

STATE OF KANSAS
BEFORE THE COMMISSION ON JUDICIAL QUALIFICATIONS

Inquiry Concerning
A Judge

Docket No. 537

ORDER

Members of the Commission present include: Mr. Mikel L. Stout, Chair; Mr. David J. Waxse, Vice-Chair; Hon. J. Patrick Brazil, Mr. Ray Call, Mr. Robert A. Creighton, Hon. Theodore B. Ice, and Hon. James W. Paddock.

FINDINGS OF FACT

There is no dispute regarding the facts set out below:

1. The Honorable Frederick N. Stewart is a district judge at Leavenworth, Kansas.
2. On March 17, 1994, Respondent was arrested for and charged with driving under the influence of alcohol, in violation of K.S.A. 8-1567, or a comparable municipal ordinance.
3. Respondent entered into a diversion agreement in Leavenworth Municipal Court on March 24, 1994. Respondent complied with all conditions of the diversion agreement, paid all fines, and the case was dismissed on September 22, 1994.

This Commission's investigation did not reveal a pattern of substance abuse, and the case against Judge Stewart was handled by law enforcement and the courts as any other similar case involving a private citizen would have been handled. Judge Stewart made a mistake and met his responsibilities under the law. For any private citizen, the matter would be at an end. Judge Stewart, however, occupies a position of public trust as a judge of the district court and, as such, is subject to a higher standard.

CONCLUSIONS OF LAW

1. Canon 2 of the Canons of Judicial Conduct provides in relevant part:

"A Judge Should Avoid Impropriety and the Appearance of Impropriety in All Of His Activities.

"A. A judge should respect and comply with the law and should conduct himself at all times in a manner that promotes public confidence in the integrity...of the judiciary."

2. The Commission has determined that Respondent violated Canon 2A when he drove under the influence of alcohol in violation of the law.

IT IS THEREFORE ORDERED that the Honorable Frederick N. Stewart cease and desist from any act or acts that could be found to violate the laws of the State of Kansas, including those laws relating to the consumption and use of alcoholic beverages.

This Order, if accepted, shall be made public pursuant to Rule 611(a).

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 10th day of April, 1995.

COMMISSION ON JUDICIAL QUALIFICATIONS

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

APPROVED & ACCEPTED

4/23/95
(date)

Frederick N. Stewart
Frederick N. Stewart, Respondent

RECEIVED

APR 25 1995

COMMISSION ON
JUDICIAL QUALIFICATIONS