

The Supreme Court of the State of Louisiana

IN RE: JUDGE GUY E. BRADBERRY

No. 2022-O-01828

IN RE: Judiciary Commission of Louisiana - Applicant Other; Judge Guy E. Bradberry - Applicant Other; Joint Petition for Consent Discipline;

February 24, 2023

Joint petition for consent discipline accepted. See per curiam.

JDH

JTG

WJC

PDG

Weimer, C.J., dissents and assigns reasons.

Crichton, J., additionally concurs and assigns reasons.

McCallum, J., dissents and assigns reasons.

Supreme Court of Louisiana

February 24, 2023



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

NO. 2022-O-1828

IN RE: JUDGE GUY E. BRADBERRY

JUDICIARY COMMISSION OF LOUISIANA

PER CURIAM

This matter arises from a joint petition for consent discipline filed by the Judiciary Commission of Louisiana (“Commission”) and respondent, Judge Guy E. Bradberry.

UNDERLYING FACTS

Respondent has been a judicial officer since 1991. He assumed office as a district judge of the 14th Judicial District Court for the Parish of Calcasieu on January 1, 2003 and held this position at the time of the charges in this case.¹ After the institution of formal proceedings, the Commission and respondent filed a joint petition for discipline by consent, including a joint memorandum and joint stipulation of facts, pursuant to the requirements of Supreme Court Rule XXIII, § 30. In the petition, the parties stipulate to respondent’s misconduct in two matters.

Notice of Hearing Case No. 363 – The Chesson Matter

On April 20, 2015, respondent signed an order citing Christian Chesson, an attorney, to appear before him on April 27, 2015 for an Article 863 Sanctions Hearing for conduct which allegedly took place in open court on January 12, 2015. Mr. Chesson was not present in court on April 27, 2015 when the matter was called,

¹ Respondent was elected to the Court of Appeal, Third Circuit on November 8, 2022 and assumed office on January 1, 2023. Pursuant to Supreme Court Rule XXIII, § 23, the disciplinary complaint at issue in this proceeding became a matter of public record in October 2022 and was reported by the local media prior to the November election.

and attempts to locate him were unsuccessful. Respondent then issued a bench warrant for Mr. Chesson's arrest.

Later the same morning, Mr. Chesson was picked up pursuant to the bench warrant and walked through respondent's courtroom to holding for processing. Respondent failed to allow Mr. Chesson an opportunity to be heard by way of defense or mitigation prior to his incarceration.

The next day, April 28, 2015, a hearing was held to address the issue of sanctions for Mr. Chesson's conduct on January 12, 2015. However, respondent took up an issue of alleged direct contempt, addressing conduct respondent observed in his courtroom on February 23, 2015, rather than the matter of sanctions pursuant to Article 863 for the January 12, 2015 conduct. During the hearing, respondent denied Mr. Chesson's attorney an opportunity to speak on behalf of Mr. Chesson, despite the attorney's request to do so, until after respondent had ruled and sentenced Mr. Chesson for contempt. In finding Mr. Chesson in contempt, respondent referenced and appeared to rely upon two "statements" from witnesses to Mr. Chesson's conduct on February 23, 2015. These witness statements were not entered into evidence in the contempt proceedings, and Mr. Chesson was not apprised of the statements prior to the April 28, 2015 hearing. Moreover, the witnesses were not identified at or prior to the hearing, and they did not testify at the hearing. Finally, the sentence respondent imposed upon Mr. Chesson for contempt was impermissible.

Mr. Chesson appealed respondent's contempt ruling and sentence. On June 17, 2015, prior to a ruling on the appeal, respondent filed a *per curiam* with the Third Circuit Court of Appeal in which he defended his contempt finding and advocated for the sentence imposed. He included in the *per curiam* unsworn witness statements from two employees of the Calcasieu Parish District Attorney's Office, which were not entered into evidence in the proceedings on April 28, 2015 and which were only

made part of the record after the close of the proceedings. The Third Circuit did not request that respondent submit the *per curiam* or any other information following the filing of the appeal by Mr. Chesson.

Following its consideration of the appeal, the Third Circuit reversed respondent's ruling of direct contempt and vacated the contempt sentence. The court of appeal found, among other things, that consideration of the two witness statements "would be a flagrant violation of Mr. Chesson's right to due process," the notice for the April 28, 2015 hearing did not "comport[] with due process," and the contempt sentence was "unlawful."

Respondent also mishandled recusal procedures in other cases. On April 30, 2008, despite the absence of any grounds to recuse, respondent recused himself from the matter of *Chesson v. Chesson*, Case No. 2003-2782, based on a representation to respondent that the parties were willing to settle their differences if he recused himself. Between March 3, 2016 and April 17, 2016, respondent recused himself from ten cases on his docket in which Mr. Chesson was counsel of record, despite the absence of any motion to recuse or other grounds for recusal. Between May 6, 2016 and May 9, 2016, respondent vacated the previous orders of recusal in all but two of these cases, without any authority or jurisdiction to do so. In one case, respondent recused himself a second time on September 26, 2016 after the matter was re-allotted back to him from another division, and despite the absence of any motion to recuse or other grounds for recusal. In some of these matters, respondent's actions caused needless delay to the parties and families involved.

On February 12, 2019, respondent entered into a Deferred Recommendation of Discipline Agreement ("DRDA") regarding the complaints filed in the Chesson matter. The DRDA required respondent to fulfill certain specified conditions, including obtaining additional education on the subject of recusal and to comply with the law and canons governing recusal. The DRDA further provided that if its

term expired without a violation of these conditions by respondent, the Commission would dispense with making any recommendation of discipline to this court regarding the complaints filed in the Chesson matter. However, if respondent violated any of the conditions of the DRDA, or if “any further meritorious complaints [were] lodged against him during the term” of the DRDA, respondent would be in default of the DRDA. The DRDA specified that “[t]he consent discipline agreed to by Judge Bradberry in the event of a default under this Agreement shall consist of a public censure by the Louisiana Supreme Court.” The complaint in the Stine matter, *infra*, was filed during the term of the DRDA, and respondent acknowledges that his conduct in the Stine matter constitutes a default under the terms and conditions of the DRDA.

Accordingly, pursuant to the DRDA, respondent waives any right to object to and accepts the imposition of a public censure for his violation in the Chesson matter of Canons 1 (a judge shall uphold the integrity and independence of the judiciary), 2A (a judge shall 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), 2B (a judge shall not initiate the communication of information in any court or disciplinary proceeding, but may provide such information for the record in response to a formal request by a court or disciplinary agency official), 3A(1) (a judge shall be faithful to the law and maintain professional competence in it), and 3A(7) (a judge shall dispose of all judicial matters promptly, efficiently, and fairly) of the Code of Judicial Conduct. Respondent also acknowledges that he engaged in willful misconduct relating to his official duty and persistent and public conduct prejudicial to the administration of justice that brings the judicial office into disrepute, in violation of La. Const. art. V, § 25(C).

Notice of Hearing Case No. 385 – The Stine Matter

Respondent was contacted by telephone by Troy Stine, a litigant in a pending custody case assigned to respondent's court. Mr. Stine was crying and at a loss over concerns for his son, whom respondent understood was facing an emergency concerning his physical and/or mental health.² At the time of the telephone call, respondent had not held any hearings in the *Stine* case, and he was unaware the case was pending before him (although he made no effort at the time to determine whether Mr. Stine had a case pending before him).

Shortly after the call, respondent walked to Mr. Stine's office from the courthouse and met with Mr. Stine. He discussed Mr. Stine's concerns for his sons, including issues with his eldest son, and issues related to his then fourteen-year-old son. During the meeting, respondent recognized Mr. Stine as someone who is a member of a church group to which he belongs. After Mr. Stine advised respondent that he had a case pending at the 14th JDC, respondent ended the meeting.

Upon returning to his office after the meeting, respondent discovered that Mr. Stine's case was assigned to his division of court. Respondent determined that he would recuse himself from the case because he had received *ex parte* information from a litigant concerning a child in a family matter before him, and because it is his practice to recuse from cases involving litigants who are members of the same church groups to which he belongs. Nevertheless, respondent did not recuse at that time. Several weeks later, on March 8, 2021, respondent texted Mr. Stine contact information for the director of the Office of Juvenile Justice and encouraged him to set up a meeting regarding his seventeen-year-old son. Respondent also encouraged Mr. Stine to seek counseling for his fourteen-year-old son.

² Respondent was familiar with the Stine family as part of the Lake Charles community.

On March 9, 2021, a hearing was scheduled on a motion to compel in the *Stine* case. Respondent privately advised counsel for the parties that he had engaged in a discussion with Mr. Stine about concerns for one of his children and further advised that he had provided Mr. Stine with information about a juvenile program. Thereafter, respondent presided in court in the *Stine* case, wherein a stipulation was entered on the record by the attorneys for the parties concerning the motion to compel. Respondent instructed Evelyn Oubre, counsel for Mr. Stine, to circulate and submit a judgment to the court for signature. Respondent did not recuse himself on the date of the hearing on the motion to compel, or in the days following the entry of the stipulation.

On March 18, 2021, Ms. Oubre hand delivered a letter requesting that respondent recuse himself from the *Stine* case, in part because of her contention that she had learned from Mr. Stine that the circumstances of the discussion between him and respondent differed from what respondent had shared with counsel on March 9, 2021. After receiving Ms. Oubre's correspondence, respondent finally recused himself from the *Stine* case. He did not sign the stipulated judgment concerning the motion to compel, never presided over a contested contradictory hearing in the *Stine* case, and never rendered a judgment involving a contested issue after presiding over a contradictory hearing in the *Stine* case.

Respondent acknowledges that his conduct in the *Stine* matter constitutes a violation of Canons 1, 2 (a judge shall avoid impropriety and the appearance of impropriety in all activities), 2A, 2B (a judge shall not lend the prestige of judicial office to advance the private interest of the judge or others), 3A(4) (a judge shall perform judicial duties without bias or prejudice), 3A(6) (except as permitted by law, a judge shall not permit private or ex parte interviews, arguments, or communications designed to influence his or her judicial action in any case), and 3C (a judge should disqualify himself or herself in a proceeding in which the judge's

impartiality might reasonably be questioned and shall disqualify himself or herself in a proceeding in which disqualification is required by law) of the Code of Judicial Conduct. Respondent also acknowledges that he engaged in willful misconduct relating to his official duty and willful and persistent failure to perform his duty, in violation of La. Const. art. V, § 25(C).

PETITION FOR CONSENT DISCIPLINE

The parties have filed a joint petition for consent discipline in this court. For his misconduct as set forth above, the parties propose that respondent be publicly censured and ordered to pay \$1,548.00 in costs incurred by the Commission.

The parties stipulate that in mitigation, respondent has good character and reputation.³ In addition, he has been fully cooperative throughout the duration of these proceedings. He is remorseful and has accepted responsibility for the negative light his conduct brought upon the judiciary, and he has committed to refrain from such conduct in the future. In aggravation, however, the ethical violations in both the Chesson and Stine matters were serious. Moreover, respondent is an experienced judicial officer and had already been disciplined for judicial misconduct at the time he committed the violations in the Stine matter.⁴

Based on the foregoing, and considering the applicable jurisprudence, the parties urge the court to accept the joint petition for consent discipline.

³ Respondent is active in his church, in the community, and in numerous professional associations, including the Louisiana District Judges Association, which he formerly served as President. Respondent has received many awards and commendations throughout the years for his work and volunteer service.

⁴ In addition to the DRDA in the Chesson matter, respondent has been cautioned previously for failing to timely decide an application for post-conviction relief and for failing to comply with an order of the Third Circuit Court of Appeal directing that the application be decided by a specified date. Respondent was previously admonished for impermissibly vacating his order referring a pending motion for recusal to another judge for hearing and for making misrepresentations or misstatements in his *per curiam* opinion vacating the order.

DISCUSSION

This court is vested with exclusive original jurisdiction in judicial disciplinary proceedings by La. Const. art. V, § 25(C). Supreme Court Rule XXIII, § 30 sets forth a formal procedure for the discipline of judges by consent.

Here, the parties have stipulated to respondent's misconduct in two matters. In the Chesson matter, respondent acknowledges that he mishandled a contempt proceeding, filed an unsolicited *per curiam* in the appellate court regarding the contempt finding and sentence, and mishandled recusal procedures in other cases. In the Stine matter, respondent acknowledges that he engaged in improper *ex parte* communications with a litigant and failed to expeditiously recuse himself from the matter. For the stipulated misconduct, the parties propose that respondent be publicly censured and ordered to pay \$1,548.00 in costs.

There is no question that respondent's conduct constituted a serious violation of the Code of Judicial Conduct. Furthermore, as an experienced judicial officer serving since 1991, respondent should have known better. Nevertheless, by consenting to public discipline, respondent has acknowledged responsibility for his conduct and the negative light it cast upon the judiciary. Respondent has also committed to refrain from violating the ethical rules in the future.

Under these circumstances, we will accept the petition for consent discipline. We will publicly censure respondent for his violations of the Code of Judicial Conduct in the Chesson and Stine matters. We will also order respondent to pay \$1,548.00 in costs. In accordance with Supreme Court Rule XXIII, § 30(e), we further order the joint pleadings filed in this matter shall become public upon the release of this opinion.

DECREE

It is ordered that the Joint Petition for Consent Discipline be accepted and that Judge Guy E. Bradberry be publicly censured for his violation in the Chesson matter of Canons 1, 2A, 2B, 3A(1), and 3A(7) of the Code of Judicial Conduct and La. Const. art. V, § 25(C), and for his violation in the Stine matter of Canons 1, 2, 2A, 2B, 3A(4), 3A(6), and 3(C) of the Code of Judicial Conduct and La. Const. art. V, § 25(C). Judge Bradberry shall also pay \$1,548.00 in costs incurred by the Commission.