

SUPREME COURT
OF GEORGIA
FILED

**BEFORE THE COMMISSION ON JUDICIAL QUALIFICATIONS
STATE OF GEORGIA**

2011 MAY 10 PM 12:10

THERESE S. BARNES
CLERK

In re:

**Inquiry Concerning
Magistrate Judge
Anthony Peters**

Docket Nos. 2011-12 & 2011-14

REPORT OF THE JUDICIAL QUALIFICATIONS COMMISSION

COMES NOW the Judicial Qualifications Commission of the State of Georgia (the "Commission") and, after conducting a formal hearing in the above-referenced matter, makes the following report of its findings and recommendations to the Supreme Court of Georgia:

I. Statement of the Case

The Commission began receiving complaints about alleged misconduct of Anthony Peters, Judge of the Magistrate Court of Catoosa County, Georgia, in the summer of 2010, from Chief Magistrate Judge Sonny Caldwell and others. (R. 1-8, 13-23). After a preliminary investigation into the allegations of misconduct against Judge Peters, the Commission requested, pursuant to Rule 4 of the Rules of the Commission, that Judge Peters respond to the allegations. (R. 9, 24). On August 21, 2010, and September 2, 2010, Judge Peters provided a written response to the allegations of ethical misconduct. (R.10-12, 25-26). Judge Peters exercised his

right to appear before the Commission to discuss the allegations against him on October 28, 2010. (R. 27).

The Commission voted to file formal charges against Judge Peters. Formal Charges were filed in the Supreme Court of Georgia on February 8, 2011. (R. 28-38). Judge Peters filed his response to those charges with the Commission on March 11, 2011. (R. 39-45). The Commission held the Formal Hearing for Judge Peters on April 14-15, 2011. (T. I-1, R. 46-47). At the conclusion of the presentation of evidence, Counsel for the Commission filed an Amended Notice of Formal Proceedings. (R. 51-60).

II. Findings of the Commission

Anthony Peters, Judge of the Magistrate Court of Catoosa County, was appointed to that position to serve a four (4) year term commencing on January 1, 2009. (T. I-244). Judge Peters was first appointed to the position of Magistrate Judge in January 1997, by the elected Chief Magistrate, Sonny Caldwell. (T. I-244-246). From January 2009, until the present, Judge Peters served as a full-time appointed Magistrate Judge. (T. I-244-246). Complaints were lodged against Judge Peters with the Commission alleging his failure and refusal to perform the duties assigned by the Chief Magistrate, engaging in criminal conduct through the use of illicit and illegal drugs, using his judicial position to advance the personal

interests of a family member, and generally engaging in injudicious conduct which brought his office into disrepute. (R. 1-23). Judge Peters is 49 years old, a high school graduate, and a former deputy sheriff and investigator with the Catoosa County Sheriff's Office.

With regard to the specific counts alleged against Judge Peters, the Commission finds as follows:

COUNT I

The Commission finds by clear and convincing evidence that Judge Peters violated Canon 2 of the Georgia Code of Judicial Conduct, which requires a judge to "respect and comply with the law" and to "act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." *Id.* Judge Peters admitted in his verified Answer, and during his testimony at his hearing, that he obtained and consumed marijuana at least once a week for a period of three months (approximately March, April, and May of 2010). (T. I-260-261).

COUNT II

The Commission does not find by clear and convincing evidence that Judge Peters violated Canons 2 or 3 of the Code of Judicial Conduct for allegations that he unlawfully attempted to hold Catoosa County Deputy Sheriff Teresa Wengert in

contempt of court for leaving a telephone message on Judge Peter's office phone, complaining about her inability to contact a magistrate. (T. I-265).

The evidence adduced at the hearing revealed that Judge Peters issued only a *Rule Nisi* for the purposes of inquiring into whether Ms. Wengert should be held in contempt. (T. I-155). Such conduct does not rise to the level of constituting a clear violation of the Code of Judicial Conduct by clear and convincing evidence.

COUNT III

The Commission finds by clear and convincing evidence that Judge Peters violated Canon 2 of the Code of Judicial Conduct when, on or about February 5, 2009, Judge Peters accompanied his then sister-in-law to the home of her estranged husband in an effort to use his judicial status to promote the private interests of a family member. (T. I-144-150). When Peters arrived at the home he identified himself as a Magistrate Judge to the occupants of the home and, at the request of a family member, forced himself into two bedrooms by kicking in two interior doors of this residence, inappropriately using his judicial office to advance the personal interests of a family member. (T. I-144-150, 219-220).

Thereafter, Judge Peters claims to have discovered several prescription drug pills. (T. I-147). When Lt. Dan Bilbrey of the Catoosa County Sheriff's office arrived at the scene, Peters again improperly used his position as a Magistrate Judge in furtherance of the private interests of a family member, in an attempt to

effectuate the arrest of two occupants of the premises. (T. I-148-150, 235-238).

When Lt. Bilbrey refused to arrest the occupants, Peters became enraged and began using inappropriate profane, abusive, vulgar and injudicious language in a public setting and in a manner which interfered with Lt. Bilbrey in the lawful conduct of his duties. (T. I-150, 235-238).

We find by clear and convincing evidence that Judge Peters violated Canon 2 of the Code of Judicial Conduct, which requires judges to “respect and comply with the law” and to “act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.”

COUNT IV

The Commission finds by clear and convincing evidence that in the spring of 2009, in the Catoosa County Courthouse, Judge Peters pointed a firearm at himself and indicated to another Magistrate Judge that he was not afraid to die saying “I am not scared. Are you all scared?” (T. I-139-145).

There was a conflict in the testimony at the hearing regarding this incident. Judge Vic Wells testified that he recalled the event and gave several statements after the fact that suggested other judicial officers were present. Evidence introduced at the hearing revealed that Judge Wells could only recall that another witness, a non-judicial officer, was present. (T. I-153-155). Judge Peters denied this incident occurred at all. (T. I-275). The conflict in the testimony requires that

the Commission, as the trier of fact, must weigh and consider the credibility of the witnesses. Judge Wells testimony is credible on a number of counts. First, he testified in detail about the trigger mechanism of the gun (T. I-141) and other particular details which indicate a very clear recollection of the gun-play incident. (T. I-139-145). Judge Peters, although he denies this event, was admittedly under the influence of pain killers and marijuana. (T. I-276-278). Judge Peters also states that during this period of time he has little, or no, recollection of certain events such as his appearance on a local cable access talk show. (T. I-276-278). The Commission finds the testimony of Judge Wells to be credible and thus, finds that the “gun-play” incident occurred in the Catoosa County Courthouse.

Weighing the credibility of the witnesses, the Commission finds by clear and convincing evidence that Judge Peters violated Canon 2 of the Code of Judicial Conduct. Canon 2 provides in the commentary that “public confidence in the judiciary is eroded by irresponsible and improper conduct.”

COUNT V

The Commission finds by clear and convincing evidence, based upon Judge Peters own admission in his verified Answer and his testimony at the hearing, that on June 21, 2010, he appeared on a local cable television talk show known as “Night Talk” and referred to the Chief Magistrate Judge as “spineless” and made other derogatory and injudicious comments about the Chief Magistrate (T. I-272-

273). Judge Peters also publically disclosed that he had filed a complaint with the Commission against the Chief Magistrate Judge for allegations of judicial misconduct. (T. I-277, Commission Ex. 1). This public disclosure was in violation of the confidentiality provisions of Rule 20 of the Rules of the Judicial Qualifications Commission. Moreover, while displaying a photograph of an individual, Judge Peters identified the individual by name as a confidential informant of the Catoosa County Sheriff's Office. (T. I-77-78, 236-238, Commission Ex. 1). Although evidence adduced at the hearing revealed that the individual was a confidential informant, the Commission finds that the status of the informant is inconsequential to the violation. Indeed, if the individual was not, in fact, a confidential informant, the disclosure of the person as a "purported informant" was still inappropriate and reckless. Regardless, the disclosure of the individual as a purported informant jeopardized the personal safety and security of the individual. All the aforementioned conduct by Peters on the "Night Talk" program was inappropriate and injudicious, undermined public confidence in the judiciary and reflected poorly on the prestige of Judge Peter's judicial office.

While Peters admits the violation of Canon 2 in his answer, the Commission further finds by clear and convincing evidence presented at the hearing that the aforementioned conduct violates Canon 2 of the Code of Judicial Conduct, which requires judges to "respect and comply with the law" and to "act at all times in a

manner that promotes public confidence in the integrity and impartiality of the judiciary.”

COUNT VI

The Commission finds by clear and convincing evidence, and by Peters own admission in his verified Answer and during his testimony at the hearing, that Judge Peters again participated in a local cable television talk show when he made a telephone call to the show during the interview of the Catoosa County Sheriff, on June 22, 2010, initially attempting to disguise his voice with multiple foreign accents while conversing with the Sheriff. (T. I-274-278, Commission Ex. 2). During the call, Peters indicated to the Sheriff that he had “crapped himself” and that the sheriff was a “spineless...jelly spine....” (T. I-274-278, Commission Ex. 2).

The Commission finds by clear and convincing evidence that Judge Peters violated Canon 2 of the Code of Judicial Conduct, which requires judges to “act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary” by publicly engaging in gross injudicious conduct.

COUNT VII

Count VII was dismissed by the Counsel for the Commission.

COUNT VIII

The Commission finds by clear and convincing evidence that on June 16, 2010, Chief Magistrate Judge Sonny Caldwell assigned Judge Peters to work

between the hours of 3:00 pm to 11:00 pm to perform his duties as Magistrate Judge, and that Judge Peters refused to comply with the Chief Magistrate's directive. (T. I-112-113), Then-counsel for Judge Peters, Larry Stagg, met with county officials in an attempt to work out a schedule contingent upon there being a "written policy" with regard to work schedules in the Magistrates' Office. (T. II-323-324). The Commission finds that the Judge's initial refusal to work the hours assigned was insubordinate and a violation of the Code of Judicial Conduct and in contravention of O.C.G.A. §15-21-6. Judge Peters was required to perform his duties as assigned by the Chief Magistrate.

The Commission finds by clear and convincing evidence that Judge Peters violated Canon 3B(1) of the Code of Judicial Conduct which requires judges to "hear and decide matters assigned to them...."

COUNT IX

Count IX was dismissed by the Counsel for the Commission.

COUNT X

Count X was dismissed by the Counsel for the Commission.

COUNT XI

Count XI was dismissed by the Counsel for the Commission.

COUNT XII

The Commission finds by clear and convincing evidence that based upon the judicial misconduct proven in Counts I, III, IV, V, VI, and VIII, Judge Peters'

conduct violates Canon 1 of the Code of Judicial Conduct, which requires judges to “establish, maintain, and enforce high standards of conduct so that the integrity and independence of the judiciary may be preserved.”

III. Conclusions

As Judge of the Magistrate Court of Catoosa County, Judge Peters has, among other duties, the responsibility to conduct preliminary/first appearance hearings, set bonds on certain offenses, issue search and arrest warrants, decide civil claims up to \$15,000, preside over criminal matters such as misdemeanor possession of marijuana and minor in possession of alcohol offenses and to adjudicate landlord/tenant disputes. For many citizens, appearing in the Magistrate Court of Catoosa County is their first and only contact with the judicial system. The Magistrate Court is the “people’s court.” Magistrate judges are often the only faces of the judicial system members of the public will ever see. It is for that reason that public confidence in these courts is of paramount concern.

On June 16, 2010, Chief Magistrate Caldwell directed Judge Peters to begin working a shift from 3:00 p.m. to 11:00 p.m. Judge Peters specifically refused the directive to work the assigned shift and thereafter refused to leave the office of Chief Judge Caldwell. Judge Peters was arrested by the Catoosa County Sheriff’s Department and escorted from the courthouse. Thereafter, Judge Peters was placed

on “administrative leave” and has not returned to work as a Magistrate since June 16, 2010. He has continued to draw his full salary. (T. I-280).

Judge Peters admitted violating the very criminal laws he was sworn to uphold. He admitted obtaining and consuming marijuana on at least a weekly basis over a three (3) month period in early 2010. Testimony adduced at trial revealed that Judge Peters exhibited irrational, illogical, and volatile behavior. Judge Peters, who was divorced in 2010, testified that he spiraled downward after his father’s suicide, became addicted to prescription opiates after being seriously injured in a 2005 ATV accident, and began using marijuana in an attempt to stay off prescription pain-killers.

Judge Peter’s former attorney and friend, Larry Stagg, testified that following the June 2010 courthouse incident, Peters “almost went Charlie Sheen.” (T. II-320). The testimony from several courthouse officials revealed that Judge Peters had been acting very erratically and unpredictably during the months leading up to the June 2010 incident. Judge Peters offered in his verified Answer that this was a “rough patch” in his life and his problem with illegal drug use ended in the fall of 2010, “when [he] flushed the pills down the toilet.” (R. 39, T. II-375). Peters testified, despite his admitted use of drugs, and his testimony that he had no recollection of certain events in 2010 such as his appearance on the “Night Talk” cable TV show, that he was “ashamed of that man.” (T. II-375-376). While he

admitted weekly drug use over a period of several months, the Commission noted that since the date he was arrested and removed from the courthouse, Peters has received no professional treatment of any kind for his drug use. (T. II-362-364). Peters has attended no counseling or other recovery support groups or been under the care of any psychologist, psychiatrist or drug treatment professional. (T. II-362-364). The extent of his drug treatment was flushing some pills down the toilet. Peters testified that he was taking the anti-depressant Lexapro, pain medication and smoking marijuana simultaneously during the months of March, April and May 2010. (T. II-366-369) In spite of such drug use, Peters suggests that he has dealt with this drug problem "on [his]own." (T. II-363). However, evidence at the hearing suggested his impairment was significant. Peters acknowledged that seeing himself on the "Night Talk" program during the JQC hearing "disturbs" him. (T. I-267). Judge Peters admitted that he could not remember that he disclosed the identity of a confidential informant on the cable TV show, nor did he remember that he also disclosed that he had reported Chief Magistrate Sonny Caldwell to the Commission. (T. I-276-277).

Peters admitted that he advised underage defendants appearing before him for Minor in Possession of Alcohol offenses to go out in the woods and drink so they would not get caught. (T. I-267-268, II-358) Peters openly boasted around the

office that as a Magistrate Judge he could not be required to take a drug test. (T. I-138). Judge Peters has shown a troubling pattern of contempt for the law.

The evidence in this case strongly demonstrates that Judge Peters has engaged in a pattern of conduct that has brought disrepute upon his judicial position and the judiciary. The testimony at the hearing revealed that Peter's erratic and irrational behavior has eroded confidence in his ability to be a judge. Several courthouse employees and a magistrate judge testified that they would resign their jobs rather than work in the Courthouse if Judge Peters returned as a magistrate judge. (T. I-118, 197). Former Lieutenant Dan Bilbrey (now Police Chief of Ringgold) testified that he would not trust Judge Peters to perform his judicial role given his previous conduct and his disclosure of a confidential informant. (T. I-237).

Judge Peters points to various personal problems, stress, and his lack of coping skills as the major cause of his misconduct. (T. II-364-365, 373-374). This argument is not persuasive. Judge Peter's conduct, when taken as a whole, clearly demonstrates his lack of understanding of the requirements that he conduct himself at all times with competence, dignity and decorum. Judge Peters' lack of appreciation of the need for competent substance-abuse counseling to deal with his drug problems also undermines his defense that he has rehabilitated himself. (T. II 362-369). Even if Peters was capable of rehabilitation, the question for this

Commission is whether he should continue to serve as a judge. Judge Peters seeks to offer impairment in mitigation of his conduct. However, the Commission is troubled by Peters' failure to seek any professional treatment since last summer when he was placed on administrative leave. His continued service on the bench offers no assurances that he has appropriately addressed the drug issue such that the public could have confidence in his abilities to be a judge.

The gravamen of his conduct is the extent to which he made his personal problems a public spectacle. Judge Peters' conduct following the June 16, 2010, courthouse incident did not seek to ameliorate the damage he had inflicted upon the judicial system over a period of years, or to offer assurances to the public that the courts were to be respected. To the contrary, Peters' public airing of his grievances against all those in the judicial system he perceived as "hit[ting him] on the nose," (T. I-271) brought discredit upon the entire judiciary and eroded public confidence in the very court he took an oath to serve.

The Preamble to the Code of Judicial Conduct expects and demands nothing less of our jurists:

"Judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in our judicial system. Every judge should strive to maintain the dignity appropriate to the judicial office. The judge is the arbiter of facts and law for the resolution of disputes and highly visible symbol of government under the rule of law. As a result, judges should be held to a higher standard, and should aspire to conduct themselves with the

dignity accorded their esteemed position.” *In the Matter of: Inquiry Concerning a Judge*, Nos. 94-8, 94-64, 94-74, 95-44, 95-56, 265 Ga. 843, 462 S.E.2d 728 (1995).

It is imperative that judges strive to enhance the public confidence in the esteemed position accorded them.

IV. Recommendations

Judges are to be held to a higher standard than the average citizen and should aspire to conduct themselves with the dignity accorded their esteemed position. The facts here, as proven conclusively, demonstrate conduct that cannot be condoned if the public is to maintain confidence in the judiciary. In determining the sanction to be imposed, the Commission has considered the seriousness of the transgressions (Judge Peters has admitted violating criminal laws he was sworn to uphold), the pattern of improper activity (Judge Peters' misconduct was a series of serious infractions), and the effect of the improper activity on others or on the judicial system (Judge Peters' public display of his transgressions before the people of Catoosa County brought disrepute upon the judicial system).

Pursuant to JQC Rule 7(e), discipline may be imposed upon a showing by clear and convincing evidence that the judge engaged in "conduct prejudicial to the administration of justice which brings the judicial office into disrepute." *See* Rule 4(b) of the Rules of the Judicial Qualifications Commission. Prejudicial conduct

refers to actions taken in bad faith by a judge acting outside of his or her judicial capacity. Whether discipline should be imposed and the severity of discipline depends, in part, upon the effect of the improper activity on the judicial system. *In the Matter of: Inquiry Concerning a Judge*, 265 Ga. 326(1), 454 S.E.2d 780 (1995). The purpose of judicial removal proceedings and the function of the JQC, above all, are to assure the citizens of this State that the judiciary is worthy of its trust. *See* Canon 1 of the Code of Judicial Conduct.

Because Peters acted in a manner which brought great discredit upon the entire judicial system, the case for his removal is compelling. Judges are required to avoid not just impropriety, but the very appearance of impropriety in their activities in order to maintain public confidence in and respect for the judiciary. The test for the appearance of impropriety is whether the situation would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired. [Cit.]" *In the Matter of: Inquiry Concerning a Judge*, 269 Ga. 425, 499 S.E.2d 319 (1998). Judge Peters' continued presence on the bench erodes the public's confidence in the judiciary and puts at risk the integrity of the judicial system of which he is a member.

“Those who are called upon to live the life of a judge must act with dignity and respect toward others, and must assume full responsibility for their actions. The judges who sit in our communities are entrusted with the duty to safeguard the fundamental rights of others. When, as here, it is established by clear and convincing evidence that an individual is not competent to sit as a judge because [he] has breached that sacred trust, the same great authority that established those fundamental rights commands us to protect the citizenry and the judicial system from harm, and remove that individual.” *In the Matter of: Inquiry Concerning a Judge*, 265 Ga. 843, 462 S.E.2d 728 (1995)

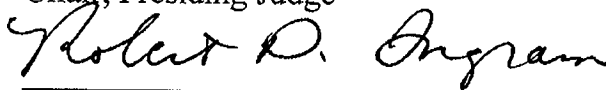
Fully recognizing that the object of disciplinary proceedings is not to inflict punishment, but to determine whether one who serves as a judge is fit to hold that judgeship, the Commission comes to the following unanimous decision:

Judge Anthony Peters’ misconduct has brought disrepute upon himself and the entire judicial system. We find that Judge Anthony Peters should be removed *instanter* from his position as Judge of the Magistrate Court of Catoosa County, Georgia. Maintaining public confidence in the judicial system compels us to state and find that Judge Peters should be prohibited from ever holding or seeking elected or appointed judicial office in the State of Georgia.

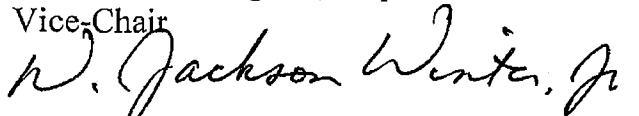
Respectfully submitted this 10th day of May, 2011.



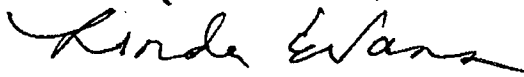
Hon. John D. Allen
Chair, Presiding Judge



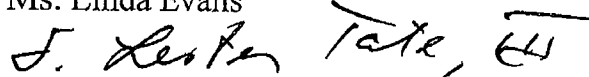
Mr. Robert D. Ingram, Esq.
Vice-Chair



Mr. W. Jackson Winter, Jr.



Ms. Linda Evans



Mr. S. Lester Tate, III, Esq.

(signed by Jeffrey R. Davis, Director, with permission)

Commission members Mr. James B. Durham and Judge Constance C. Russell did not participate in the Formal Proceedings.

Judicial Qualifications Commission
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CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing "Report of the Judicial Qualifications Commission" via U.S. Mail (with a courtesy copy via email) to:

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This 10th day of May, 2011



Jeffrey R. Davis
Director
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Judicial Qualifications Commission
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