(No. 82 CC 2.—Complaint dismissed.)

In re CIRCUIT JUDGE JOHN S. TESCHNER of the Eighteenth Judicial Circuit, Respondent.

Order entered August 3, 1983.—Motion for reconsideration denied September 20, 1983.

SYLLABUS

On March 10, 1982, the Judicial Inquiry Board filed a multi-paragraph complaint (later amended), charging the respondent with willful misconduct in office 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 that on three occasions, once during 1975 and twice during 1981, the respondent, while presiding over proceedings under the Juvenile Court Act (Ill. Rev. Stat., ch. 37, par. 701—1 *et seq.*), addressed the minors appearing before him "in vile, obscene, and insulting language"; that the respondent, while presiding over a criminal probation revocation proceeding during 1981, addressed the young adult defendant appearing before him "in vile, obscene, and insulting language"; and that by his "repeated use of [the] intemperate and injudicious language" and by his conduct the respondent violated Supreme Court Rules 61(b), 61(c)(4), 61(c)(5), and 61(c)(8) (Ill. Rev. Stat., ch. 110A, pars. 61(b), 61(c)(4), 61(c)(5), and 61(c)(8)).

Held: Complaint dismissed.

Sidley & Austin, of Chicago, for Judicial Inquiry Board.

Cotsirilos & Crowley, Ltd., of Chicago, for respondent.

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

ORDER

In a Complaint filed on March 10, 1982, the Judicial Inquiry Board (hereinafter the "Board") charged the respondent, John S. Teschner, a circuit judge of the Eighteenth Judicial Circuit, with "conduct which is preju-

dicial to the administration of justice and which brings the judicial office into disrepute." The Complaint stated that from December 4, 1975, through March 26, 1981, the respondent regularly used "intemperate and injudicious remarks," addressing defendants appearing before him in "vile, obscene and insulting language" in violation of Illinois Supreme Court Rules 61(b) and 61(c)(4), 61(c)(5) and 61(c)(8) (Ill. Rev. Stat. 1975, ch. 110A, pars. 61(b), 61(c)(4), 61(c)(5), 61(c)(8)).

As a preliminary matter, the respondent calls our attention to the fact that the Judicial Inquiry Board obtained transcripts of the juvenile proceedings without an order of the circuit court of Du Page County. Counsel for the respondent asserts that because the Complaint, filed by the Board prior to the entry of the protective order on May 18, 1983, by the Courts Commission, identifies minors, it is in violation of the provisions of sections 2—10 and 2—10.1 of the Juvenile Court Act (Act) (Ill. Rev. Stat., ch. 37, pars. 702—10, 702—10.1) requiring that such proceedings be confidential and not divulged absent a court order.

Section 2—10 provides that "any transcript of testimony in proceedings under this Act shall be impounded and shall not be made available to the general public but may be inspected by representatives of agencies, associations and news media or other properly interested persons *by general or special order of the court.*" (Emphasis added.) Ill. Rev. Stat. 1975, ch. 37, par. 702—10.

The Board breached the confidential requirements of this Act in using the transcripts of three separate juvenile proceedings as a basis for bringing charges against the respondent. The Board disregarded section 2—10 of the Act in procuring such transcripts without a court order. The Board then named those juveniles in its Complaint against the respondent, in clear derogation of the confidentiality provisions of the Juvenile Court Act

that aim at preserving the sanctity of juvenile records. Such conduct violates the rights of those minors named and is not justified because the action is taken as part of an investigation into the conduct of a judge presiding over juvenile court proceedings.

We are also troubled that the Board has based its Complaint against the respondent primarily on three instances of conduct involving juveniles, in proceedings that are by statute confidential (Ill. Rev. Stat. 1975, ch. 37, par. 702—10), and then uses its shield of confidentiality provided by the Illinois Constitution (Ill. Const. art. VI, sec. 15(c)) to refuse to answer the respondent's interrogatory as to how the conduct of the respondent in these confidential proceedings was brought to the attention of the Board.

While we do not condone such action, we do not feel that dismissal is warranted at this stage, and the respondent's motion to dismiss is denied. We will now proceed to the merits of the Complaint against the respondent.

The essential facts of the case are undisputed. The language used by the respondent during the four hearings at issue was stipulated to. Three of the four proceedings involved juveniles. The fourth hearing involved the probation revocation of an adult defendant.

Of the juvenile proceedings, two were for the purpose of determining whether detention of the minor was appropriate and the third was a dispositional hearing.

Rule 61(b) states that a judge's conduct "should be above reproach." Rule 61(c)(4) provides that a judge's conduct should be "free from impropriety and the appearance of impropriety" and that his personal behavior should be "beyond reproach." Rule 61(c)(5) states that a judge should be "temperate, industrious, attentive, patient, impartial, studious of the principles of the law and diligent in endeavoring to ascertain the facts." Rule 61(c)(8) provides in the pertinent part that judges should

be "considerate of, and courteous to, counsel * * *, jurors, witnesses, and others in attendance upon the court." Ill. Rev. Stat. 1975, ch. 110A, pars. 61(b), 61(c)(4), 61(c)(5), 61(c)(8).

The Board points to four specific occasions where the respondent allegedly used vile, obscene and insulting language. The first instance occurred on Thursday, December 4, 1975, when minor Jaime S.[1], accompanied by his parents, appeared before the respondent who was sitting in the Juvenile Division of the circuit court of Du Page County for a dispositional hearing.

The following is part of the colloquy between the respondent and Jaime S.:

"THE COURT: Why should I not send a kid who has thrown paint on houses and cars or burglarizes homes, steals mini-bikes and another burglary, damage to property, overdoses on drugs, takes 100 aspirin, disorderly conduct, urinating in public, fighting, shopliftings, burglary, possession of marijuana, disorderly conduct, shoplifting, disorderly conduct—that's what I see before me. Why should I not send a kid with that kind of record to St. Charles?

JAIME S.: I don't know.

THE COURT: You better find out. You better start answering my questions, too.

JAIME S.: I'm nervous.

THE COURT: Well, tell me you're nervous then. But you're not going to stand there and say I don't know, I don't know. You better start having reasons, because that's where you're going unless you can give me good reasons why you shouldn't go there.

Why should you not go there?

JAIME S.: I don't know what to say.

[1] The full surnames of the minors, who appeared before the respondent in the juvenile court proceedings in question, have been omitted.

THE COURT: Tell me what you are thinking.

JAIME S.: Well, I don't want to go there because I'M [*sic*] afraid.

THE COURT: That's the only reason? What are you afraid of?

JAIME S.: Afraid of the kids I'm going to meet.

THE COURT: Think they'll seduce you or something?

JAIME S.: Pardon?

THE COURT: Afraid they'll seduce you or something?

JAIME S.: I don't understand.

THE COURT: What are you afraid of?

JAIME S.: Well, the way they act and the way they respect other people.

THE COURT: They don't have respect for other people, do they?

JAIME S.: No.

THE COURT: *Many even try to fuck you in the ass.*

You don't have very much respect for other people by your actions. Why don't you fall in that category? More important, you don't have any respect for yourself, do you?

JAIME S.: No, sir.

THE COURT: Why not?

JAIME S.: I have respect for myself.

THE COURT: What's good about you? Tell me the best thing about yourself.

JAIME S.: I can't think of anything, sir.

THE COURT: Well, you're a good juvenile delinquent; is that what you are?

JAIME S.: No, sir.

THE COURT: Why do you always get in trouble?

JAIME S.: Because I did it for the fun of it.

THE COURT: Glad you're enjoying this.

JAIME S.: I'm not, sir.

THE COURT: Then why did you do it? A lot of fun to go to St. Charles, isn't it?

JAIME S.: No, sir.

THE COURT: What should I do with you?

JAIME S.: Pardon?

THE COURT: What should I do with you?

JAIME S.: I don't know, sir."

(Emphasis added to the language the Complaint describes as vile, obscene and insulting.)

On February 23, 1981, the respondent conducted the probation revocation proceeding of Ronald Humphrey. In the course of the hearing the respondent asked the defendant why the defendant should not be sent to the penitentiary. After receiving no response, the respondent said: "*You're a slight white male. They'd love you down there.* Why should I not send you to the penitentiary?" (Emphasis added to the language the Complaint describes as vile, obscene and insulting.)

Later in the hearing, the following colloquy occurred between the respondent and the defendant:

"THE COURT: *You know, if I send you to the penitentiary, five minutes after you're there, some six foot five colored fellow is going to have you as his piece of meat.*

That's what the facts of life are in the penitentiary. And that's where you're heading.

Why should I not send you there?

DEFENDANT HUMPHREY: Well, if you sent me to the penitentiary and, you know, like you said, a six foot five person would come up to me, I'd just, you know, probably come out in a box. I wouldn't come out alive because I wouldn't let none of that stuff happen to me.

* * *

THE COURT: You did the wrong thing.

DEFENDANT HUMPHREY: Did the wrong thing, that's right. So here I stand back in front of you again.

THE COURT: You know, you're the type of guy who makes my job very difficult, because I care.

Some guys I just look at and say, you're going to the penitentiary, 20 or 30 years, because they need to be isolated.

I care. You're sitting on the fence.

You can make it —

DEFENDANT HUMPHREY: I believe I can.

THE COURT: —if you stay away from the booze and the drugs, but you can't stay away from the booze and the drugs until you get a purpose, until you get a purpose and enjoy life.

I'm going to continue your probation for a term of three years.

A condition of probation is six months in the county jail, credit for time served.

Upon release from the County Jail, you are to engage in psychological counseling and alcohol or drug abuse counseling. It can be in combination with psychological counseling.

The next three months you're sitting in the County Jail[.] I want you to think.

I also want you to read.

Maybe a good thing to start reading is Alcoholics Anonymous.

If there's not a copy in the jail, let me know and I'll get you a copy.

Despite yourself, I'm going to make you a useful person.

I'm going to make you a person who doesn't want to commit suicide: who's going to enjoy the journey.

The destination of life is not the secret. It's a journey."

(Emphasis added to the language the Complaint describes as vile, obscene and insulting.)

On March 25, 1981, Nancy A. appeared before Judge Teschner, to determine whether she would be sent to the youth home. At the hearing, the following conver-

sation took place between the respondent and Nancy A.:

"THE COURT: Temporary placement with Pat and Lisa [B.] is authorized.

Nancy, you're making a deal with me.

NANCY A.: Um-hum.

THE COURT: I'm doing this because I believe in you.

But you're still 16.

No pot. No booze; not even beer.

Keep your grades. You complete the school. Will you promise me that?

NANCY A.: Yes.

THE COURT: The matter is continued until—what's the color? What's the day?

MR. REYNOLDS: It's a Tuesday date.

THE COURT: June 9th, for answer and setting to the petition.

You better—

Ms. ROSETTI: May we have a sooner date than that?

THE COURT: No.

You better have that report card; you better have the grades, because you're making a deal with me.

Are you willing?

NANCY A.: Yes.

THE COURT: You prove yourself.

NANCY A.: I will.

THE COURT: *If you fuck up*, if I read about you in the paper, I can be mean, too.

June 9th, for answer and setting of the petition.

The alternative—is the State objecting to the June 9th date?

Ms. ROSETTI: Yes, Judge.

THE COURT: Probation is hereby dismissed; wardship terminated."

(Emphasis added to the language the Complaint addresses.)

Patrick L. appeared before Judge Teschner on March 26, 1981, for a detention hearing. The respondent engaged Patrick L. in conversation during which he made the following remarks:

"THE COURT: What do you want to kick around?

PATRICK L.: Just talk normal for once.

THE COURT: Come on. Talk normal to me.

PATRICK L.: I can't.

THE COURT: Why not?

PATRICK L.: Cause you're a judge.

THE COURT: I'm a person.

PATRICK L.: Well—

THE COURT: I'm willing to listen.

PATRICK L.: Like I said, you know, all I wanted to do was to go to the lake. I didn't have no problem. I'm willing to stay. But then they sent me down in Springfield.

THE COURT: Don't you want to go home?

PATRICK L.: Huh?

THE COURT: Why don't you want to go home?

PATRICK L.: I do, but that is out of the question.

THE COURT: Why?

PATRICK L.: Cause I have seven petitions and I'm uncontrollable.

THE COURT: Why are you uncontrollable?

PATRICK L.: Cause I do what I want and then I pay for it.

THE COURT: Why do you do what you want?

PATRICK L.: I don't know. I just don't like no responsibilities or nothing.

THE COURT: Hey, you know where that is heading? You know what judges do with people who don't take responsibility for themselves?

PATRICK L.: Put them in jail.

THE COURT: Yeah. There is [*sic*] four things, four

things a judge considers when he imposes a sentence.

One is retribution, right to [*sic*] society to have somebody punished.

Two is rehabilitation. There is no rehabilitation in prison. None. None. Unless you want to be a boxer or basketball player.

Isolation. That is a person who should be isolated from society, from other people.

The fourth is deterrence. Deter yourself and deter others from doing things again.

You're in Juvenile Court. This is a place where they try to rehabilitate, try to help you help yourself. But you got to be willing to help yourself and take responsibility for yourself.

If you're not, you can't do it there. And you're seventeen. Then it's isolation. *And the facts of life are you're a slight, white male. And the prisons are full of big, black people. And if you are going to the Department of Corrections, the facts of life are you'll have one in your mouth and one in your ass.* And if that is what you call—you want to be responsible for, that is where you're going.

If you learn to be responsible for yourself and you won't hurt others or their property, not invade others or their property, then you better get your act together. That is a fact of life. And that is the facts of life. Do you understand me?

PATRICK L.: (Nodding)

THE COURT: Okay. I have talked to you honestly right now. Why don't you talk to me honestly? What is your real problem?

PATRICK L.: I don't like being locked up. I want to go home.

THE COURT: And then you go home and run again. You run right back to the Youth Home. It's a vicious

circle. You got to cut that circle. We can't cut it for you. We try to help you.

What do you have, a drug problem? Booze problem?

PATRICK L.: Not really.

PATRICK L.: Me. I keep fucking up.

THE COURT: Why?

PATRICK L.: I don't know.

[Emphasis added to the language the Complaint describes as vile, obscene and insulting.]

* * *

THE COURT: *Get your shit together.* It's the first day of the rest of your life my friend. Change your mind right now that you're going to not hurt anybody, invade anybody else and you're going to be responsible for yourself. Make that decision.

You won't even have to go to the lake. You might even be able to go home. But you're going to have to demonstrate that you're capable for doing that first. You understand me?

PATRICK L.: Uh-hum.

THE COURT: What date do you want?

MR. KING: 3/31, Judge, at 10:00 o'clock for answer and setting.

THE COURT: Make up your mind, Patrick. Take responsibility for yourself. Get your life straight. Okay?

PATRICK L.: (nodding.)

THE COURT: Deal?

PATRICK L.: Uh-hum.

THE COURT: You made a deal. That's all."

(Emphasis added to the language the Complaint addresses as vile, obscene and insulting.)

The respondent should not have used the language

he did. However, we do not find that his actions called the judiciary into disrepute when taken in the context in which they were used, and in view of the purpose Judge Teschner had in using them.

One of the defenses that the respondent asserted initially was that his conduct was protected under the first amendment of the United States Constitution guaranteeing him the right to freedom of speech. That defense was not raised during the proceeding, nor is it asserted as an affirmative defense in the respondent's trial brief. We, therefore, do not feel it necessary to address it.

We agree with the Board that the "innocent construction" rule is not relevant to this case. That rule is applied in libel cases to determine the meaning to be given certain words (see, *e.g.*, *Chapski v. Copley Press* (1982), 92 Ill. 2d 314). It is not applicable here.

Five witnesses testified on behalf of the respondent. Mr. Frederick Cohn, a criminal lawyer who has been practicing in Illinois for over twenty years, testified that he has handled hundreds of juvenile cases.

When Mr. Cohn was asked if he felt that the language in question was intemperate, injudicious, vile, obscene, insulting or demeaning, Mr. Cohn said no, and went on to testify that: "I think it is crucial when you are talking to a 16 or 17 or 18 year old who is in trouble that you use the language they understand. They are not offended. They don't think that you are losing your position but they see that you care enough to talk to them as they need to be talked to."

Mr. Adam Bourgeois, a licensed attorney for over 36 years in Illinois, testified that his practice was primarily criminal defense work.

Mr. Bourgeois was then asked if he felt that the respondent's language in addressing one minor that "[t]hey may even try to fuck you in the ass" was

intemperate, injudicious, vile, obscene, insulting or brought the judiciary into disrepute, and the witness responded no, "[b]ecause it is the truth. The fact of the matter is that homosexual rape is a fact of life in the prison system in the State of Illinois and further, a further dimension of that happens to be that well over 90 percent of the population in the major prisons happens to be black and the prisons are in fact run by gangs, for the most part, rather than the Department of Corrections. My experience is that young, white males who go to prison are, in most instances[,] raped. I have had a number of them tell me that they have in fact been raped."

Mr. Bourgeois was then asked if he felt the following remarks were vile, insulting, obscene, intemperate or brought the judiciary into disrepute: "You are a slight, white male. They would love you down there, and you know, if I send you to the penitentiary, five minutes after you are there, some six foot five, colored fellow is going to have you as his piece of meat. That is what the facts of life are in the penitentiary and that is where you are heading."

Mr. Bourgeois responded that he felt that the remarks were not injudicious, intemperate or obscene, "[f]or the simple reason that the prison systems, as they presently exist, are not the models that they were originally intended to be, and if in fact a Judge makes the determination that he wants to try to help a young offender, and he wants to impress upon that offender exactly what takes place in prison, then the language must be of such a nature that the juvenile offender or the young adult can understand and appreciate exactly what is facing that person."

Mr. Richard McKenzie, who appeared on behalf of the respondent, had been a member of the Du Page County sheriff's office for 13 years. He testified that his

duties included attending many dispositional hearings of juveniles. Mr. McKenzie was asked if it was his experience that juveniles sometimes had difficulty relating in a courtroom. After answering yes, the witness was asked what he felt Judge Teschner's attitude was towards juveniles. Mr. McKenzie responded that: "I thought that he was always very caring and interested. He would let a kid talk on and on forever to get the kid's side of the story. You just didn't go into his courtroom and present a case and it was a rubber-stamp detention or rubber-stamp juvenile warrant."

Judge Teschner also testified on his own behalf. The respondent testified that he has presided over 500 to 600 juvenile proceedings. Judge Teschner was asked what his primary consideration is in disposing of minors' cases. He responded: "I think my primary consideration in imposing any sentence is, if the defendant or minor is reachable, that is, if I can reach him, with a sentence that is appropriate, that is my goal. If I feel I cannot reach an individual, then it is just a matter of imposing time or whatever might be an appropriate sentence."

The following questions were then posed by the respondent's attorney and answered by the respondent:

"Q. When you say 'reach,' do you attempt to reach these children?

A. Yes, I do.

Q. And what do you mean by 'reach'?

A. Get a line of communication open so that we can talk; so that he is comfortable; so that he can work and get his life back in order and hopefully the purpose of any juvenile action is to reintegrate that juvenile into his family home.

I find I can get that juvenile to work towards reintegrating himself back into the home and the parents work to get their attitude such that

will allow the kid to be reintegrated in the home, that is the primary purpose."

The judge testified that he tried to save Jaime S.; that he was trying to reach Patrick L.; that he was trying to communicate with Nancy A. He went on to say that his purpose in saying what he said was "to get them to realize in language they understand what the realities of life are if they continue their course of conduct that they are engaged [in]." The respondent also testified that he used the language he did to Mr. Humphrey "for the same purpose, in hopes of reaching him so that he would get his act together."

Judge Teschner testified further on cross-examination, in response to a question of whether he could not have had the "marshal" go out to the side to try to get the message across, that:

"A. It is not the same, counsel. It is not the case. If you take an interest in these kids, you commit yourself. You know, it is awfully draining for a Juvenile Court Judge, if he wants to be effective. He has to get involved with these kids and if you get involved with them and they know you are sincere and you care, that can be much more effective than a bailiff, an attorney or other people, in helping that person along, because you are the one sitting in judgment on them. You are the one who is sentencing them."

Rita Elsner was the last to testify on behalf of the respondent. She had worked from 1976 through 1978 as an assistant State's Attorney in Du Page County and appeared before Judge Teschner on a regular basis, a daily basis for approximately five or six months. She indicated that the judge would become thoroughly familiar with the files and background of each of the juveniles and would try to acquaint himself with all of the facilities available for treatment to the extent that if the judge had

not previously been to a facility in Rockford, he would make a trip up there before sentencing anyone to a place he had not seen. Ms. Elsner testified that she had occasionally heard Judge Teschner use four letter words in addressing a juvenile as a last resort in a situation where a juvenile had a bad record and was often on the verge of being sentenced to the juvenile home. According to Ms. Elsner, the judge was trying to make an impression on a juvenile as to what the results would be if he were sentenced to such a facility. Ms. Elsner further testified that on occasion she would walk by the detention center where some of the juveniles were taken after their hearings, and said that she could hear them talking to each other about the judge and saying in effect, "He is really talking; he knows he is saying to us what we understand."

On cross-examination, counsel for the Board asked, "Would you concede that there would have been other ways of reaching the juveniles in the cases in which you heard Judge Teschner use language other than by the use of such language?" Ms. Elsner answered, "I doubt it." The following colloquy then occurred:

"Q. Do you think that he could have told them exactly what was going to happen to them were they sent to the penitentiary, by using other words, not four-letter words?

A. Yes, he could have said it in other language.

Q. You don't think they would have understood?

A. They would have perhaps understood the English language, but it would not have had the impact or had the feeling that the Judge was communicating, that they could understand.

Q. You don't consider that the use of such language was inappropriate by the Judge then?

A. Not in the situation that it was used."

Finally, a member of the Courts Commission asked

Ms. Elsner if she considered the words in question to be vile and obscene. She responded that they were not in the context in which they were used.

There were a number of exhibits offered into evidence by the respondent that the Board objected to, and the determination of admissibility as to each was reserved.

The respondent offered three letters of support received by the Judicial Inquiry Board from Ms. Dina Bogard, Mr. William Jacobs and Mr. Gerald Gorski, as well as 15 favorable letters received by Judge Teschner, two of which are duplicates of those received by the Board.

A letter of support written by Mr. Adam Bourgeois to Judge Teschner, dated June 4, 1981, about which Mr. Bourgeois testified, was also offered by the respondent.

The respondent also offered the results of a recent poll conducted by the attorneys who practice in Du Page County, which listed and ranked all of the judges in Du Page County, including Judge Teschner, and was taken after the alleged remarks were made and published. The poll evaluated judges on overall performance, objectivity, knowledge and ability, judicial temperament and diligence. Counsel for the respondent argued that judicial temperament is one of the major items in this case and counsel argued that the exhibit should be admitted to demonstrate what the attorneys who responded to the poll felt about Judge Teschner's judicial temperament. Also offered was the article in the Chicago Daily Law Bulletin of March 29, 1983, which publicized the ratings of Du Page County judges.

Finally the respondent also offered a report made to the 82nd General Assembly of the State of Illinois, dated December 1982, entitled "Report of Rape Study Committee" which describes some of the conditions that exist in the Department of Corrections in both juvenile and

adult facilities. Counsel for the Board argued that whether or not homosexual rape goes on in the State penal system, one is not, therefore, licensed to conduct himself in a nonjudicial manner. On that basis, counsel for the Board argued that it was irrelevant and objected to the admission of the report.

We find that we need not resolve the aforementioned evidentiary disputes. All of the objected to exhibits have been offered by the respondent and all are favorable to the respondent's position. Thus, even if we were to conclude that all of the evidence in question should be excluded, the other evidence is so overwhelmingly in the respondent's favor that it is clear that the conduct of the respondent does not warrant discipline.

We do not approve of the respondent's selection of language at issue and will not look favorably upon any future use of such language. The evidence does, however, overwhelmingly show that the respondent was attempting to use forceful measures in reaching the three juveniles, and in talking to Mr. Humphrey.

While we feel that the Board was justified in expressing concern and in bringing the charges, it has failed to come forward with even one supporting witness or exhibit to support its case.

The Board's complete reliance on the use of language in question standing alone as a *per se* violation of Supreme Court Rules 61(b), 61(c)(4), 61(c)(5), and 61(c)(8) is misplaced. The Board offered no evidence that the respondent's conduct in any way brought the profession into disrepute. The Board offered no witnesses to suggest that the respondent's conduct amounted to any appearance whatsoever of impropriety. The Board did not show that the respondent was not being considerate when he made the remarks that are the subject of this Complaint. The Board presented no one to testify

that the respondent's conduct was ever anything less than temperate, industrious, attentive, patient and impartial.

The Board did not bring forward a rabbi, minister, or priest to testify that they found the language used by the respondent to be shocking. In this proceeding, we did not see even one citizen of this State come forward and say that he or she would be dismayed to have his or her son or daughter hear the language that the respondent used from the bench.

Nor did the Board offer any rebuttal to the substantial amount of evidence that the respondent produced showing that Judge Teschner used the language he did on the occasions in question because he was an attentive, patient, considerate judge who was doing nothing more than attempting to get four individuals to listen to him and to understand the consequences of their actions.

The Board is asking this Commission to impose discipline based solely upon the stipulation that the respondent did use the language he was charged with using in the Complaint.

The respondent has said that he will not use the language in question again. Viewed in the context in which the language was used and the purpose for which it was used, we cannot find that the respondent violated any Supreme Court rules. The allegations of the respondent's violation were not, as required by Rule 11 of the Rules of Procedure of the Courts Commission, proved by clear and convincing evidence. It is therefore ordered that the Complaint and the charges be dismissed.

Complaint dismissed.