

JAN 06 2025

COMMISSION ON JUDICIAL CONDUCT

STATE OF KANSAS
BEFORE A HEARING PANEL FOR FORMAL JUDICIAL COMPLAINTS

Inquiry Concerning District Judge)
)
) No. 3123
Scott Showalter)

ORDER AND DISPOSITION

On June 18, 2024, Panel B of the Commission on Judicial Conduct issued a Formal Complaint, pursuant to Rule 614(b)(2)(C) (2023 Kan. S. Ct. R. 536), in Complaint No. 3123, against Scott Showalter, a district judge in the 15th Judicial District. The information in the Formal Complaint alleged that Respondent engaged in certain conduct which violated Kansas Judicial Conduct Rules 1.2 (Promoting Confidence in the Judiciary) and 2.3 (Bias, Prejudice, and *Harassment*).

On November 13, 2024, Mark Helstrom submitted a 56-page document with 48 pages of attachments for the consideration of Panel A. The Examiner and the Respondent agreed that the Helstrom document should be submitted to the Panel for consideration. Accordingly, Mr. Helstrom’s submission was marked Exhibit A and filed in Public Complaint #3123.

On November 14, 2024, Examiner Rundell filed a response to Exhibit A. On the same day, counsel for the Respondent, Mr. Hazlett and Ms. Miller, also filed a response to Exhibit A.

JOINT SETTLEMENT PROPOSAL

On November 21, 2024, Examiner Rundell and Respondent’s attorneys submitted a joint settlement proposal which contained a joint recommendation regarding sanction. The Panel agreed unanimously to accept the joint settlement proposal. Accordingly, the Panel adopts the following findings of facts, conclusions of law, and disposition as proposed in the joint settlement proposal.

FINDINGS OF FACTS

After careful and extensive review of counsel’s joint settlement proposal and also Mr. Helstrom’s submission, the Hearing Panel makes the following findings of fact:

1. Respondent is a district judge in the 15th Judicial District.
2. On December 14, 2023, Mark and Mandy Helstrom (Helstroms) appeared before Respondent in Wallace County District Court for arraignment on multiple criminal charges against each of them.

3. Because of bad weather, the sheriff's office provided transportation for the Helstroms to the hearing. Mr. Helstrom turned on the recording feature of his cellphone during the ride. At the courthouse, Mr. Helstrom was not permitted to take a cellphone into the courtroom. Mr. Helstrom left his cellphone in the Clerk of the Court's Office and left the recording feature on.
4. There were three recesses during the December 14, 2023, hearing. During the first recess, the Clerk of the Court and Respondent began discussing the television series *Yellowstone*. County Attorney Moser walked by and the following exchange occurred:

Respondent: Charles, we've decided we need a train station somewhere about two miles into Colorado.

County Attorney Moser: And it needs to be the Yellowstone station.

County Clerk Ryser: Yes, exactly. And we all know what that means.

The conversation was recorded on Mr. Helstrom's cell phone while it was in the Clerk's office.

5. In "Yellowstone," on the Dutton ranch, the phrase "take him to the train station" is code for "this man can't be trusted and needs to be killed." There is not actually a train station in "Yellowstone." Instead, it is a cliff on the side of a highway where the Duttons and other ranchers drop the bodies of those who have crossed them.
6. The Helstroms heard the remark by Respondent when they listened to the recording on Mark's cell phone.
7. Respondent self-reported on January 2, 2024, and admitted to the statement that he said he wished that Mr. Helstrom would be "taken to the train station."
8. On February 1, 2024, Sherman Smith, a journalist for the Kansas Reflector, contacted the Court Administrator of the 15th Judicial District Court. The journalist advised that he was writing a story about the events occurring on December 14, 2023, based on audio recordings provided to him by the Helstroms. This was the first time that the Judge knew about any recordings. Respondent provided Mr. Smith with the following statement, "I acknowledge that I made inappropriate remarks that were in poor taste, and I regret it. The remarks, made in a private conversation, were not intended as a threat to anyone. I recognized my error, recused myself from the case at hand, and self-reported my actions to the Commission on Judicial Conduct. I apologize to the parties, my court colleagues, and anyone else affected by my remarks."

9. Respondent admits to violating Canon 1, Rule 1.2.

CONCLUSIONS OF LAW

“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.

COMMENT

[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 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.

Rule 601B defines “Impropriety” as follows:

“Impropriety” includes conduct that violates the law, court rules, or provisions of this Code, and conduct that undermines a judge’s independence, integrity, or impartiality. See Canon 1 and Rule 1.2.”

DISPOSITION

Pursuant to Supreme Court Rule 619(b)(2) (2024 Kan. S. Ct. R. 534), based on the foregoing Findings of Fact and Conclusions of Law, and based on a unanimous vote of the members participating in the review of the Joint Settlement Proposal and Mr. Helstrom's submission, the Panel orders the Respondent to cease and desist from violating Rule 1.2 of the Kansas Code of Judicial Conduct by engaging in conduct that fails to promote confidence in the integrity and impartiality of the judiciary.

The Hearing Panel dismisses the alleged violation of Rule 2.3.

DATED this 6th day of January, 2025.

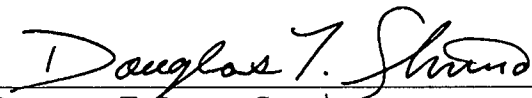


JAMES S. COOPER, Chair
Commission on Judicial Conduct

CERTIFICATE OF SERVICE

This is to certify that a copy of the above and foregoing ORDER FOR HEARING was served by email on this 6th day of January, 2025, to:

Stanton A. Hazlett – shazlett@stevensbrand.com
Leslie M. Miller – lmiller@stevensbrand.com
Kelly J. Rundell – rundell@hitefanning.com



DOUGLAS T. SHIMA, Secretary
Commission on Judicial Conduct