

STATE OF KANSAS

BEFORE A HEARING PANEL FOR FORMAL JUDICIAL COMPLAINTS

FILED

Inquiry Concerning Judge )  
 )  
F. William Cullins )

No. 2703

NOV 22 2023

COMMISSION ON  
JUDICIAL CONDUCT

**FINDINGS OF FACT, CONCLUSIONS OF LAW,  
AND DISPOSITION**

On April 7, 2023, Panel B of the Commission on Judicial Conduct issued a Notice of Formal Proceedings, pursuant to Rule 614(b)(2)(C) (2023 Kan. S. Ct. R. 536), in Complaint No. 2703, against F. William Cullins, a district judge in the 14<sup>th</sup> Judicial District. The information in the Notice alleged that Respondent engaged in certain conduct which violated Rule 1.2 of Canon 1 (2023 Kan. S. Ct. R. 491); Rule 4.1(B)(3) of Canon 4 (2023 Kan. S. Ct. R. 517); and Rule 4.2 of Canon 4 (2023 Kan. S. Ct. R. 521).

The violations alleged in the Notice of Formal Proceedings relate to the following Rules and Canons of the Kansas Code of Judicial Code:

**CANON 1**

**A JUDGE SHALL UPHOLD AND PROMOTE THE *INDEPENDENCE, INTEGRITY,*  
*AND IMPARTIALITY* OF THE JUDICIARY, AND SHALL AVOID *IMPROPRIETY* AND  
THE APPEARANCE OF IMPROPRIETY.**

**RULE 1.2**

**Promoting Confidence in the Judiciary**

A judge shall act at all times in a manner that promotes public confidence in the *independence, integrity, and impartiality* of the judiciary, and shall avoid *impropriety* and the appearance of impropriety.

Comments [1], [3], and [5] of Rule 1.2 provide further insight.

[1] Public confidence in the judiciary is eroded by improper conduct and conduct that creates the appearance of impropriety. This principle applies to both the professional and personal conduct of a judge.

[3] Conduct that compromises or appears to compromise the independence, integrity, and impartiality of a judge undermines public confidence in the judiciary. Because it is not practicable to list all such conduct, the Rule is necessarily cast in general terms.

[5] Actual improprieties include violations of the law, court rules, or provisions of this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge's honesty, impartiality, temperament, or fitness to serve as a judge.

## CANON 4

**A JUDGE OR CANDIDATE FOR JUDICIAL OFFICE SHALL NOT ENGAGE IN POLITICAL OR CAMPAIGN ACTIVITY THAT IS INCONSISTENT WITH THE *INDEPENDENCE, INTEGRITY, OR IMPARTIALITY* OF THE JUDICIARY.**

### **RULE 4.1**

#### **Political and Campaign Activities of Judges and *Judicial Candidates* in General**

(B) . . . a judge or a *judicial candidate* shall not:

. . .

(3) solicit funds for, pay an assessment to, or make a *contribution* to a *political organization* or a candidate for public office;

. . .

Comments [5], [7], and [13] of Rule 4.1 provide further insight.

[5] Although members of the families of judges and judicial candidates are free to engage in their own political activity, including running for public office, there is no "family exception" to the prohibition in paragraph (B)(2) against a judge or candidate publicly endorsing candidates for public office. A judge or judicial candidate must not become involved in, or publicly associated with, a family member's political activity or campaign for public office. To avoid public misunderstanding, judges and judicial candidates should take, and should urge members of their families to take, reasonable steps to avoid any implication that they endorse any family member's candidacy or other political activity.

#### STATEMENTS AND COMMENTS MADE DURING A CAMPAIGN FOR JUDICIAL OFFICE

[7] Judicial candidates must be scrupulously fair and accurate in all statements made by them and by their campaign committees. Paragraph (A)(4) obligates candidates and their committees to refrain from making statements that are false or misleading, or that omit facts necessary to make the communication considered as a whole not materially misleading.

#### PLEDGES, PROMISES, OR COMMITMENTS INCONSISTENT WITH IMPARTIAL PERFORMANCE OF THE ADJUDICATIVE DUTIES OF JUDICIAL OFFICE

[13] The making of a pledge, promise, or commitment is not dependent upon or limited to, the use of any specific words or phrases; instead, the totality of the statement must be examined to determine if a reasonable person would believe that the candidate for judicial office has specifically undertaken to reach a particular result. Pledges, promises, or commitments must be contrasted with statements or announcements of personal views on legal, political, or other issues, which are not prohibited. When making such statements, a judge should acknowledge the overarching judicial obligation to apply and uphold the law, without regard to his or her personal view.

## RULE 4.2

### **Political and Campaign Activities of *Judicial Candidates in Public Elections***

- (A) A *judicial candidate* in a retention, nonpartisan, or partisan *public election* shall:
- (1) act at all times in a manner consistent with the *independence, integrity, and impartiality* of the judiciary;
  - (2) comply with all applicable election, election campaign, and election campaign fund-raising *laws* and regulations of this jurisdiction;
  - (3) review and approve the content of all campaign statements and materials produced by the candidate or his or her campaign committee, as authorized by Rule 4.4, before their dissemination; and
  - (4) take reasonable measures to ensure that other persons do not undertake on behalf of the candidate activities, other than those described in Rule 4.4, that the candidate is prohibited from doing by Rule 4.1.

### **PREHEARING CONFERENCE**

On June 30, 2023, the parties came before Hearing Panel A of the Commission for a prehearing conference conducted by video conferencing using the Zoom meeting platform. Respondent appeared in person and through counsel, Stanton A. Hazlett. Todd Thompson appeared in person as Examiner for the Commission. The Panel members appearing were: James S. Cooper, Chair; and Terrence J. Campbell, Vice Chair. Chair Cooper entered pretrial orders and scheduled a formal hearing for October 5, 2023.

### **STIPULATIONS**

On July 27, 2023, the parties filed a document entitled "Stipulations by the Parties" setting forth the following agreed stipulations:

Facts:

1. Respondent is a district court judge in the 14<sup>th</sup> Judicial District.
2. Respondent was, at the time of the alleged violation of the Canons and Rules, a judicial candidate.
3. Respondent was seeking re-election to the Division I position.
4. Respondent was running for re-election as a Republican.
5. Respondent's opponent in the Republican primary was attorney Robert Lattin ("Lattin").
6. No Democrat filed for the position, so the winner of the Primary Election would prevail in the General Election, absent a write-in campaign.

7. Respondent filed his Appointment of Treasurer Report with the Secretary of State on January 13, 2022.
8. Respondent's wife, Melinda Allen-Cullins, M.D., was Respondent's Campaign Treasurer.
9. Lattin filed his Appointment of Treasurer Report with the Secretary of State on March 30, 2022.
10. Respondent contacted Lattin by telephone five days later, on April 4, 2022.
11. Respondent made the phone call during regular courthouse hours.
12. Respondent had the phone-conversation with Lattin between 1:00 PM and 5:00 PM on April 4, 2022.
13. Respondent advised Lattin that he had seen that Lattin had filed for the Division 1 position.
14. Respondent mentioned to Lattin that the Legislature had authorized funds for a new district judge position in District 14 (Division 4), and that the Chief Judge would be sending out an email about the new position in a few days.
15. Respondent asked Lattin if he would consider switching to the newly created district court position.
16. Respondent and Lattin disagree about the exact content of the telephone conversation, but do agree that Respondent's retirement benefits were mentioned during the phone conversation.
17. Respondent agrees that there was a discussion regarding filing fees that Lattin paid to the Kansas Secretary of State, but the parties disagree about the content of that discussion.
18. At the time of the conversation, Respondent needed eight more years as a judge to receive full judicial benefits.
19. Under K.S.A. 25-4153(a)(2), Respondent and Respondent's wife could make unlimited financial contributions to Respondent's Division I primary election campaign.
20. Respondent's wife would have been limited to making a \$500 financial contribution to Lattin's Division 4 primary election campaign.
21. Respondent mentioned the possibility of Respondent's wife donating to Lattin's campaign. No contribution amount was discussed.

## EXHIBITS

On September 22, 2023, the parties filed a joint Final Prehearing Order setting forth the following agreed stipulated exhibits:

1. Appointment of Treasurer Report of Respondent dated 1-13-22.
2. Appointment of Treasurer Report of Robert Lattin dated 3-30-22.
3. Screen shot of Lattin phone from 4-4-22.
4. Lattin's complaint and attachments filed with the Commission on Judicial Conduct.
5. Respondent's written response to Lattin's complaint.

## FORMAL HEARING

Panel A of the Commission held a public hearing in the above-captioned matter commencing at 9 AM on Thursday, October 5, 2023, in the Court of Appeals Courtroom, Kansas Judicial Center, 301 SW Tenth Avenue, Topeka, Kansas. The hearing occurred on the record. Members of the Commission's Hearing Panel present at the hearing were:

James S. Cooper, Chair  
Terrence J. Campbell, Vice Chair  
Judge Brenda M. Cameron  
Judge Robert W. Fairchild  
Norman R. Kelly  
Judge Mary B. Thrower

Member Angela Sublett Knight was unable to attend.

On October 5, 2023, the parties rested; the panel took the matter under advisement; and the Commission began deliberations at 2:40 PM.

## FINDINGS OF FACT

Pursuant to Supreme Court Rule 619(b), the Panel finds the stipulated facts as jointly agreed to by the parties are proven by clear and convincing evidence. The Panel emphasizes the following stipulated facts in finding a violation of the Judicial Code:

17. Respondent agrees that there was a discussion regarding filing fees that Lattin paid to the Kansas Secretary of State, but the parties disagree about the content of that discussion.
18. At the time of the conversation, Respondent needed eight more years as a judge to receive full judicial benefits.

19. Under K.S.A. 25-4153(a)(2), Respondent and Respondent's wife could make unlimited financial contributions to Respondent's Division I primary election campaign.
20. Respondent's wife would have been limited to making a \$500 financial contribution to Lattin's Division 4 primary election campaign.
21. Respondent mentioned the possibility of Respondent's wife donating to Lattin's campaign. No contribution amount was discussed.

### CONCLUSIONS OF LAW

The Panel concludes Respondents actions violated the express provisions of Supreme Court Rule 4.1(B)(3) of the Judicial Code.

#### CANON 4

**A JUDGE OR CANDIDATE FOR JUDICIAL OFFICE SHALL NOT ENGAGE IN POLITICAL OR CAMPAIGN ACTIVITY THAT IS INCONSISTENT WITH THE *INDEPENDENCE, INTEGRITY, OR IMPARTIALITY* OF THE JUDICIARY.**

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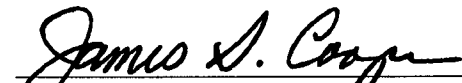
The language of Rule 4.1(B)(3) is straightforward and clear. A Judge shall not solicit funds for or make a contribution to a candidate for public office. The Respondent testified at the Formal Hearing that he discussed with Lattin the fee for Lattin to switch to the Division 4 judgeship and that Respondent was willing to pay the fee. The Respondent also testified that he told Lattin that if he switched to the Division 4 judgeship that his wife would make a campaign contribution to him as a thank you. Comment 13 to Rule 4.1 provides: "The making of a pledge, promise, or commitment is not dependent upon or limited to, the use of any specific words or phrases; instead, the totality of the statement must be examined to determine if a reasonable person would believe that the candidate for judicial office has specifically undertaken to reach a particular result." The totality of Respondent's actions are those specifically contemplated by Rule 4.1 and constitute judicial conduct violations.

**DISPOSITION**

Pursuant to Supreme Court Rule 619(b)(2) (2023 Kan. S. Ct. R. 541), based on the foregoing Findings of Fact and Conclusions of Law, and based on a unanimous vote of the members participating in the Formal Hearing, the Panel orders the Respondent to cease and desist from soliciting funds for or making a contribution to a candidate for public office in violation of Rule 4.1 of the Kansas Code of Judicial Conduct.

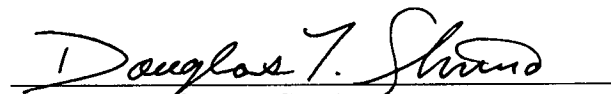
DATED this 22<sup>nd</sup> day of November, 2023.

FOR THE COMMISSION ON JUDICIAL CONDUCT

  
\_\_\_\_\_  
JAMES S. COOPER, Hearing Panel Chair  
Commission on Judicial Conduct

**CERTIFICATE OF MAILING**

I hereby certify that a true and correct copy of the Findings of Fact, Conclusions of Law and Disposition was mailed certified receipt (9414 7266 9904 2207 2627 74) to F. William Cullins, c/o Stanton A. Hazlett, Stevens & Brand, L.L.P., 900 Massachusetts Street, Suite 500, Lawrence, Kansas 66044-0189 and a copy was served by email to Stanton A. Hazlett, [shazlett@stevensbrand.com](mailto:shazlett@stevensbrand.com), and Todd N. Thompson, [todd.thompson@333legal.com](mailto:todd.thompson@333legal.com), on the 22<sup>nd</sup> day of November, 2023.

  
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DOUGLAS T. SHIMA, Secretary  
Commission on Judicial Conduct