



**BEFORE THE
JUDICIAL STANDARDS COMMISSION**

INQUIRY NO. 09-138

PUBLIC REPRIMAND

**TIMOTHY M. SMITH
DISTRICT COURT JUDGE
JUDICIAL DISTRICT 26**

This matter came to the attention of the Judicial Standards Commission by a written complaint filed with the Commission. A formal investigation was ordered by the Commission and conducted by the Commission's investigator. During its meeting on December 11, 2009, the Commission completed its review of the investigative report prepared in this matter. The Commission caused a copy of this Public Reprimand to be personally served upon Judge Smith. In accordance with Rule 11 of the Rules of the Judicial Standards Commission, a judge has 20 days within which to accept the Public Reprimand or to reject it and demand, in writing, that disciplinary proceedings be instituted in accordance with Rule 12 of the Rules of the Judicial Standards Commission.

Findings of Fact

1. Timothy M. Smith, was at all times referred to herein a judge of the General Court of Justice, District Court Division, Judicial District Twenty-six and, as such was subject to the Canons of the North Carolina Code of Judicial Conduct, the laws of the State of North Carolina, and the provisions of the oath of office for a district court judge as set forth in the North Carolina General Statutes, Chapter 11.
2. At approximately 12:15 pm on May 1, 2009, Judge Smith entered courtroom #5150 in

the Mecklenburg County Courthouse during the sentencing phase of the trial of State of North Carolina vs. Jonathan Glendale Denton, Mecklenburg County File No. 07 CRS 212994. Assistant District Attorney Mr. William C. Bunting represented the State and Mrs. Jacqueline Smith, of the Public Defender's Office, represented Mr. Denton. Mrs. Jacquelyn Smith is the wife of Judge Smith. Judge Smith had come to the courtroom to meet Mrs. Smith for lunch.

3. While the court was in session, Judge Smith sat in the rear of the courtroom and did not speak to Mrs. Smith or make any audible comments. Judge Smith was not dressed in a judicial robe while present in the courtroom.
4. After sentencing was completed, the presiding judge left the courtroom to speak with the jurors. At this time Judge Smith stood and, from the back of the courtroom, called out Mr. Bunting's name. Mr. Bunting turned towards Judge Smith, and Judge Smith loudly exclaimed in a sarcastic tone, "Congratulations, Mr. Bunting, you just wasted \$600,000.00 of taxpayer money to keep a drug user in jail." Judge Smith made this comment with his arms raised out to his side and evidenced his frustration with the outcome of the proceeding.
5. The trial in the case of State of North Carolina vs. Raheem Foster, Mecklenburg County File No. 07CRS251780, began April 28, 2008 and concluded April 30, 2008 in courtroom #5150 in the Mecklenburg County Courthouse. Assistant District Attorney Ms. Madelaine C. Colbert represented the State and Mrs. Jacqueline Smith, of the Public Defender's Office, represented Mr. Foster. The jury returned a verdict of guilty in the matter.
6. During the course of the three day trial Judge Smith entered the courtroom on more than one occasion and sat in the public area of the courtroom. Judge Smith was not dressed in a judicial robe while present in the courtroom. At one point during a recess in the trial, the presiding judge inquired of Judge Smith why he was in the courtroom, to which Judge Smith replied that Mrs. Smith was his wife and that he was there to support her.
7. After the conclusion of the trial, Ms. Colbert attempted to leave the courtroom with Judge Smith and Mrs. Smith walking directly behind her. As Ms. Colbert passed through the first door exiting the courtroom and was approaching the second door Judge Smith moved in front of her and turned to face her, approximately one to two feet from her, thereby impeding anyone from moving forward. Other individuals attempting to exit the courtroom were directly behind Ms. Colbert. Judge Smith pointed his finger at Ms.

Colbert's face and said repeatedly, "Your officer was lying Maddie". Judge Smith also made statements to the effect "He made all those admissions up", "There's no way Raheem admitted to any of that stuff", and "Your officer was flat out lying on the stand". Judge Smith's face was red and he appeared agitated and angry when these comments were made.

8. Judge Smith cooperated fully with the investigation.

Conclusions

Both interactions between Judge Smith and members of the District Attorney's staff regarding criminal matters not before Judge Smith's court could reasonably be construed to be of such a nature that Judge Smith allowed his family relationship to influence his conduct in a public setting, and Judge Smith knew or should have known such outbursts were both intimidating and inappropriate. Judge Smith's actions described above evidence a disregard of the principles of conduct embodied in the North Carolina Code of Judicial Conduct, including failure to personally observe appropriate standards of conduct to ensure that the integrity and independence of the judiciary shall be preserved (Canon 1), failure to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary (Canon 2A). Judge Smith's actions constitute conduct prejudicial to the administration of justice that brings the judicial office into disrepute (N.C. Const. art IV, § 17 and N.C.G.S. § 7A-376(a)).

Corrective Action and Acceptance of Terms

Judge Smith agrees that he will not repeat such conduct in the future, mindful of the potential threat any repetition of his conduct poses to public confidence in the integrity and impartiality of the judiciary and to the administration of justice.

Judge Smith agrees he will promptly read and familiarize himself with the Code of Judicial Conduct.

Judge Smith further agrees that he will not retaliate against any person known or suspected to have cooperated with the Commission, or otherwise associated with this matter.

Judge Smith affirms he has consulted with, or had the opportunity to consult with counsel prior to acceptance of this Public Reprimand.

I, Timothy M. Smith, hereby accept the terms contained in this Public Reprimand this the

4 day of ___March___, 2010.

ORIGINAL SIGNED BY

Timothy M. Smith

ORDER OF PUBLIC REPRIMAND

Now therefore, pursuant to the Constitution of North Carolina, Article IV, Section 17, the procedures prescribed by the North Carolina General Assembly in the North Carolina General Statutes, Chapter 7A, Article 30, and Rule 11(b) of the Rules of the Judicial Standards Commission, the North Carolina Judicial Standards Commission, hereby orders that Timothy M. Smith, be and is hereby PUBLICLY REPRIMANDED for the above set forth violations of the Code of Judicial Conduct. Judge Smith shall not engage in such conduct in the future and shall fulfill all of the terms of this Public Reprimand as set forth herein.

Dated this the __9th__ day of ___March___, 2010.

ORIGINAL SIGNED BY

John C. Martin, Chairman
Judicial Standards Commission