

(No. 78 CC 1.—Complaint dismissed.)

In re ASSOCIATE JUDGE DEXTER A. KNOWLTON
of the Fifteenth Judicial Circuit, Respondent.

Order entered August 13, 1979.

SYLLABUS

On March 8, 1978, the Judicial Inquiry Board filed a multi-paragraph complaint with the Courts Commission, charging the respondent with conduct that is prejudicial to the administration of justice and that brings the judicial office into disrepute. In summary form, the allegations were: that a 19-year-old woman came into the respondent's courtroom as a spectator wearing a T-shirt with the words "Bitch Bitch Bitch" printed thereon; that the respondent told the woman she could not remain in the courtroom wearing the T-shirt; that the woman left the courtroom but returned shortly wearing a jacket over the T-shirt; that the respondent then held the woman in contempt of court and sentenced her to three days' incarceration; and that by engaging in said conduct, the respondent violated Supreme Court Rules 61(c)(1) through 61(c)(5) and 61(c)(18) (Ill. Rev. Stat. 1977, ch. 110A, pars. 61(c)(1) through (5) and (18)).

On December 13, 1978, the appellate court reversed the woman's contempt conviction in *People v. Watts* (1978), 66 Ill. App. 3d 971.
Held: Complaint dismissed.

Devoe, Shadur & Krupp, of Chicago, for Judicial Inquiry Board.

Berry, Berry & Nolte, of Rockford, and William J. Harte, Ltd., of Chicago, for respondent.

Before the COURTS COMMISSION: RYAN, J., chairman, and LORENZ, JONES (alternate), HUNT and MURRAY, JJ., commissioners. ALL CONCUR.

ORDER

On March 8, 1978, the Illinois Judicial Inquiry Board (Board) filed a Complaint against Dexter A. Knowlton, respondent, an associate judge of the Fifteenth Judicial Circuit, charging that he violated one or more of the

Illinois Supreme Court Standards of Judicial Conduct, 61(c)(1), 61(c)(2), 61(c)(3), 61(c)(4), 61(c)(5), and 61(c)(18) (65 Ill. 2d R.61(c)(1), 61(c)(2), 61(c)(3), 61(c)(4), 61(c)(5), 61(c)(18); Ill. Rev. Stat., ch. 110A, pars. 61(c)(1) through 61(c)(5), 61(c)(18)); and that his conduct constituted a gross abuse of judicial power and conduct that is prejudicial to the administration of justice, and brings the judicial office into disrepute. The conduct complained of involved the holding of a 19-year-old female, Sue Watts, in contempt of court and sentencing her to three days in the county jail. Miss Watts had appeared in court wearing a T-shirt that had the words "Bitch Bitch Bitch" printed on the front of it. The contempt conviction was appealed and reversed by the appellate court for the Second Judicial District in *People v. Watts* (1978), 66 Ill. App. 3d 971.

The respondent moved to dismiss the Complaint, which motion was taken with the case. The Courts Commission (Commission) is of the opinion that the allegations of the Complaint, if proven by clear and convincing evidence, are sufficient to state a cause of action for discipline of the respondent. The motion to dismiss the Complaint is therefore denied and the Commission will decide the case on the evidence.

The Board contends that this is not a case of simple mistake by a trial judge, but is a gross abuse of judicial authority.

The evidence shows that Sue Watts had worked the night shift at a local factory and on the morning of August 15, 1977, went directly from work to her mother's house. Her brother had been charged with rape and his preliminary hearing was set for 9:30 a.m. Sue Watts and her mother were going to attend that hearing. When they left for the courthouse, Miss Watts was wearing the same attire she had worn to work the night before, which included blue jeans and a green T-shirt with three words "Bitch Bitch Bitch" printed on the front of it in white

letters approximately three inches high. The words were arranged on the T-shirt one above the other. She testified that she had purchased the T-shirt to chide her mother for constantly scolding or complaining about her conduct. She acknowledged, however, "bitch" had other commonly understood and more vulgar connotations. She stated that she had not worn that T-shirt that morning for the purpose of influencing in any way, or reflecting on the complaining witness against her brother in the rape case. She said she felt that it was wrong to wear this T-shirt in the courtroom but she contends she didn't realize she was wearing it.

Miss Watts and her mother entered the courtroom and sat among the spectators, who were few in number. There were probably not more than six to eight people in the courtroom. The respondent testified he did not notice Miss Watts until two ladies, who had been before him on a traffic matter, turned to leave the bench. Their apparent reaction to the T-shirt called the respondent's attention to it, at which time he told Miss Watts she could not remain in the courtroom wearing that T-shirt. Miss Watts and her mother left the courtroom. In the corridor she borrowed a denim jacket from a friend and put it on. She and her mother testified that the jacket was snapped to the top so that only the collar was open and that only the very top of the neck of the T-shirt was showing and that none of the lettering was visible. They then reentered the courtroom. The respondent testified that the jacket was not closed and that the lettering was partially visible although he could not read the words. A bailiff testified to the same effect, although another bailiff confirmed Miss Watts' testimony in this regard.

The respondent, when he saw Miss Watts in the courtroom, summoned her to the bench. The following is a transcript of what transpired:

"MISS WATTS: Sue Watts.

THE COURT: Pardon?

MISS WATTS: Sue Watts.

THE COURT: Sue Watts. How old are you, Sue Watts?

MISS WATTS: Nineteen.

THE COURT: Nineteen.

All right. Let the Record show that Sue Watts is here present in Court this date. Let the Record further show that at the time the Judge was on the bench Sue Watts, aged nineteen years of age, appeared in this courtroom wearing an obscene T-shirt with a vulgarity printed thereon. She appeared in this Court and impinged the dignity of the Court.

Miss Watts, this is a Court of Law. We conduct these things with dignity. I wear a robe. That dignity [sic] of the Court. When you come in here with a T-shirt on that says, 'Bitch, Bitch' on it, then that impinges the dignity of the Court.

THE COURT: Now, Miss Watts, where did you get that coat?

MISS WATTS: (Inaudible response or no response.)

THE COURT: What made you think you could come in here wearing that?

MISS WATTS: I completely forgot about it being on.

THE COURT: You're not very lady-like even wearing that on the street, I don't think. As I say, it is a vulgarity. It borders on obscenity, and it impinges on the dignity of the Court when you come in here.

I'm holding you in contempt of Court, and you are sentenced to three days in the County Jail for contempt. The bailiff will take charge.

A VOICE: Your Honor [gap in recording] She came from work and . . .

THE COURT: I don't care where she came from."

As noted above, the appellate court reversed the contempt conviction; however, as stated in *People ex rel. Harrod v. Illinois Courts Commission* (1977), 69 Ill.2d 445, 471: "The fact that a judge's misconduct may be remedied by the appeal * * * does not prevent the same

conduct from being the subject of disciplinary action." It was also stated in *Harrod* that "mere errors of law or simple abuses of judicial discretion should not be the subject of discipline by the Commission." 69 Ill. 2d 445, 471.

The respondent contends that a single act of abuse of judicial discretion does not warrant disciplinary action. We do not agree with this contention. It is apparent that a single act of abuse of discretion could conceivably be so gross that a failure to take disciplinary action would, in effect, undermine the purposes of the entire disciplinary system. This is not the case here.

The Board contends that the legal limits of the contempt power are well defined and that the respondent, by punishing Miss Watts for contempt in this case, violated Rule 61(c)(18) (Ill. Rev. Stat., ch. 110A, par. 61(c)(18)), which provides that in imposing sentence a judge should follow the law and should not compel persons brought before him to submit to some act or discipline without authority of law. The appellate court, in reversing the contempt conviction, stated:

"Although some case law has evolved with regard to the contempt power and appropriate courtroom attire
* * * there have been very few decisions concerning the attire of courtroom spectators, as opposed to attorneys or parties. Because of this is [sic] is understandably difficult for even a learned trial court judge to know the limits of his own contempt power."
66 Ill. App. 3d 971, 974.

The concurring opinion also stated: "In this case, the law provided only general guidance for the trial court; we have found no case directly on point, and none has been cited to us." 66 Ill. App. 3d 971, 976. These statements by the appellate court indicate that the law, with regard to contempt as it relates to appropriate courtroom attire for spectators, was not well defined. The respondent's conduct in holding Miss Watts in contempt cannot,

therefore, be said to be a violation of Rule 61(c)(18) (Ill. Rev. Stat., ch. 110A, par. 61(c)(18)) in that the judge violated some established principle of law.

The allegation that the respondent's conduct constituted a violation of the other rules enumerated above can be summarized by the allegation in the Complaint that the respondent's conduct constituted a gross abuse of judicial power. This has been the issue on which the Board has focused in presenting its evidence, and in its argument. We find that the Board has not proven, by clear and convincing evidence, that the respondent's conduct did constitute a gross abuse of judicial power.

Although the authority to punish for contempt is an extraordinary power which a judge must exercise with care, direct criminal contempt, "that is, contumacious acts committed in court in the presence of the judge, and of which he has personal knowledge, may be adjudged and punished in a summary manner, without prior notice, written charges, plea, issue or trial. * * * The act having been committed in the presence of the court, evidence is unnecessary and no record need be made." *People v. Hassakis* (1955), 6 Ill. 2d 463, 466-67.

The Board argues that the respondent spent only about one minute in convicting and sentencing Miss Watts; that he did not inquire why she was dressed as she was, and that he never gave her an opportunity to explain why she was in court or why she was wearing the T-shirt. Since the conduct was committed in open court in the presence of the judge and in the judge's opinion was contumacious, under the holding in *Hassakis* the respondent's procedural conduct was authorized. As noted above, the law was not well established with regard to contempt as it relates to the attire of spectators. Therefore, the Board has not shown by clear and convincing evidence that the conduct of the respondent in summarily holding Miss Watts in contempt and

imposing sentence constitutes a gross abuse of judicial power in violation of the rules cited in the Complaint.

It is not at all unusual for a judge to summarily hold a person in contempt of court and to summarily impose punishment for contumacious conduct committed in the presence of the judge in open court. To hold that a judge is subject to disciplinary proceedings, if a court on review finds that he was in error in doing so or that he abused his discretion, would have a chilling effect upon the exercise of the contempt power. We have involved in this case not only the respondent's belief that it was improper for Miss Watts to wear that T-shirt in court, but also she, herself, acknowledged in her testimony that she knows it was improper. We cannot, therefore, hold that the respondent's conduct was such a gross abuse of judicial authority to warrant discipline under the rules of the Supreme Court alleged in the Complaint. The Complaint is therefore dismissed.

Complaint dismissed.
