

**In the
Supreme Court of Indiana**

IN THE MATTER OF)
)
THE HONORABLE)
)
RYAN D. JOHANNINGSMEIER)
)
KNOX SUPERIOR COURT 2)
)

Case No. 18S-JD-351

NOTICE OF THE INSTITUTION OF FORMAL PROCEEDINGS
AND
STATEMENT OF CHARGES

The Indiana Commission on Judicial Qualifications, having found probable cause to warrant formal charges of judicial misconduct, now notifies Respondent, the Honorable Ryan D. Johanningsmeier (“Respondent”) of the filing of these Charges. These Charges are brought under Admission and Discipline Rule 25 and before the Indiana Supreme Court, which, pursuant to Article 7, § 4 of the Constitution of Indiana, has original jurisdiction over the discipline, suspension, and removal of all judges and judicial officers of this State. The Commission charges that Respondent, while judge of the Knox Superior Court 2, engaged in judicial misconduct as specifically charged below. Pursuant to Admission and Discipline Rule 25 VIII (F), Respondent may file a written Answer to these Charges within twenty (20) days of service.

BACKGROUND

1. Respondent was admitted to the Indiana Bar in 2000.

2. Since January 1, 2015, Respondent has served as the Judge of Knox Superior Court 2.
3. At all times pertinent to these Charges, Respondent presided over a general jurisdiction docket which included felony and misdemeanor criminal cases.

FACTS GIVING RISE TO MISCONDUCT CHARGES

Background of B.K. Infraction Case in 2015

4. On April 16, 2015, a speeding infraction charge was filed against B.K. in Bicknell City Court under case #42H01-1504-IF-000072.
5. B.K. filed a request for a jury trial, but court staff reported that the city court could not accommodate a jury trial and informed B.K. that he needed to appear in court on June 18, 2015.
6. B.K. failed to appear on June 18, 2015, so a default judgment was entered on the infraction, and an Order to suspend his license for failure to appear was sent to the Bureau of Motor Vehicles.
7. From 2015 (to the present), Respondent and B.K. were good friends, and in early June 2015 they vacationed together.
8. On June 30, 2015, B.K. filed in Knox Superior Court 2 a petition for a trial *de novo* on the speeding infraction which had originally been filed in Bicknell City Court. The matter was assigned the new case #42D02-1506-MI-000113.
9. Without giving the prosecutor an opportunity to respond, Respondent issued an Order on June 30, 2015, granting B.K.'s petition for a trial *de novo* and reinstating B.K.'s driving privileges. Respondent did not disqualify from the case, although he had been vacationing

with B.K. two weeks prior, nor did Respondent even notify the prosecutor of the conflict.

10. Respondent also did not comply with Trial De Novo Rule 2(E), which requires that, “Promptly after the Request for Trial *de novo* is filed, the clerk of the circuit court shall send notice of the Request to the prosecuting attorney . . . with an order from the trial *de novo* court that the prosecuting attorney . . . file a duplicate infraction or ordinance complaint and summons with the clerk of the circuit court charging the infraction or ordinance violation as originally filed with the city or town court.” At no time did Respondent issue an Order directing the prosecutor to refile the original infraction complaint, nor did he set the matter for hearing in 2015 or 2016.
11. After learning about the situation, the Commission issued a Notice of Inquiry on September 17, 2015, requesting that Respondent submit a written response addressing ethical concerns about the situation. Respondent submitted a response on November 6, 2015.
12. After considering Respondent’s written response and other information, the Commission decided to resolve the matter with a private caution to Respondent for violating Rule 2.11(A) of the Code of Judicial Conduct by failing to disqualify himself from a proceeding in which the judge’s impartiality might reasonably be questioned. The Commission issued Respondent a private caution letter on March 9, 2016 and informed him of the Commission’s opinion that Respondent’s “close friendship with [B.K.], which included recently vacationing out of state together, would cause a reasonable person to question [his] impartiality.” The Commission noted that it did not view the situation as one requiring immediate action by Respondent and further noted that Respondent had not disclosed the

conflict of interest on the record nor made reasonable efforts to transfer the matter as soon as practicable to another judge.

Activity After March 9, 2016 Letter

13. Respondent acknowledges that he received the Commission's March 9, 2016, caution letter around the date of the letter. Nonetheless, Respondent did not disqualify from case #42D02-1506-MI-000113, nor did he set the matter for hearing. Respondent, instead, allowed the case to languish and remain in limbo throughout 2016 and early 2017.
14. During this time period, Respondent continued to maintain a close friendship with B.K.
15. From 2015 until summer 2017, Respondent had a Facebook account, and he and B.K. were Facebook friends. On a number of occasions, when Respondent or B.K. posted a photo on his Facebook page, the other individual would "like" that photo or post a comment.
16. This included when B.K. "liked" a photo posted on December 22, 2016, on Respondent's Facebook page which depicted Respondent, his sister, and B.K. celebrating the holiday season at Respondent's home.
17. The photo, which had been posted by Respondent, demonstrated that Respondent and B.K. were close friends.
18. At the time the photo with B.K. was posted on Respondent's Facebook page, case #42D02-1506-MI-000113, remained pending before Respondent. Respondent's Facebook page was visible to the public.
19. By posting the December 22, 2016, photo on his public Facebook page when B.K.'s infraction case remained pending in Knox Superior Court 2, Respondent created a situation which did not promote public confidence in the impartiality of the judiciary.

March 20, 2017 Hearing

20. On March 6, 2017, the Knox County Prosecutor filed a Motion for Bench Trial in case #42D02-1506-MI-000113. Respondent did not disqualify from the case upon receiving the motion. Instead the matter was set for a hearing on March 20, 2017.
21. On March 20, 2017, when case #42D02-1506-MI-000113 was called on the docket, the following exchange occurred in the courtroom between Respondent and the deputy prosecutor assigned to Knox Superior Court 2:

Respondent: There is a case. It was a traffic ticket appealed from Bicknell. And it's a friend of mine. So, um, *I was hoping we could just get the State to dismiss it.* Otherwise, we are going to have to do a Special Judge or something like that. It's *State v. [B.K.]*. It's a speeding ticket. Out of Bicknell. Do you have it? (emphasis added).

Deputy Prosecutor: I'll just move to dismiss.

Respondent: We'll just show that we grant the State's Motion to Dismiss.

22. Respondent granted the oral motion to dismiss on the record.
23. The deputy prosecutor reported that he felt Respondent was making a special request for him to dismiss B.K.'s case.

CHARGES

The Commission incorporates the facts set out in ¶¶ 1-23 into the Charges below.

Count 1

The Commission charges that, by continuing to preside over case #42D02-1506-MI-

000113, after the Commission cautioned Respondent on March 9, 2016, about failing to disqualify from the matter, Respondent violated Rule 1.1 of the Code of Judicial Conduct, which requires a judge to comply with the law; Rule 1.2 of the Code of Judicial Conduct, which requires a judge to avoid impropriety and to act at all times in a manner that promotes public confidence in the integrity, independence, and impartiality of the judiciary; and Rule 2.2 of the Code of Judicial Conduct, which requires a judge to perform all duties of judicial office fairly and impartially; Rule 2.11(A) of the Code of Judicial Conduct, which requires a judge to disqualify himself in any proceeding in which the judge's impartiality might reasonably be questioned.

Count 2

The Commission charges that, by making statements during a March 20, 2017 hearing in case #42D02-1506-MI-000113, suggesting that a deputy prosecutor dismiss the case of Respondent's friend, Respondent violated Rule 1.2 of the Code of Judicial Conduct; Rule 1.3 of the Code of Judicial Conduct, which requires a judge to not abuse the prestige of judicial office to advance the personal interests of others; Rule 2.2 of the Code of Judicial Conduct; and Rule 2.4(B) of the Code of Judicial Conduct, which requires a judge to not permit family, social, political, financial, or other interests or relationships to influence the judge's conduct or judgment.

Count 3

The Commission charges that, by publicly posting on December 22, 2016, a photo of himself with B.K. on his Facebook page, when case #42D02-1506-MI-000113, was still pending before him, Respondent violated Rule 1.2 of Code of Judicial Conduct, which requires a judge to act at all times in a manner that promotes public confidence in the independence, integrity, and

impartiality of the judiciary.

WHEREFORE, the Commission respectfully requests that, upon the filing of Respondent's Answer, the Indiana Supreme Court appoint three Masters to conduct a public hearing on the charge that Respondent committed judicial misconduct as alleged, and further prays that the Supreme Court find that Respondent committed misconduct and that it impose upon him the appropriate sanction.

June 29, 2018
DATE

JUNE 29, 2018
DATE

Respectfully submitted,

Adrienne L. Meiring
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CERTIFICATE OF SERVICE

I certify that a copy of this "Notice of the Institution of Formal Proceedings and Statement of Charges" was sent by certified mail, postage pre-paid, to Respondent at Knox Superior Court 2, 620 Busseron Street, Vincennes, IN 47591-2032. A copy also was sent by first class United States mail, postage pre-paid, to Respondent's attorney, Mr. Patrick J. Olmstead, Jr., at Patrick Olmstead Law LLC, P.O. Box 1067, Greenwood, IN 46142 on this 29th day of June 2018.

June 29, 2018
DATE

Adrienne L. Meiring
Adrienne L. Meiring
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JUNE 29, 2018
DATE

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