



FILED

JUN 15 2011

**BEFORE THE
JUDICIAL STANDARDS COMMISSION**

**JUDICIAL STANDARDS
COMMISSION**

INQUIRY NO. 10-209

PUBLIC REPRIMAND

**BEVERLY A. SCARLETT
DISTRICT COURT JUDGE
JUDICIAL DISTRICT 15B**

Upon receipt of a written complaint alleging misconduct in the performance of judicial duties by Judge Beverly A. Scarlett, the Judicial Standards Commission ordered a formal investigation of the allegations contained therein and gave notice to Judge Scarlett as required by Rule 9(d) of the Rules of the Judicial Standards Commission. The investigation was conducted by the Commission's investigator, who rendered an investigative report to the Commission. The Commission has completed its review of the investigative report, including information provided by Judge Scarlett, and has caused this Public Reprimand to be personally served upon Judge Scarlett pursuant to Rule 11(b). In accordance with such Rule, the judge must, within 20 days of the date of service, either accept the Public Reprimand or 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. Beverly A. Scarlett was at all times referred to herein a judge of the General Court of Justice, District Court Division, Judicial District Fifteen-B 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. This matter came to the attention of the Judicial Standards Commission by receipt of a written complaint filed with the Commission by James E. Williams, Jr., Esq., the Public Defender of Defender District Fifteen-B.
3. On March 31, 2010, Judge Scarlett directed Mr. Williams to meet with her on April 1, 2011, in her office in the Orange County Courthouse. Mr. Williams believed the purpose of the meeting was to discuss concerns over a bond set by Judge Scarlett in a criminal matter in which Mr. Williams represented the defendant. Judge Scarlett intended to address the bond issue and her perception that Mr. Williams did not publicly demonstrate the degree of respect towards her which Judge Scarlett deemed appropriate.
4. When Mr. Williams arrived at the Judge Scarlett's office at approximately 10:00 a.m. on April 1, 2011, Judge Scarlett greeted him and informed him that she would meet with him in Courtroom 4 in a few minutes. Mr. Williams stated that he had understood their meeting would take place in Judge Scarlett's office and inquired whether the meeting would be some type of proceeding for which he was entitled to notice and representation by an attorney. Judge Scarlett responded, "That is where we are going to meet and it won't take five minutes." Mr. Williams then inquired, "Suppose I choose not to go?" Judge Scarlett responded, "I'm directing you to go to the courtroom. I can tell by your reactions that we should not hold this meeting in chambers but in court." Mr. Williams then stated he would be present in the courtroom in five to ten minutes after he made some calls.
5. Judge Scarlett instructed Mindy Harris, District Court Trial Court Coordinator for Judicial District Fifteen-B, to go to the courtroom and to request that Orange County Sheriff Lindy Pendergrass, Major Charles Blackwood of the Orange County Sheriff's Department, and Clerk of Superior Court James Stanford be present. Judge Scarlett directed that Mr. Stanford arrange for the session to be recorded, and advised Ms. Harris that no one else was to be present, stating "I am going to have James Williams in there and I am going to read something to him."
6. Shortly thereafter, Mr. Williams entered the courtroom, where he joined Judge Scarlett, Mr. Stanford, Sheriff Pendergrass, Major Blackwood, Ms. Harris, and Assistant Clerk Myra Crawford, who was present at Mr. Stanford's direction for the purpose of recording the proceeding. The courtroom was otherwise closed to the public.

7. Judge Scarlett began by advising Mr. Williams the proceeding was intended to put Mr. Williams on notice of his unprofessional behavior and the responses Judge Scarlett expected from Mr. Williams. Judge Scarlett explained that she would read a prepared statement which would be given to Mr. Williams. Mr. William objected to the proceeding. Judge Scarlett noted the objection and further explained that the primary purpose of the proceeding was to ensure that Mr. Williams would treat Judge Scarlett with respect and “. . . be given the deference of every other district court judge within the state of North Carolina, whether we are in court or outside of it.” Judge Scarlett added, “This is so you will hear me.”
8. After directing Mr. Stanford that the matter was to remain under seal, Judge Scarlett proceeded to read from a written document entitled DIRECTIVES FOR MINIMUM STANDARDS OF PRACTICE FOR JAMES E. WILLIAMS WITHIN THE DISTRICT COURTS OF JUDICIAL DISTRICT 15B. After reading the directives, Judge Scarlett reiterated several points regarding the purpose of the meeting and asked Mr. Williams if he desired to read a copy of the directives. Mr. Williams responded in the negative, renewed his objection, and stated he would show the Court respect and listen. Judge Scarlett stated, “And that’s all that’s required. That’s the only reason for this. Hence the reason everybody in this room is under an order not to disclose or reveal. If I had any, number one, measure of trust in you, number 2, any reason to believe that you would hear me, we would have met. But as displayed in the hall, no sooner than a word is out of my mouth, you cut me off. Your body language is such that you are upset. I’ve witnessed it in every case where I’ve entered a ruling that you did not agree with. Starting today, that is going to change, or else I am gonna follow through with all my duties as a district court judge. I think it is paramount that you know where I’m coming from. I’m doing that out of respect for you. I respect your position, have totally respected you as a person, but I will no longer be undermined or disrespected.”
9. On June 11, 2010, after Mr. Williams had filed various petitions with the North Carolina Court of Appeals, Judge Scarlett called Mr. Williams, apologized for the proceeding and stated she would rescind the Directives.
10. On June 17, 2010, Judge Scarlett signed and caused to be filed an ORDER TO RESCIND AND VACATE the Directives previously entered on April 1, 2010.
11. Judge Scarlett cooperated fully with the investigation.

Conclusions

In the proceeding described above, Judge Scarlett escalated a personal disagreement with Mr. Williams into an unauthorized judicial proceeding and needlessly embroiled other court personnel therein. The proceeding did not comply with the basic requirements of procedural due process as Mr. Williams was not given adequate notice of the proceeding, the allegations against him, the opportunity to seek counsel, nor an opportunity to be heard. In addition, Judge Scarlett ordered that the courtroom be closed, sealed the record, and imposed a verbal “gag” order on the individuals present, and thereby ignored the fundamental principle that the courts shall be open.

Judge Scarlett's actions described above are in violation of several provisions of the North Carolina Code of Judicial Conduct including Canon 1 (failure to personally observe appropriate standards of conduct to ensure that the integrity and independence of the judiciary shall be preserved), Canon 2A (failure to respect and comply with the law and to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary, Canon 2B (a judge should not allow the judge's . . . relationships to influence the judge's judicial conduct or judgment), and (Canon 3A(1) (a judge should be faithful to the law and maintain professional competence in it). Judge Scarlett'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 Scarlett agrees that she will not repeat such conduct in the future, mindful of the potential threat any repetition of her conduct poses to public confidence in the integrity and impartiality of the judiciary and to the administration of justice.


Judge Scarlett agrees she will promptly read and familiarize himself with the Code of Judicial Conduct.

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

Judge Scarlett affirms she has consulted with, or had the opportunity to consult with,

counsel prior to acceptance of this Public Reprimand.

I, Beverly A. Scarlett, hereby accept the terms contained in this Public Reprimand this the 9th day of June, 2011.

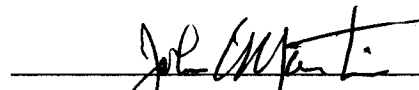


Beverly A. Scarlett

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 Beverly A. Scarlett, be and is hereby PUBLICLY REPRIMANDED for the above set forth violations of the Code of Judicial Conduct. Judge Scarlett 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 15th day of June, 2011.



John C. Martin, Chairman
Judicial Standards Commission

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Public Reprimand was personally served on Beverly A. Scarlett on the 8 day of June, 2011.

This the 8 day of June, 2011.

By: R. Glenn Joyner
R. Glenn Joyner, Investigator
Judicial Standards Commission