

IN THE TENNESSEE COURT OF THE JUDICIARY

IN RE: THE HONORABLE JOHN A. BELL, JUDGE,
GENERAL SESSIONS COURT,
COCKE COUNTY, TENNESSEE

DOCKET NUMBER: M-2009-02115-CJ-CJ-CJ

COMPLAINT OF DAVID PLEAU
FILE NUMBER: 08-3508

FILED
JUN 14 2010
Clerk of the Courts

ORDER

This matter came to be heard June 2-3, 2010. The Court makes the following Findings of Fact and Conclusions of Law:

COUNT I

This Count involves the allegation of excessive delay. It is admitted Pleau I was heard on September 18, 2007 and a judgment was rendered on June 27, 2008. Judge Bell cites reasons for the delay to include a large caseload, the need for extensive research, a computer crash problem and a car accident in which Judge Bell was injured. The Court finds the testimony of Judge Bell not credible.

The Court finds a violation of Tennessee Canon of Judicial Ethics 3(B)(8) which requires a judge to dispose of all judicial matters promptly and efficiently was established by clear and convincing evidence. The Court was unanimous in making this determination.

The Court further finds in regard to a violation of Canon 2(A) and Canon 3(B)(2) the burden of clear and convincing proof was not met by Disciplinary Counsel.

COUNT II

This Count involves the allegation Judge John Bell was prejudiced against Jo Ann Coleman since he had previously expressed an opinion on the responsibility and damages in this exact cause which was heard without notice to Ms. Coleman on September 18, 2007. A subsequent hearing on Pleau II in which Ms. Coleman testified had a similar finding of facts as set out in Judge Bell's ruling in Pleau I. In Pleau II, it is alleged Judge Bell failed to disclose his past communication through his counsel in regard to the pending complaint with the Court of the Judiciary to either Ms. Coleman or counsel for Merastar.

The Code of Judicial Conduct sets out in 3(E)(1) in pertinent part that "A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where: (a) the judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge* of disputed evidentiary facts concerning the proceeding" The Commentary to that rule states that "A judge should disclose on the record information that the judge believes the parties or their lawyers might consider relevant to the question of disqualification, even if the judge believes there is no real basis for disqualification." Judge Bell violated this Canon by not disclosing to Ms. Coleman or Merastar Insurance Company his past communication to Mr. Pleau by Mr. Testerman in regard to the pending complaint with the Court of the Judiciary, and by not disclosing to Ms. Coleman that he had already tried the case once before, finding for Mr. Pleau, and found her 100% at fault in the accident and Mr. Pleau 0% at fault.

The Court finds a violation of the Canon mentioned above was established by clear and convincing evidence. The Court was unanimous in making this determination.

The Court finds no violation of Canon 3(B)(1) as set out in Count II.

COUNT III

Count III alleges Judge John Bell, through his attorney, Tom Testerman, initiated contact with David Pleau to discuss a possible dismissal of a complaint pending with the Tennessee Court of the Judiciary while Mr. Pleau had a pending General Sessions case before Judge Bell.

The Court finds by clear and convincing evidence there has been a violation of Canon 3(B)(7) - a judge shall perform the duties of judicial office impartially and diligently... A judge shall not initiate, permit or consider ex-parte communications or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding... The Court finds by a vote of five to three Pleau I was so entwined with the complaint filed by Mr. Pleau, the contact initiated by Judge Bell was a violation.

The Court also finds Judge Bell violated Canon 2(A) which requires a judge to respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. This was proven by clear and convincing evidence and the vote of the Court was unanimous.

The Court finds Disciplinary Counsel did not prove by clear and convincing evidence a violation of Canon 3(B)(8) and 3(B)(2).

SANCTIONS

Based upon the previous rulings of the Court, it has been determined Judge John Bell has violated several Canons of Judicial Ethics. The Court in determining the appropriate sanctions has referred specifically to T.C.A. 17-5-301(i) which sets out the criteria to be considered by the Court in determining appropriate discipline. The Court finds there have been prior complaints about Judge Bell, including one that involved delay in issuing a ruling which resulted in a warning from the Court; the misconduct occurred both in and out of the courtroom; the judge has not evidenced any effort to change or modify his conduct, and in fact admits no wrongdoing; the misconduct

occurred while the judge was acting in an official capacity; and the judge has not acknowledged the nature and impropriety of the acts. This Court has also taken into consideration the effect of the misconduct upon the integrity of, and respect for, the judiciary.

Based upon these findings, the Court determines the appropriate sanctions are as follows:

1. Judge John Bell shall be suspended without impairment of compensation, pursuant to state law, for 90 days beginning August 1, 2010.
2. Judge Bell is hereby required to render a decision in any cases in a period not to exceed 30 calendar days from the date of the hearing and in the event he fails to meet this time frame, he is to notify Disciplinary Counsel immediately.
3. Judge Bell, at his own expense, is hereby required to complete 24 hours of judicial ethics training in 2010, 12 hours of judicial ethics training in 2011 and 6 hours of judicial ethics training in 2012. Online courses will not be permitted and any programs/seminars must be pre-approved by the Presiding Judge of the Tennessee Court of the Judiciary. A certificate of attendance, indicating the number of actual hours in attendance, shall also be provided to the Presiding Judge upon the completion of each course.
4. Cost of this matter will be assessed to Judge Bell.

This Order has been reviewed by all members of the hearing panel and the Presiding Judge is hereby granted the authority to sign this Order on their behalf.

IT IS SO ORDERED, this 14 day of June, 2010.



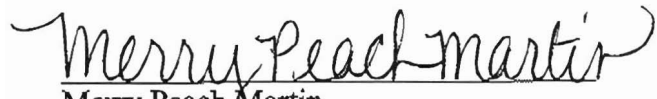
JUDGE DON R. ASH
PRESIDING JUDGE

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing was delivered by U. S. Mail to the following:

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