(No. 90 CC 1.—Respondent reprimanded.)

In re ASSOCIATE JUDGE GEORGE H. RAY of the Seventh Judicial Circuit, Respondent.

Order entered October 30, 1991.

SYLLABUS

On August 16, 1990, the Judicial Inquiry Board filed with the Courts Commission a one-count complaint, charging the respondent with conduct that is prejudicial to the administration of justice and that brings the judicial office into disrepute. Count I alleged, in summary form, that at about 12:50 a.m., on August 4, 1989, the respondent was observed asleep in an automobile in front of a tavern in Springfield, Illinois, and that at 1:10 a.m., while driving the automobile, the respondent was stopped by a deputy sheriff for improper lane usage; that the respondent had been drinking alcohol and was under the influence of alcohol at the time he was stopped; and that the respondent, when asked to do so, failed to cooperate with the deputy sheriff, refusing to exit his automobile and to submit to a field sobriety or breathalyzer test. The count alleged that the respondent's conduct violated Supreme Court Rules 61 (judge should uphold integrity and independence of judiciary) and 62(A) (judge should respect and comply with the law and always conduct himself in manner that promotes integrity and impartiality of judiciary). Ill. Rev. Stat. 1989, ch. 110A, pars. 61, 62(A).

On August 14, 1991, the Judicial Inquiry Board and the respondent filed a stipulation as to the evidence.

Held: Respondent reprimanded.

Sachnoff & Weaver, Ltd., of Chicago, for Judicial Inquiry Board.

Edward W. Huntley, and Heyl, Royster, Voelker & Allen, both of Springfield, for respondent.

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

ORDER

In its Complaint, the Judicial Inquiry Board (Board), charged the respondent, Associate Judge George H. Ray (respondent), with conduct that is prejudicial to the administration of justice and brings the judiciary into disrepute by his actions in the early morning of August 4, 1989, when upon his arrest for driving under the influence of alcohol he refused to cooperate with the deputy sheriff's order to exit his automobile and submit to a breathalyzer test, thereby violating, *inter alia*, Illinois Supreme Court Rules 61 and 62(A). 134 Ill. 2d Rules 61, 62(A).

The respondent answered admitting that he was driving his automobile when he was stopped for improper lane usage but denied he had been drinking and under the influence of alcohol.

Prior to the hearing on the Board's Complaint, the parties stipulated that the evidence would show that during the early morning hours on August 4, 1989, Deputy Sheriff McNamara had observed the respondent asleep in his car in front of a tavern and a short time later, when the respondent drove away drifting out of his lane on four or five occasions, he pulled the respondent over. Deputy McNamara requested the respondent to produce his driver's license and to step out of the car and take a field sobriety test. The respondent refused to get out of his automobile and refused to take the field sobriety test. After discussion with the respondent, Deputy McNamara placed the respondent under arrest charging him with improper lane usage and driving under the influence and escorted him to his police squad car. Upon arrival at the police station, the respondent again was asked to take a breathalyzer test and he refused advancing several reasons for his refusal. He admitted he had been drinking and really did not feel he knew exactly how much and because he had been a defense attorney for many years, and based on sound legal advice from the past, he decided not to take the test. He had a doubt in his mind whether he would pass the test if he took it.

The parties further stipulated that the respondent pled guilty on the improper lane usage charge and the special prosecutor moved for the entry of a *nolle prosequi* on the driving under the influence charge. The respondent was required to submit to an alcohol evaluation and subsequently he completed an alcohol remedial education program.

The Courts Commission finds, from stipulation of the parties, that the respondent admitted he had been drinking and he refused to cooperate with the requests of a statutory law enforcement officer to step out of his automobile when ordered, and that he refused to submit to a field sobriety test and he subsequently refused to take a breathalyzer test, is conduct that clearly brings the judicial office into disrepute. Supreme Court Rules 61 and 62(A).

In determining the sanction to be imposed, the Commission takes into account as a mitigating circumstance which bears upon the sanction we impose, the fact that the respondent has undergone an alcohol remedial education program.

It is ordered that the respondent be, and he is hereby, reprimanded.

Respondent reprimanded.