

(No. 97 CC 1. - Respondent censured.)

In re JAMES D. HEIPLE
Chief Justice of the Illinois Supreme Court, Respondent.

Order entered April 30, 1997

SYLLABUS

On January 23, 1997, the Judicial Inquiry Board filed a complaint with the Courts Commission, charging respondent with conduct that is prejudicial to the administration of justice and conduct that brings the judicial office into disrepute in violation of the Code of Judicial Conduct, Illinois Supreme Court Rules 61 and 62. In summary form, the complaint alleged that, during four separate incidents in 1992, 1995 and 1996, respondent failed to cooperate with and disobeyed law enforcement officials who were investigating him for violations of local traffic laws. Respondent also volunteered information that he was a member of the judiciary after being detained by police officers who suspected that he had violated traffic laws. The complaint further alleged that respondent knew or should have known that communicating such information was likely to influence the officers who were investigating him and would be perceived by them as an effort to use his judicial office to keep from being charged with a traffic violation.

Held: Respondent censured.

McDermott, Will & Emery, of Chicago, for Judicial Inquiry Board.
Herschbach, Tracy, Johnson, Bertani & Wilson, of Joliet, for respondent.

Before the COURTS COMMISSION: HARRISON, Chairperson, BUCKLEY, RARICK, GORMAN and VIRGILIO, commissioners. ALL CONCUR.

ORDER

The Judicial Inquiry Board (JIB) has filed a complaint against James D. Heiple, Chief Justice of the Illinois Supreme Court (Respondent), charging him with conduct that is prejudicial to the administration of justice and conduct that brings the judicial office into disrepute. The complaint arises from four unrelated incidents in which Respondent was stopped by police for speeding. The incidents took place in November of 1992, November of 1995, and January of 1996, prior to Respondent's election by the Supreme Court as its Chief Justice.

The JIB's complaint consists of twenty-six numbered paragraphs. The JIB was required to set forth all of the facts it believed were necessary to sustain its claim (Ill. Cts. Com. Rule 3) and those facts are contained in paragraphs one through twenty-four. Paragraphs twenty-five and twenty-six set forth conclusions of law. They assert that Respondent's conduct, as alleged in paragraphs one through twenty-four, violated two provisions of the Code of Judicial Conduct, Supreme Court Rules 61 and 62(A) (155 Ill. 2d Rules 61, 62(A)). Rule 61 provides that a judge "should participate in establishing, maintaining, and enforcing, and should personally observe, high standards of conduct so that the integrity and independence of the judiciary may be

preserved.” 155 Ill. 2d R. 61. Rule 62(A) states that a judge “should respect and comply with the law and should comport himself or herself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” 155 Ill. 2d R. 62(A). The JIB’s complaint further alleges that what Respondent did “constituted conduct that is prejudicial to the administration of justice and that brings the judicial office into disrepute.”

In his answer to the JIB’s complaint, Respondent elected not to refute any of the allegations contained in paragraphs one through twenty-four. He also filed a motion for judgment on the pleadings, which was taken with the case. The matter then proceeded to a public hearing on April 1, 1997, following the requisite notice to Respondent and his attorney (IL Cts. Com. Rule 9).

Because Respondent elected not to refute the JIB’s factual allegations, those allegations are taken as admitted. 735 ILCS 5/2-610(b) (West 1994). Respondent’s admissions are binding against him and may not be controverted. *Cleary and Graham’s Handbook of Illinois Evidence*, § 802.11 at 692 (6th ed. 1994). They have the effect of withdrawing the subject facts from issue and dispensing wholly with the need for proof of those facts. *Lee v. Chicago Transit Authority*, 152 Ill. 2d 432, 462 (1992). They are a substitute for evidence. *Dremco v. Hartz Construction*, 261 Ill. App. 3d 531, 535-36 (1994). Indeed, the Supreme Court, has declared that no higher form of proof can be adduced than to have the facts alleged in a complaint admitted in the answer. *Schmalzer v. Jamnik*, 407 Ill. 236, 243 (1950).

Based upon Respondent’s admission of the JIB’s allegations, the Commission makes the following findings of fact:

1. Respondent has been a Justice of the Supreme Court of Illinois since 1990 and has been Chief Justice since January 1, 1997. Prior to serving on the Supreme Court, Respondent served as Justice of the Illinois Appellate Court, Third District, and Circuit Court Judge, 10th Judicial Circuit.

2. During the time period alleged by the JIB in its Complaint, Respondent failed to cooperate with and disobeyed law enforcement officials who were investigating him for violations of local traffic laws. In addition, Respondent volunteered information that he was a member of the judiciary after being detained by police officers who suspected that he had violated traffic laws. In so doing, Respondent knew or should have known that communicating such information was likely to influence the officers who were investigating him and would be perceived by them as an effort to use his judicial office to keep from being charged with a traffic violation.

3. On January 27, 1996, at approximately 1:30 a.m., Respondent was driving his Chevrolet Tahoe through Pekin, Illinois. At that time, a Pekin police officer determined through the use of radar that Respondent was driving approximately 13 miles per hour in excess of the posted speed limit. That Pekin police officer then attempted to stop Respondent as Respondent traveled southbound on South 5th Street in Pekin.

4. Respondent did not immediately stop his vehicle when the Pekin police officer first indicated that he should stop, despite locations where he could stop safely. Rather, Respondent

continued to drive his vehicle for approximately three blocks while the Pekin police officer followed him. During this initial pursuit, the Pekin police officer activated the emergency flashing lights and siren on his squad car. There were no other vehicles separating Respondent's vehicle and the Pekin police officer's squad car during this pursuit.

5. After Respondent finally pulled his vehicle over, the Pekin police officer informed Respondent why he had been stopped and asked Respondent for his driver's license and proof of valid insurance. Respondent produced these items, while contending that the Pekin police officer was hassling him. Respondent was again informed by the Pekin police officer that he had been stopped for speeding and the Pekin police officer instructed Respondent to wait in his car. The Pekin police officer then returned to his squad car to begin the process of checking Respondent's driver's license information.

6. Instead of following the directions of the Pekin police officer to remain at the scene of his initial traffic stop, Respondent drove away before the police officer gave him permission to do so. After Respondent began to drive away, the Pekin police officer pursued Respondent in his squad car, using the emergency flashing lights, a spotlight, and the siren on his squad car. While pursuing Respondent, the Pekin police officer used his radio to notify his dispatcher that he was in pursuit.

7. Although the Pekin police officer was approximately one car length behind Respondent during this second pursuit, Respondent refused to pull his vehicle over to the side of the road immediately as required by Illinois law. Instead, Respondent drove approximately three blocks to the driveway of his own home. The Pekin police officer pursued Respondent as Respondent drove to his home. The Pekin police officer used his spotlight, emergency police flashers, and siren throughout this second pursuit, including a stop sign at the intersection of Washington and Buena Vista where the Pekin police officer was directly behind Respondent. Notwithstanding all of these indications that the Pekin police officer wanted him to stop immediately, Respondent refused to stop despite having numerous safe opportunities to do so.

8. When Respondent arrived at his driveway, he got out of his car and acknowledged that he knew that the Pekin police officer had been following him. At that time, the Pekin police officer believed that he detected the odor of alcohol and administered a field sobriety test to the Respondent. Respondent failed the field sobriety test.

9. After the Pekin police officer finished administering this field sobriety test, the Pekin police officer instructed Respondent to wait for him and to remain outside while the Pekin police officer completed his paperwork in his squad car. The Pekin police officer told Respondent that he could either stand outside his vehicle in the driveway or wait inside his own vehicle.

10. Instead of obeying these instructions, Respondent chose to disregard them and began walking towards the door to his home. At that time, he was repeatedly instructed by another Pekin police officer who had arrived on the scene to remain outside of his home. Instead of obeying these instructions, Respondent began arguing with the Pekin police officers on the scene, telling them

that he believed “this is stupid.” Respondent also stated to the officers, “Oh shut up. Do you know who you are talking to?”

11. After Respondent began arguing with the officers and acting belligerent, he was placed under arrest and handcuffed. While being handcuffed, Respondent struggled and resisted arrest by attempting to make it difficult for the officers to place him in handcuffs. While being handcuffed, Respondent again asked the Pekin police officers, “Do you know who I am?”

12. Respondent was then transported to the Pekin Police Station where he was processed. While at the Pekin Police Station, a Breathalyzer test was administered which Respondent passed. He was subsequently released on bond.

13. On January 8, 1996, at approximately 7:00 a.m., Respondent was driving southbound on Illinois Route 29 in Tazewell County, Illinois. At that time, a Tazewell County Deputy Sheriff stopped Respondent because the deputy had determined that Respondent was driving approximately 10 miles per hour over the posted speed limit.

14. After the Tazewell County Deputy Sheriff stopped Respondent in his vehicle, the Deputy Sheriff approached the driver’s window. When the Deputy Sheriff approached the driver’s window, Respondent, who was sitting in the driver’s seat, was already displaying an official State of Illinois Supreme Court Justice identification credential -- but not his Illinois driver’s license for the Deputy Sheriff to see.

15. As a result of Respondent’s use of this judicial identification credential, Respondent was not issued a traffic citation.

16. On November 24, 1995, at approximately 12:50 a.m., Respondent was driving on North Main Street in Creve Couer, Illinois. He was stopped by a Creve Couer Village Police officer who had determined through the use of radar that Respondent had been driving approximately 28 miles per hour over the posted speed limit.

17. When Respondent was stopped by the Creve Couer Village police officer, the police officer asked Respondent to display his driver’s license. Instead of producing his driver’s license as requested, Respondent displayed his Illinois Supreme Court Justice identification credential. Only when the police officer stated that this was not what he had requested did Respondent finally produce his actual driver’s license.

18. As a result of Respondent’s use of this judicial identification credential, Respondent was not issued a traffic citation.

19. On November 14, 1992, at approximately 11:08 p.m., Respondent was driving on Route 29 through Mason City, Illinois. At that time, a Mason City police officer determined through the use of radar that Respondent was driving approximately 19 miles per hour over the posted speed limit.

20. After determining that Respondent was driving in excess of the speed limit, the Mason City police officer, who was driving a marked squad car equipped with flashing emergency lights, attempted to stop Respondent. The Mason City police officer drove within a few car lengths of Respondent and signaled him to pull over to the side of the road by activating his flashing red and blue emergency lights on the roof of his car, as well as the alternating flashing lights on the grille of his squad car.

21. Instead of pulling over immediately as required by law, and despite having numerous safe locations to do so, Respondent continued driving. The Mason City police officer pursued Respondent for approximately five minutes, over a distance in excess of five miles, before Respondent finally turned onto a side road outside the Mason City limits and stopped his car.

22. After Respondent finally stopped his car, the Mason City police officer approached the driver's window and asked Respondent to produce his driver's license and proof of current insurance. Instead of immediately producing his driver's license as requested, Respondent's displayed his Illinois Supreme Court Justice identification credential. Only after being told by the Mason City police officer that he would still have to produce his driver's license did Respondent finally display his driver's license.

23. When asked to produce a current proof of vehicle insurance card as required by Illinois law, Respondent was unable to do so, producing instead only an expired insurance card. When the Mason City police officer admonished Respondent that he was required to carry a current insurance card, Respondent replied that he was well aware of the law and that he had previously served as a judge in traffic court.

24. At the end of his encounter with Respondent, the Mason City police officer reminded Respondent that Illinois law required him to keep his seat belt buckled, to which Respondent replied that he was well aware of the law.

Based upon the foregoing facts, admitted by Respondent, the Commission has determined that the JIB has sustained its claim that Respondent violated Supreme Court Rules 61 and 62(A)(155 Ill. 2d Rules 61, 62(A)). The Commission has further determined that Respondent's conduct was prejudicial to the administration of justice and brought the judicial office into disrepute.

The JIB has never indicated what punishment it regards as appropriate. Misconduct similar to that at issue here drew a reprimand in *In re Karns*, 2 Ill. Cts. Com. 28, 37 (1983). The Karns case, however, involved a single incident. The present matter involves a pattern of incidents on multiple occasions. In addition, the judge who engaged in the misconduct in this case is a member of the highest court in Illinois. Because of Respondent's office and his position of leadership in the judiciary, he had a special obligation to comport himself properly and to set an example for others. Under these circumstances, Respondent's misconduct was particularly damaging to the integrity of the court system. The Commission has therefore concluded that the more serious

sanction of censure is warranted.

For the foregoing reasons, Respondent is hereby censured. Respondent's motion for judgment on the pleadings is denied.

Respondent censured.