(No. 87 CC 3.—Respondent suspended.)

In re CIRCUIT JUDGE KEITH E. CAMPBELL of the Eleventh Judicial Circuit, Respondent.

Order entered August 17, 1988.—Order denying motion for reconsideration entered September 2, 1988.

SYLLABUS

On November 6, 1987, the Judicial Inquiry Board filed with the Courts Commission a three-count complaint, charging the respondent with willful misconduct and with conduct that is prejudicial to the administration of justice and that brings the judicial office into disrepute. In summary form, the complaint alleged, in Count I, that the respondent had a long-standing "personal, romantic and sexual relationship" with his judicial secretary until September and October of 1986, when the secretary ended said relationship; that, in retaliation for terminating the relationship, the respondent relieved the secretary of her secretarial duties and demanded her resignation; and that, because of the respondent's conduct, the secretary was compelled to accept another, less advantageous county job. The complaint alleged that the respondent's conduct described in Count I violated Supreme Court Rules 61 and 62(A). Ill. Rev. Stat. 1987, ch. 110A, pars. 61, 62(A).

Count II alleged that the respondent, while presiding in a criminal case set for trial on March 9, 1987, impaneled a jury in the case on or about March 6, 1987, outside the presence of the prosecutor, defendant and defense counsel, and without allowing for any challenges to jurors; that defendant withdrew his not guilty plea and pleaded guilty; and that the respondent then acknowledged in open court the inappropriateness of his conduct. The complaint alleged that the conduct in Count II violated Supreme Court Rules 62(A), 63(A)(1) and (A)(4). Ill. Rev. Stat. 1987, ch. 110A, pars. 62(A), 63(A)(1), (A)(4).

Count III alleged that on two occasions during 1987, when the respondent appeared before the Judicial Inquiry Board for the purpose of responding to the misconduct charges, he refused to answer certain questions, asserting his "right of personal privacy." The complaint alleged that the conduct in Count III violated Supreme Court Rules 61 and 62(A). Ill. Rev. Stat. 1987, ch. 110A, pars. 61, 62(A).

Held: Respondent suspended for six months without pay.

Winston & Strawn, of Chicago, for Judicial Inquiry Board.

Donald B. Mackay, of Downers Grove, for respondent.

Before the COURTS COMMISSION: MILLER, J., chairman, and LORENZ, STOUDER, MURRAY and SCOTT, JJ., commissioners. ALL CONCUR.

ORDER

On November 6, 1987, the Illinois Judicial Inquiry Board (Board) filed a three-count Complaint with the Illinois Courts Commission (Commission) against Judge Keith E. Campbell (respondent) of the Eleventh Judicial Circuit for willful misconduct and conduct that is prejudicial to the administration of justice and that brings the judicial office into disrepute. Count I alleged the respondent fired his legal secretary, Virginia Bicknell, in retaliation for her decision to end their long-standing romantic relationship. Count II alleged the respondent impaneled a jury in a criminal action, People v. Deerwester (86 CF 333), outside of the presence of defendant and counsel. Count III alleged the respondent refused to answer certain questions during the hearings before the Board pertaining to his relationship with Bicknell.

The Commission held a hearing on the charges of the Complaint on May 2, 1988. Prior to hearing any testimony, two stipulations were presented. The parties stipulated, relevant to counts I and III, that the relationship between the respondent and his secretary, was, during the early and mid-1970's, a personal and social one, and had, by approximately 1979, evolved into a "loving, romantic, sexual" one. The parties also stipulated, relevant to count II, that on March 6, 1987, the respondent impaneled a jury in the case of People v. Deerwester outside of the presence of counsel and defendant. In addition to those stipulations, the Commission heard testimony from several witnesses including the respondent. Only pertinent testimony beyond the scope of the stipulated facts will be summarized in this order.

At the outset we note that our analysis is three-fold. We must first determine whether, pursuant to our own rules of procedure, the allegations of the Board's Complaint for each count have been proved. (2 Ill. Cts. Com. R. 11 (1987).) Given substantiation of the allegations, we must determine whether the acts involved constitute violations of provisions of the Code of Judicial Conduct as embodied in the Supreme Court rules. Where violations have been determined, we must consider appropriate sanctions.

Count I

Virginia Bicknell, the respondent's secretary since 1971, testified that on September 8, 1986, her 40th birthday, she met with the respondent and expressed her desire to terminate their relationship in order to begin dating other people. Although, at first, she continued to see the respondent, Bicknell stated that after October 1986 she no longer saw the respondent within the context of their romantic relationship.

Bicknell testified that thereafter the respondent's office demeanor changed towards her. The respondent spoke to her only when he needed something from her and he kept his chamber's door closed. However, Bicknell stated that the respondent did not complain about her work during this period. Bicknell further testified that she had no desire to terminate her job with the respondent and felt she and the respondent could continue to work within the context of a "business" relationship.

Bicknell stated that on January 28, 1987, the respondent told her to begin looking for another job. On February 9, 1987, the respondent told her that she had until May 1 to do so, that she was a good secretary, and that he would give her a recommendation. On February 23, the respondent took the book for scheduling court matters away from Bicknell. On February 27, 1987, the respondent advised Bicknell that she was "starting her last 60 days" and that the respondent wanted a letter of resignation the next week. Bicknell testified that when she told him she would not resign her position, the respondent advised her he would issue a letter of termination. He did so on March 4, 1987. Bicknell stated, however, that although the respondent had dismissed her as his secretary, her employment had not been formally terminated by the county.

During the week beginning May 4, 1987, Bicknell worked for Judge William Caisley. She was eventually transferred to the State's Attorney's office. Bicknell stated that while the salary in her position with the State's Attorney's office is the same as her former position with the respondent, the work day is longer, the number of paid holidays is less, and the job classification is lower, resulting in overall decreased future earnings.

Deliz Haas, who occupied a desk next to Bicknell in a common reception area, also testified. Haas stated that prior to December 1986, the respondent's demeanor toward Bicknell was friendly and pleasant. However, after the end of 1986 the respondent became unfriendly, ignored Bicknell, and kept his chamber's door closed. She further stated that in January or early February 1987, she heard the respondent call Bicknell a "bitch."

During the hearing before the Commission on May 2, 1988, the respondent did not testify with relation to the allegations of count I on the basis that that testimony would add little to that already elicited during two prior

hearings before the Illinois Judicial Inquiry Board. Transcripts of those hearings have been filed with the Commission and, to the extent the respondent's testimony is relevant to count I, that testimony is summarized here.

Before the Board the respondent testified to the following. In late summer or early fall of 1986, he decided to terminate the relationship with Bicknell. Later, as a result of Bicknell's refusal to resign, the respondent terminated her employment. He requested Bicknell's resignation because she was not performing her duties properly. Specifically, Bicknell scheduled court matters on a preferential basis to certain attorneys and did not properly maintain files. Additionally, the respondent testified that Bicknell discussed confidential court matters outside of the office with members of the bar, including the discussion, on one specific occasion sometime in November 1986, of pending cases with the attorneys involved. Though the respondent could not name all of the attorneys with whom Bicknell is supposed to have spoken and did not recall the name of any particular case, the respondent stated that other attorneys had informed him that they had overheard Bicknell discussing such matters openly in a nearby cocktail lounge. The respondent stated that when he confronted Bicknell with that information, she denied it. The respondent also stated that at another time he was informed by others that Bicknell was overheard making comments about interoffice matters. The respondent could not recall who supplied him with that information. This second incident occurred sometime in January 1987. He did not know of any other similar incidents. The respondent admitted that in the 15 years of Bicknell's employment, to his knowledge, Bicknell had never before breached the confidentiality of the office. With reference to Bicknell's filing duties, the respondent

stated that beginning in the fall of 1986, he discovered that his files were not in order. The condition of the filing system worsened over time. However, the respondent admits that he never told Bicknell that if she did not get the files in order, he would fire her.

The following testimony was adduced at the hearing before the Commission on May 2, 1988.

Susan Geshwilm, a court reporter, testified that she has known Bicknell for six years. Customarily, she and Bicknell would meet on Fridays after work at a cocktail lounge near the courthouse frequented by members of the McLean County bar and other attorneys. Occasionally, the respondent also would be there. Geshwilm stated that she and Bicknell would engage in "courthouse gossip" with those present. Geshwilm admitted, however, that she never heard Bicknell discuss a specific pending case. She further admitted that the respondent never admonished her about the conversations, nor did he tell her to cease engaging in them. Geshwilm also stated that the respondent never complained to her about Bicknell as a secretary.

Linda Peasley, a court reporter assigned to the respondent, testified that she has known Bicknell since grade school and had assisted Bicknell in getting the position as the respondent's secretary. Peasley described, as polite, the respondent's demeanor toward Bicknell after March 4, 1987, the day the respondent gave Bicknell the termination letter. Peasley stated that after Bicknell was transferred to the State's Attorney's office, Peasley took over some of Bicknell's secretarial duties. She stated that she found the respondent's card index system was not up-to-date to reflect the status of cases. Peasley also testified that the respondent's files did not contain lists for scheduling arraignments.

Janet Starkey testified that on July 7, 1987, she became the respondent's secretary. She stated that when

she began working for the respondent, she found the court's files were "a mess." Documents had been misfiled and others were missing. She stated that, as it appeared, the files had been neglected beginning in 1986. Starkey admitted that she was aware the respondent's secretary had been terminated sometime in May 1987 and that someone else had maintained the files.

Also filed with the Commission is the evidence deposition of Harold M. Jennings, an attorney. Jennings testified that he had also heard Bicknell and others engage in "courthouse gossip" in the cocktail lounge. Jennings stated that he told the respondent of that fact. Jennings admitted that he could not recount the specifics of the conversations or when they had occurred.

Based upon the evidence, it is our opinion that the allegations that the respondent fired Bicknell in retaliation for her desire to terminate their relationship have been proven.

The respondent admits that he was involved in a long-standing romantic relationship with Bicknell which ended in 1986. Although the respondent testified that the decision to end the relationship was his, testimony presented indicates otherwise. Bicknell testified that in September 1986 she decided to end the relationship and begin dating other people. She stated that immediately thereafter the respondent's office demeanor changed toward her. The respondent's subsequent attitude toward Bicknell was attested to by Deliz Haas. The deterioration of the working relationship between the respondent and Bicknell is traced to that point in time.

Although the respondent stated the reasons for ultimately firing Bicknell were related to execution of office duties and breaches of confidentiality outside of the office, little evidence supports that explanation. The respondent admits that he never admonished Bicknell about any disarray in the filing system. We find it curious

that, considering Bicknell was the respondent's secretary for some 15 years, the respondent would neglect to voice his displeasure over poor performance of office duties and yet justify, in part, her termination on that basis. Further, we simply find no evidence that Bicknell gave preferential treatment to certain attorneys in scheduling matters.

As to the supposed breaches of confidentiality, the respondent cites two incidents to support Bicknell's termination: the discussion of a pending case with the attorneys involved, and the discussion of other confidential interoffice matters. The testimony of the respondent, Susan Geshwilm, and Harold Jennings establish that Bicknell joined others and engaged in "courthouse gossip" at a cocktail lounge near the courthouse. While the evidence establishes such conversations took place, the evidence fails to show Bicknell discussed any pending cases or revealed any other confidential interoffice information. Neither the respondent nor Jennings could provide adequate specifics concerning the nature of the discussions, the cases, or the individuals involved.

We next consider whether that act constitutes the cited violations of the Code of Judicial Conduct as embodied in the Supreme Court rules.

Count I of the Board's Complaint states the respondent's action violated both Supreme Court Rules 61 and 62(A). 107 Ill.2d Rules 61, 62(A).

Supreme Court Rule 61 provides, in pertinent part:

"* * * A Judge should participate in establishing, maintaining, and enforcing, and should himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved."

Supreme Court Rule 62(A) provides:

"A judge should respect and comply with the law and should conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."

We conclude the respondent's termination of Bicknell in retaliation for the breakup of their personal relationship violates both of the above rules. For a judge to terminate an employee under those circumstances jeopardizes public confidence reposed in, and undermines the integrity of, the judiciary. Such conduct indicates the respondent's inability or unwillingness to conduct judicial duties, including the administration of his office, independent of matters of an entirely personal nature contrary to the high standards of conduct concomitant with holding a judgeship in this State.

Count II

It is uncontested that on March 6, 1987, the respondent impaneled a jury outside of the presence of defendant and counsel in People v. Deerwester, a felony case involving theft and narcotics possession. The respondent's testimony before the Commission additionally established the following.

In February 1987, he set that case for trial to begin Monday, March 9, 1987. On Thursday, March 5, 1987, the respondent requested a meeting in his chambers with counsel in the case. He then informed counsel that a jury would be picked the next day because Friday was the last day of duty for the group of prospective jurors who had previously been summoned, and he preferred having the trial then rather than waiting until Monday. The respondent told counsel to be present at 9 a.m. the next day. On the following day, when neither counsel appeared promptly at 9 a.m., the respondent conducted his own *voir dire* and selected a panel. Testimony later showed the panel included Rose Ann Moore, the former mother-in-law of defendant Deerwester, and Joseph Michael Butcher, a Bloomington police officer. Counsel

appeared at approximately 10:30 a.m. The respondent stated neither counsel voiced objections when they saw the panel had been chosen. The respondent accepted an open plea of guilt from defendant Deerwester to one count of delivery of a controlled substance. Review of the official court reporter's transcript of proceedings of March 6, 1987, reveals the following comments made by the respondent in discharging the panel:

"THE COURT: Are you ready? Ladies and gentlemen, as you know, the defendant has entered a plea of guilty. There is no issue now for you to decide. So you're discharged from this case. Isn't that wonderful?

I told you you'd be on one. And I guess you must have scared them. I don't know. In this case fortunately just your appearance helped.

And what I did, which is kind of unusual and I'm sure they could have complained about it on the appellate level, but I really don't care because they were trying to get a continuance and I wouldn't allow them to. It's just too late for continuances. So I forced them to trial.

Well, they wouldn't show up. If they don't show up, I cannot proceed. I did and I would have. So we got rid of that one. Now we don't have to try none today.

And I do need—when's that murder trial start? My other reporter just wore out. Well, you don't have more service. Isn't that wonderful? You can go. Go to work for some other judge."

Based on that conduct, count II cites violations of Supreme Court Rules 62(A), 63(A)(1) and 63(A)(4). 107 Ill.2d R. 62(A); 113 Ill.2d Rules 63(A)(1), 63(A)(4).

Supreme Court Rule 62(A) states:

"A judge should respect and comply with the law and should conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."

Supreme Court Rule 63(A)(1) provides:

"A judge should be faithful to the law and maintain professional competence in it. He should be unswayed by partisan interests, public clamor, or fear of criticism."

Supreme Court Rule 63(A)(4) states in pertinent part:

"A judge should accord to every person who is legally interested in a proceeding, or his lawyer, full right to be heard according to law * * *."

By impaneling the jury outside of the presence of the defendant, defense counsel, and the prosecutor, the respondent violated each of the rules above, notwithstanding the provision in our criminal procedure code which entitles counsel to challenge jurors. (Ill. Rev. Stat. 1987, ch. 38, par. 115—4(d).) While it is difficult to discern whether the respondent was attempting to accommodate himself or the group of prospective jurors on their final day of duty, it is clear that the respondent acted without any concern for the rights of the defendant, Deerwester. In impaneling the jury outside the presence of counsel, the rights of the defendant were violated. Further, a police officer and the defendant's former mother-in-law were made jurors to hear defendant's case. We find the respondent's disregard for the defendant appalling. The responsibility of a judge in a criminal matter is to preside over the proceedings to insure that justice is served thereby, not to gratuitously interfere in the outcome of the matter by forcing a defendant into a guilty plea. Such actions mock the entire adversarial process, the core of our legal tradition.

Count III

The respondent appeared before the Board on September 11 and October 9, 1987, in relation to the charges which form the substance of count I. Review of

the transcripts of those proceedings reveals that, when questioned about the intimate nature of the respondent's relationship with his secretary, the respondent refused to answer, invoking his right to privacy under the Illinois Constitution. (Ill. Const. 1970, art. I, §6.) The respondent persisted in that refusal even after being informed that such refusal could be, in and of itself, a basis for a disciplinary proceeding before the Commission, and that no authority in Illinois recognized application of the right as asserted.

Based on the refusal to answer those questions, the Board charges the respondent in count III with violations of Supreme Court Rules 61 and 62(A), previously set out above.

We conclude that the respondent's refusal violated both of those provisions. Preservation of the integrity of the judiciary necessarily entails a duty to be forthcoming in answer to questions directly related to the performance of judicial functions, including administrative duties. The questions posed to the respondent were intended to elicit the possible motivation for firing his secretary and, because that motivation was the basis of inquiry into charges against the respondent, honest disclosure was required. Further, we are aware of no authority which would support the respondent's refusal to answer questions based on a right to privacy under the Illinois Constitution.

Based on the above considerations of the Board's Complaint, it is hereby ordered that the respondent be suspended for six months without pay, effective September 1, 1988.

Respondent suspended for six months without pay.