

FILED

MAR 8 2013



**JUDICIAL STANDARDS
COMMISSION**

**BEFORE THE
JUDICIAL STANDARDS COMMISSION**

INQUIRY NO. 12-013A

PUBLIC REPRIMAND

**JERRY R. TILLET
SUPERIOR COURT JUDGE**

Upon its own motion, the Judicial Standards Commission ordered a formal investigation into the conduct of Judge Jerry R. Tillett regarding his interactions with employees and officials of the Town of Kill Devil Hills, including his involvement in orders entered against the town, and regarding his interactions with the District Attorney's office of the 1st Prosecutorial District including pressuring that office to pursue certain legal actions.

The investigation was commenced by the Commission's Investigator on February 16, 2012 and was assisted by the State Bureau of Investigation. Over the next 12 months, the investigators conducted interviews with fifty individuals and collected documentary evidence related to the alleged incidents of judicial misconduct described above. The Commission has completed its review of the investigative report, including information provided by Judge Tillett, and after due deliberation has caused this Public Reprimand to be personally served upon Judge Tillett 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. Jerry R. Tillett was at all times referred to herein and is now a judge of the General Court of Justice, Superior Court Division, Judicial District 1, and as such is 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 superior court judge set forth in the North Carolina General Statutes, Chapter 11.
2. On April 15, 2010, eleven days after Judge Tillett's adult son was detained by Kill Devil Hills Police, a meeting was arranged between Judge Tillett and officials from the Town of Kill Devil Hills and its police department using Judge Tillett's judicial chambers. During this meeting Judge Tillett expressed complaints about his son's detention by the police as part of a series of other complaints about incidents of misconduct involving the Kill Devil Hills Police Department that did not involve his son. The meeting became confrontational and Judge Tillett warned the Town that they needed to take care of these complaints. Judge Tillett exhibited a demeanor that was described by the other participants in the meeting, as stern, aggressive, agitated, and angry, and several participants felt threatened by Judge Tillett's conduct and by discussion of a superior court judge's ability to remove officials from office. Judge Tillett's confrontation with Town officials outside of any legal proceeding, but in his chambers in his capacity as Chief Resident Superior Court Judge, created a reasonable and objective perception of conflict that tainted his subsequent use of the powers of his judicial office in matters adversarial to these officials.
3. Throughout the year 2011, Judge Tillett began to receive communications from Kill Devil Hills police officers with grievances against Chief of Police Gary Britt and Assistant Town Manager Shawn Murphy related to personnel issues. Judge Tillett, during this same period, began to receive complaints about the performance of the District Attorney of the 1st Prosecutorial District. Judge Tillett engaged in overly aggressive behavior in addressing these complaints, becoming embroiled in a public feud with these individuals, and engaged in actions that fell outside of the legitimate exercise of the powers of his office.
4. Based upon the complaints he had received regarding Chief Britt over the course of 2011, but outside of any formal hearing or any court proceeding, Judge Tillett concluded that Chief Britt was guilty of professional malfeasance and argued the Chief's guilt to the District Attorney and members of the District Attorney's staff. Judge Tillett frequently argued to the District Attorney and members of his staff that it was their duty to file a

petition for the removal of Chief Britt, and he was at times assured by the District Attorney and members of his staff that a petition would be filed, before the District Attorney and his staff ultimately concluded that there was insufficient evidence to support such a petition.

5. After complaints were received beginning in February, 2011, Judge Tillett, on June 24, 2011, sent a letter to Chief Britt printed on his judicial stationary and signed in his capacity as Senior Resident Superior Court Judge, which stated that he had received “complaints of professional misconduct” against the Chief of Police, and warned Chief Britt that “to the extent that allegations involve conduct prejudicial to the administration of justice, conduct violative of public policy, and/or violations of criminal law including obstruction of justice, oppression by official, misconduct in public office and/or substantial offense, this office will act appropriately in accord with statutory and/or inherent authority.”
6. On or around September 19, 2011, Judge Tillett, upon his own initiative and under the belief that legal action was pending related to complaints of recording tampering in personnel matters by the Kill Devil Hills Police Department, drafted and executed an order requiring that copies of the private personnel records of certain employees of the town of Kill Devil Hills, including the Chief of Police and Assistant Town Manager, be copied and brought to him “for an in camera review, for the protection of integrity of information, to prevent alteration, spoliation, for evidentiary purposes and or for disclosure to other appropriate persons as directed by the Court.” Neither the District Attorney’s office, nor the town, nor any of the complaining police officers had requested the order, nor did any of the allegations of file tampering concern the Chief of Police’s personal personnel file or the Assistant Town Manager’s personal personnel file. On October 16, 2012, the North Carolina Court of Appeals found that Judge Tillett acted beyond his jurisdiction in issuing this order against the town.
7. On January 5, 2012, Judge Tillett met with the District Attorney and a member of the District Attorney’s staff in reference to complaints lodged against the District Attorney’s office and the office’s failure to file a petition against Chief Britt. Judge Tillett requested that a sheriff’s deputy be present at the private meeting, which, along with Judge Tillett’s critical and aggressive comments, had the effect of intimidating the officials from the District Attorney’s office.
8. On January 5, 2012, Judge Tillett sent a letter on his judicial stationary and signed in his capacity as Senior Resident Superior Court Judge, which stated that he had received “complaints of professional misconduct” against the Assistant Town Manager, and warned

Assistant Town Manager Murphy that “to the extent that allegations involve conduct prejudicial to the administration of justice, conduct violative of public policy, and/or violations of criminal law including obstruction of justice, oppression by official, misconduct in public office and/or substantial offense, this office will act appropriately in accord with statutory and/or inherent authority.”

9. Judge Tillett’s continued conduct in actions related to complaints about the District Attorney’s Office and the Police Department of Kill Devil Hills, including but not limited to his communication with other judges through suggested orders, and his appellate filings in defense of such suggested orders, following his stated recusal from such matters, has created a public perception of a conflict of interest which threatens the public’s faith and confidence in the integrity and impartiality of Judge Tillett’s actions in these matters.
10. Judge Tillett recognizes and admits that his frustration in his dealings with the District Attorney’s Office and his embroilment in the affairs of the police department of the Town of Kill Devil Hills is reasonably perceived as coercive and retaliatory, and is conduct prejudicial to the administration of justice. Judge Tillett has expressed his regret for his conduct and assured the Commission that he will exercise caution and restraint in the future.

Conclusions

The above-referenced actions by Judge Tillett constitute a significant violation of the principles of personal conduct embodied in the North Carolina Code of Judicial Conduct actions in violation of Canon 1, Canon 2A, and Canon 3A(3). Judge Tillett’s overly aggressive conduct displayed toward the District Attorney’s office and certain employees of the Town of Kill Devil Hills, and his misuse of the powers of his judicial office in connection thereto, resulted in the public perception of a conflict of interest between Judge Tillett and the District Attorney’s office and the town of Kill Devil Hills, which brought the judiciary into disrepute and threatened public faith and confidence in the integrity and impartiality of the judiciary.

Corrective Action and Acceptance of Terms

1. Judge Tillett will not participate in any hearing or legal proceeding, nor communicate his opinion or any pertinent facts to any judicial official unless compelled to by subpoena, concerning any petition to remove the District Attorney of the First Judicial District and will recuse himself from all proceedings thereon;

2. Judge Tillett will not participate in any hearing or legal proceeding, nor communicate his opinion or any pertinent facts to any judicial official unless compelled to by subpoena, concerning any petition to remove the Chief of Police of Kill Devil Hills, any officer of the Kill Devil Hills Police Department or town official of the Town of Kill Devil Hills and will recuse himself from all proceedings thereon;
3. Judge Tillett will not participate in any hearing or legal proceeding, nor communicate his opinion or any pertinent facts to any judicial official unless compelled to by subpoena, specifically concerning personnel matters or professional grievances related to the Police Department of the Town of Kill Devil Hills and will recuse himself from all proceedings thereon;
4. Judge Tillett 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;
5. Judge Tillett 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;
6. Judge Tillett acknowledges that the Commission has caused a copy of this Public Reprimand to be served upon him, and that he had 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; and
7. Judge Tillett affirms he has consulted with, or had the opportunity to consult with, counsel prior to acceptance of this Public Reprimand.

I, Jerry R. Tillett, hereby accept the terms contained in this Public Reprimand this the 6th day of March, 2013.

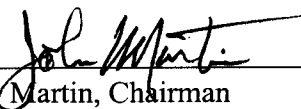


Jerry R. Tillett

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 Jerry R. Tillett, be and is hereby PUBLICLY REPRIMANDED for the above set forth violations of the Code of Judicial Conduct. Judge Tillett shall not engage in such conduct in the future and shall fulfill all of the terms of this Public Reprimand, including those of the Corrective Action plan, as set forth herein.

Dated this the 6th day of March, 2013.



John C. Martin, Chairman
Judicial Standards Commission