



STATE OF KANSAS

BEFORE THE COMMISSION ON JUDICIAL QUALIFICATIONS

Inquiry Concerning
A Judge

Docket No. 946

ORDER

Members of the Commission present included: Nancy Anstaett, Chair; William Swearer, Vice-Chair; Hon. J. Patrick Brazil; Hon. Jennifer L. Jones; and Carolyn Tillotson.

FINDINGS OF FACT

There is no dispute regarding the facts set out below:

1. The Honorable Rebecca L. Pilshaw, Respondent, is a District Judge in the 18th Judicial District.
2. District Judges in the 18th Judicial District preside over courts of record in the State of Kansas. See K.S.A. 20-301.
3. An anonymous complaint filed with the Commission contained a newspaper article which reported a meeting Respondent held with a reluctant witness in a murder trial, an Assistant Public Defender who was that witness's attorney, and the Assistant District Attorney in the murder trial. The Commission's investigation confirmed and more fully developed the facts surrounding the meeting.
4. On June 24, 2005, the witness was present when a shooting occurred and was interviewed by the police.
5. On November 4, 2004, in an unrelated criminal proceeding Respondent had placed the witness on probation for 18 months following his conviction for criminal possession of a firearm.
6. The witness's probationary term had not proceeded smoothly and, on September 2, 2005, there was one probation violation warrant pending against the witness as well as two criminal cases for aggravated escape. Those matters were pending before Respondent.

7. On September 2, 2005, Respondent met with the reluctant witness, the Assistant Public Defender representing the witness, and the Assistant District Attorney in the murder trial. The meeting took place at the Wichita Police Department, and no record was made of the meeting.
8. Respondent later characterized the meeting as an informal probation violation hearing in which she agreed not to revoke the witness's probation based on a number of factors. She did, apparently, in the course of the meeting, admonish the witness to testify truthfully if he testified in the murder trial. Respondent states, however, that she did not discuss with the witness what his testimony would be.
9. The reluctant witness, on September 7, 2005, testified at the preliminary hearing in the murder trial, but the defense attorney in the murder trial was not told in advance of the preliminary hearing that, in exchange for the witness's testimony, the State would recommend to Respondent that the witness's probation not be revoked.
10. On September 15, 2005, Respondent reinstated the witness's probation.

CONCLUSIONS OF LAW

1. Canon 1 of the Code of Judicial Conduct, Rule 601A, provides:

“An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective.”
2. Canon 2A of the Code of Judicial Conduct, Rule 601A, provides:

“A. A judge shall respect and comply with the law^o and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.”

3. Canon 3B(5) of the Code of Judicial Conduct, Rule 601A, provides:

“B. Adjudicative Responsibilities.

.....

(5) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, and shall not permit staff, court officials and others subject to the judge’s direction and control to do so.”

4. The Commission has determined that Respondent violated Canons 1, 2A, and 3B(5) in two respects: (a) by, as a judge of a court of record, conducting what she characterized as an informal probation violation hearing without making a record of that hearing, and (b) by participating in a closed meeting that could, in reasonable minds, undermine public confidence in the integrity and impartiality of the judiciary.

IT IS THEREFORE ORDERED that the Honorable Rebecca L. Pilshaw cease and desist from conducting court proceedings without making a record which assures the law has been followed and high standards of conduct maintained, in violation of the above-cited Canons.

This Order, if accepted, shall be made public pursuant to Rule 611(a). See 2006 Kan. Ct. R. Annot. 602.

The Secretary of the Commission on Judicial Qualifications is hereby instructed to mail a copy of this Order with a copy of Rule 611, as adopted by the Supreme Court of Kansas, to Respondent. Respondent is requested, in accordance with Rule 611, to either (a) comply by accepting the Order by written acknowledgment directed to the Secretary of the Commission; or (b) refuse to accept the Order. Any agreement to comply or refusal to accept shall be served upon the Commission within twenty days from this date. In the event the Respondent shall not agree to comply by accepting this Order by written acknowledgment within said period, Respondent shall be deemed to have refused to accept this Order.

BY ORDER OF THE COMMISSION dated this 1st day of March, 2007.

COMMISSION ON JUDICIAL QUALIFICATIONS

By: Carol G. Green
Carol G. Green, Secretary

APPROVED & ACCEPTED

3-21-07
Date

Rebecca L. Pilshaw
Rebecca L. Pilshaw, Respondent

Ross A. Hollander
Ross A. Hollander,
Attorney for Respondent