

FILED

MAY 9 2014

(No. 13-CC-1 Respondent removed.)

In re CIRCUIT JUDGE CYNTHIA Y. BRIM, of
the Circuit Court of Cook County, Respondent

Order entered May 9, 2014.

SYLLABUS

On August 13, 2013, the Judicial Inquiry Board filed a complaint with the Courts Commission, charging respondent with conduct that was prejudicial to the administration of justice and that brought the judicial office into disrepute in violation of the Code of Judicial Conduct, Illinois Supreme Court Rules 61, 62, and 63. In summary, the complaint alleged that on March 8, 2012, the respondent, while on the bench and in open court, made a number of inappropriate comments. The next day, the respondent pushed a Cook County Deputy Sheriff. The complaint further alleged that the respondent had and continues to have schizoaffective disorder (bipolar type), and is mentally unable to perform her duties unless she receives regular treatment, including taking necessary and appropriate medication.

Held: Respondent removed.

Sidley Austin LLP, of Chicago, for Judicial Inquiry Board.
James D. Montgomery & Associates, Ltd., of Chicago, for Respondent.
William J. Harte, Ltd., of Chicago, for Respondent.

Before the COURTS COMMISSION: KARMEIER, Chair, DeSAINT PHALLE, ELLIOTT, GOLDENHERSH, PAUEL, SCHOSTOK, and WEBBER, commissioners, ALL CONCUR.

ORDER

In a complaint filed August 13, 2013, the Judicial Inquiry Board (Board) charged respondent, CYNTHIA Y. BRIM, a Judge of the Circuit Court of Cook County, with "conduct that was prejudicial to the administration of justice and that brought the judicial office into disrepute" in violation of the Code of Judicial Conduct, Illinois Supreme Court Rule 61, Canon 1; Rule 62, Canon 2; and Rule 63, Canon 3; which provide as follows:

Rule 61: "An independent and honorable judiciary is indispensable to justice in our society. 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. The provisions of this Code should be construed and applied to further that objective."

Rule 62A: "A judge should respect and comply with the law and should conduct himself or herself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."

Rule 63:

"A(2) A judge should maintain order and decorum in proceedings before the judge.

A(3) A judge should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity, and should require similar conduct of lawyers, and of staff, court officials, and others subject to the judge's discretion and control.

A(7) Proceedings in court should be conducted with fitting dignity, decorum, and without distraction ***.

A(8) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, and shall not permit staff, court officials and others subject to the judge's discretion and control to do so.

A(9) Proceedings before a judge shall be conducted without any manifestation, by words or conduct, of prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, by parties, jurors, witnesses, counsel, or others. This section does not preclude legitimate advocacy when these or similar factors are issues in the proceedings.

B(1) A judge should diligently discharge the judge's administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials."

In support of the charges, the complaint stated that on March 8, 2012, the respondent was temporarily assigned to traffic court at the Markham courthouse. At about 9 a.m, she abruptly stopped her court call and proceeded to sit silently on the bench for several minutes. After this period of silence, she made the following comments in open court: (a) her grandmother had been raped by a white man, and respondent herself was the child of a white man that raped a black woman; (b) blacks and Hispanics were being targeted by the South Holland and Evergreen Park police departments; (c) "Justice is all about if you're black or white"; (d) respondent was being set up to be removed from her position; (e) she had "kahoonas," and "not only men have balls, but women can have balls too"; (f) she had been in a mental hospital before and had previously been taken out of her courtroom on a stretcher; and (g) she expected the County to send her to a mental hospital after she left the courtroom that day. After the supervising judge instructed her to leave the courtroom, the respondent left the courthouse alone.

On the next day, March 9, 2012, at about 4:45 p.m., respondent approached the security post in the lobby of the Daley Center and asked a Deputy Sheriff if any keys had been found. After being shown several sets of keys contained in the lost and found, respondent claimed a set of keys and walked away. About fifteen minutes later, respondent returned to the security post in the lobby of the Daley Center and tossed a set of keys-a different set than those she claimed from the lost and found-to the guards at the post. Respondent proceeded to turn around and

walk towards the exit. Upon discovering that the tossed keys were facility keys for the Daley Center, intended to be possessed only by authorized individuals, a Deputy Sheriff asked a fellow Deputy Sheriff to determine why respondent had been in possession of such keys. A Deputy Sheriff thus followed respondent out of the Daley Center and repeatedly called for her to stop, return to the Daley Center, and answer some questions. Respondent ignored the Deputy Sheriff and continued to walk away. The Deputy Sheriff then positioned himself in front of respondent and began walking backwards, in step with respondent, and continued to request that she stop and return to the Daley Center. Eventually, the Deputy Sheriff stopped walking backwards and stood his ground directly in respondent's path. Respondent kept walking forward, initiated contact with the Deputy Sheriff, and pushed the Deputy Sheriff in the chest with two open hands. After being pushed, the Deputy Sheriff called for assistance and the respondent was arrested for battery.

Following these events, respondent received psychiatric treatment and was diagnosed with bipolar disorder with psychotic features. Prior to respondent's arrest for battery, she had been diagnosed with bipolar mood disorder and had been hospitalized for psychiatric-related issues at least five times.

The Cook County State's Attorney's Office filed criminal charges for battery against respondent related to her March 9, 2012, conduct. See *People v. Brim*, Case No. 12-1207918. The trial court ordered a psychiatric examination to determine if respondent was mentally fit to stand trial. The court-ordered psychiatric examination was conducted on June 29, 2012. The psychiatrist concluded that respondent had schizoaffective disorder (bipolar type), was legally insane at the time of the alleged battery, but was mentally fit with medication. On February 4, 2013, following a bench trial, the trial court determined that, although the elements of battery had been proved beyond a reasonable doubt, respondent was not criminally responsible because she had been legally insane at the time of the battery. Pursuant to 730 ILCS 5/5-2-4, the trial court ordered respondent to submit to a psychiatric evaluation to determine whether she was in need of mental health services. Based on the conclusions of that evaluation, the trial court ordered that respondent be conditionally released for a five-year-period and mandated that during that period respondent receive mental health services on an outpatient basis.

In conclusion, the complaint alleged that the respondent's conduct was prejudicial to the administration of justice and brought the judicial office into disrepute. Further, respondent had and continued to have schizoaffective disorder (bipolar type) and, without the necessary and appropriate medication, the condition rendered respondent mentally unable to perform her duties.

Respondent did not deny any of the allegations contained in the complaint. Respondent either admitted to the factual allegations in the complaint or stated that she lacked sufficient knowledge to admit or deny the allegations. Respondent admitted that she had and continues to have schizoaffective disorder (bipolar type) and that, without medication, this condition rendered her mentally unable to perform her duties. The Board and respondent stipulated that the Board's Exhibit 3 was a February 4, 2013 transcript of her criminal trial, *People v. Brim* (No. 12-MC1-207918), and that it was admissible. They also stipulated as to the testimony of law enforcement personnel, court personnel, and an attorney that would support the allegations of her conduct in court on March 8, 2012.

The Illinois Courts Commission (Commission) has heard not only the testimony presented before it but also has had the benefit of the report of proceedings before the Board. At the hearing before the Board, respondent testified that she had been initially hospitalized due to psychiatric issues in 1993. She testified that she was hospitalized again in 1995, 2000, 2004, 2008, and 2012, and that each hospitalization lasted about three to four weeks. Upon release from the hospital, she continued to see a psychiatrist and take medication until she was instructed that she no longer needed to take the medication or receive treatment. She further testified that she only stopped taking her medication as prescribed on one occasion but when she was instructed to continue to take the medication, she did so. She generally had psychiatric episodes when she was overworked or under high levels of stress. She did not generally recognize when psychiatric episodes were commencing. Rather, she generally became so sick that a family member would take her to the hospital. She remembered making some of the in-court statements alleged in the complaint on March 8. She knew that the comments were inappropriate at the time but she was under stress because her brother was ill and because she believed that a police officer who testified before her that morning was not being honest. She did not remember much of what happened on March 9 due to her state of mind. She did not remember pushing the Deputy and stated that it was not in her nature to do such a thing. Respondent believed the events on March 8 and 9 were due to her bipolar disorder. She believed she was fit to continue to hold her judicial office because she had finally been properly diagnosed and knew that she had to take medication every day for the rest of her life.

Respondent filed a motion to seal all medical and mental health records that were received as exhibits at the hearing on this matter. The motion was ordered to be taken with the case. We grant that motion as to the exhibits that contain such confidential medical or mental health information. Accordingly, Exhibits 6, and 11 through 21 are ordered to be placed and maintained under seal. Exhibit #5 contains two letters, the Board's Rule 4(d) letter to respondent dated August 7, 2012, and a March 12, 2012, press release from Cook County Circuit Court Chief Judge Timothy Evans. The Rule 4(d) letter is ordered to be placed and maintained under seal, but the press release is not. As to exhibits 1 through 4, 7 through 10, 22 and 23, which do not contain confidential information, those are not placed under seal.

The Commission finds that the Board introduced clear and convincing evidence that respondent violated the Code of Judicial Conduct and engaged in conduct that was prejudicial to the administration of justice and brought the judicial office into disrepute. Respondent's conduct on March 8 and 9 was damaging to public confidence in the judiciary. This conduct involved both actions taken in her capacity as a sitting judge and criminal conduct committed outside that role. Both incidents brought the judicial office into disrepute and demeaned the integrity of the judiciary. As to the conduct on March 9, respondent was charged with battery but found not guilty by reason of insanity. This determination was a matter of public record and such a finding impairs the public confidence in the judiciary and in the soundness of its decisions. The public should have confidence in the judge sitting before them.

Although respondent's conduct was due to mental illness and she was not criminally culpable for her acts, she still bears responsibility for not seeking the necessary treatment. Prior to the psychiatric episode that resulted in the present complaint, respondent had been hospitalized on at least six prior occasions and had suffered psychiatric episodes for 18 years.

Each time she discontinued taking medication, whether of her own accord or as instructed to do so by her psychiatrist, respondent was aware that she would not recognize future psychiatric episodes until the point that she required hospitalization. Respondent testified before the Board that she could serve as judge as long as she continued her medication and continued to seek treatment. However, the evidence showed that on two occasions, respondent stopped taking her medication because it caused her headaches and other unwanted side effects. The most recent of those times was in October 2009. Respondent was instructed by her physician to follow up with him. Respondent only followed up once in January 2010. Thereafter, for a two-year period, despite the history of her condition and doctor's orders to follow-up, respondent was not seeing any doctor while she was a sitting judge.

Respondent testified that stress and being overworked trigger her mental breakdowns. The judicial office, due to the nature of the issues addressed and the extent of the caseload, is stressful. Respondent testified that while others may recognize she is in the process of a mental breakdown, she does not recognize it. Her breakdowns are chronic and happen suddenly. The public expects and deserves predictability in the judicial process, and the unpredictable and unrecognizable nature of respondent's mental illness places the public at risk. While the testimony at the hearing before the Commission indicated that respondent's episodes would be minimal as long as she was on medication, there was still a five to ten percent chance of another episode. The specific incidents of misconduct in this case, and respondent's history of mental illness, demonstrate that respondent is unable to uphold the integrity of and promote public confidence in the judiciary.

We are sympathetic to respondent's mental health issues. Nonetheless, the judicial profession requires a high level of mental ability and proper mental function. "A judge has a position of power and prestige in a democratic society espousing justice for all persons under law. The role of the judge in the administration of justice requires adherence to the highest standard of personal and official conduct. Of those to whom much is committed, much is demanded. A judge, therefore, has the responsibility of conforming to a higher standard of conduct than is expected of lawyers or other persons in society. *** Our legal system can function only so long as the public, having confidence in the integrity of its judges, accepts and abides by judicial decisions." *In re Winton*, 350 N.W. 2d 337, 340 (Minn. 1984).

Our main concern in determining the appropriate sanction is to protect the public by ensuring the integrity of the judicial system. Our goal is to maintain public confidence in our court system and its judicial officers. The Commission finds that the respondent suffers from a mental disability that persistently interfered with the performance of her judicial duties. The respondent's repeated failure to follow through with proper medical treatment resulted in conduct that was prejudicial to the administration of justice and brought the judicial office into disrepute. The only appropriate remedy in this case is to remove and dismiss respondent from the office of Circuit Court Judge, effective immediately. It is so ordered.

Respondent removed from office.