckmann's computer because there never was any child pornography on the computer. Any presiding which Boeckmann did over

any cases of K.B. after their business relationship began would have been over uncontested ministerial matters.

10. Boeckmann denies any improper, illegal or unethical relationship with R.G. To Boeckmann's knowledge, R.G. performed successfully performed community service in lieu of paying a fine. Boeckmann denies any other allegations involving R.G.

11. Boeckmann denies any improper, illegal or unethical relationship with A.A. Before Boeckmann became a judge, A.A. was a client. Any representation of A.A. was completely ethical and proper. A.A. was not able to pay money, so he did maintenance work for Boeckmann's rental business. Boeckmann denies any sexual relationship with A.A., including spanking and photography. The bond reduction matter involving Crystal Avellino is dealt with above. Boeckmann denies "causing" A.A. to work for other persons, but no had objection to A.A. doing so.

12. Although Boeckmann has written checks to lawyers in Wynne who appear before him, this is an unavoidable consequence of the fact that he is a part-time judge with a private law practice in a small town. On several occasions involving preset fines for traffic tickets in which no court appearance was required, Boeckmann paid tickets for friends and acquaintances who owed fines. Since the fine amounts had been preset and were the same for all, and involved no court appearances, Boeckmann

determined that there would be no conflict.

13. Boeckmann specifically denies that he has possessed pornographic images of young males under the age of eighteen (18) on personal computers maintained within his residence or anywhere else. Any witnesses who so claim have not told the truth.

14. Boeckmann specifically denies that he sentences male litigants charged with the same traffic citation or misdemeanor criminal citation to a more lenient sanction than a female or minority litigant, charged with the same or similar offenses.

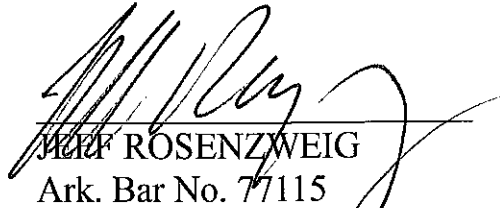
15. Boeckmann specifically denies the allegations grouped as “Discourteous, Impatient and Undignified Judicial Demeanor.”

16. Boeckmann denies any retaliation against Officer Kenneth Pickett.

17. Boeckmann denies the allegations summarized as the “totality” of his conduct. He denies the allegations of improper demeanor, appearance of impropriety or violations of the criminal law.

WHEREFORE, Boeckmann prays that after the hearing to be conducted, that the allegations be dismissed as unfounded and untrue.

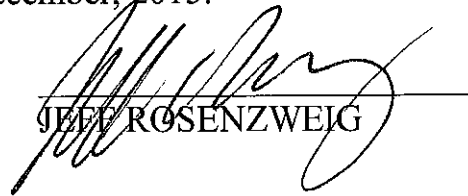
JUDGE JOSEPH BOECKMANN

  
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*Attorney for Respondent Boeckmann*

CERTIFICATE OF SERVICE

I, Jeff Rosenzweig, hereby certify that I have hand delivered a copy of the foregoing to David Sachar and Emily White, JDDC. 323 Center St., Suite 1060, Little Rock, AR 72201 this 15 day of December, 2015.

  
JEFF ROSENZWEIG