# JUDICIAL CONDUCT REPORTER

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Center for Judicial Ethics

# State judicial discipline in 2022

In 2022, there were approximately 138 public dispositions in state judicial discipline proceedings.

Six judges were removed from office. (For more information about those cases, *see* Removal cases in 2022, *infra*.)

Judicial conduct commissions agreed to conclude proceedings against 27 judges based on their agreement to resign or retire and never serve in judicial office again. In three of those cases, the now-former judges also agreed to a public admonishment; in one case, the former judge also agreed to go on inactive status as a lawyer.

Three former judges were barred from judicial office; in two of those cases, the former judges were also publicly censured or reprimanded.

Courts suspended 18 judges without pay. One suspension was indefinite. One was until the end of a part-time judge's term based on the suspension of his law license for misconduct as an attorney. One was for "a reasonable time to permit the executive and legislative branches to consider, if they wish, whether the respondent should retain his judicial office." The other suspensions were for from 18 months to 10 days. Four of those suspensions were stayed in whole or in part subject to the judge committing no further misconduct and other conditions. Six included a censure, reprimand, and/or fine. One suspended judge was also barred from serving in judicial office after his term ends on December 31, 2024.

Public reproofs were issued to 72 judges or former judges; there were 14 censures, 31 reprimands, 21 admonishments, and six warnings. In nine of those cases, training, counseling, mentoring, or other remedial measures were also imposed. One reprimanded pro tem judge also agreed not to serve again.

One judge was ordered to cease and desist certain conduct. One judge was ordered to complete a mentorship and be on unsupervised probation until the end of his term. Three judges were suspended with pay for 30 days each in a state that does not have the option of suspension without pay. In three cases, there were findings of misconduct, but no sanction was imposed, although one former judge was ordered to pay over $12,680 in costs incurred by the conduct commission to investigate and prosecute the matter.

Four former judges were disciplined in attorney discipline proceedings for conduct while they were judges; one had his law license revoked, one had his law license suspended for one year and one day, one was publicly reprimanded, and one was publicly admonished.

In this summary, "judge" refers to any type of judicial officer, whether full-time or part-time, including supreme court and appellate court justices, justices of the peace, magistrates, pro tem judges, referees, court commissioners, masters, and hearing officers.

In 2022, there were approximately 138 public dispositions in state judicial discipline proceedings.

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## What judges said in criminal cases that got them in trouble

- "You're setting yourself up, sir, to be Bubba's new best girlfriend at the state penitentiary. I hope you realize that." Judge to male defendant during arraignment on domestic violence charge. ***Amato*** (Washington Commission) (admonishment).
- "You don't want to be somebody's girlfriend when you go up the road," and "butt raped." Judge to male defendants about going to the penitentiary. ***Patterson*** (Alabama Court of the Judiciary), agreed resolution of a **complaint** (45-day suspension without pay and censure for this and other misconduct).
- "[Does everyone speak] Engrish?" Judge addressing a jury pool using an Asian accent. *Id.*
- "King," and "hang 'em high prosecutors." Judge referring to himself and assistant district attorneys respectively during a meeting with ADAs in chambers. ***Jordan*** (Texas Commission) (admonition).
- "I'm pleading you guilty." Judge to unrepresented defendant. ***Rummer*** (Arizona Commission) (reprimand).
- "I am not going to appoint a lawyer for you. Get a job." Judge to defendants seeking appointment of counsel. ***Bourne*** (Arkansas Commission) (censure).
- "You should have stayed in south Arkansas;" "I wish you would have stayed in Illinois;" and "I get a lot of troublemakers from California." Judge to defendants from outside the county. *Id*.
- "So you have been dumping some waste off the side of the road, in streams and so on?" and "I'm going to read you the rights. Well, in this case, I don't think it's necessary." Judge to defendant at arraignment. ***Arndt*** (New York Commission) (censure for this and other misconduct).
- "The prosecutor isn't here. Let's see how much we can get away with." Judge before engaging in plea bargaining with defendants. ***Carr*** (Ohio Supreme Court) (indefinite suspension).
- "You can trust me. I know I'm not dressed like a judge, but I'm really the judge." Judge "reveling" in her lack of decorum, which included presiding while wearing tank tops, t-shirts, spandex shorts, and sneakers. *Id*.
- "Little boy." Judge berating male defendants who called her "ma'am," which she resented. *Id*.
- "Always getting us the hookups. Don't worry, we don't have to pay. It's on him." Judge joking in court about waiving fees for defendants in exchange for food, beverages, flooring, and car repair for herself and her staff. *Id*.

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- "Move it. Quit talking. Lord have mercy. You show me enough disrespect all freaking day long. What is your problem? Get out of here." Judge in excessively loud voice to assistant district attorney. ***Placey*** (Pennsylvania Court of Judicial Discipline) (reprimand for this and similar misconduct).
- "Playing games" and "being a consistent problem in court." Judge about defense counsel. ***Mullin*** (Texas Commission) (reprimand for this and other misconduct).
- "You start with all the information from the report, all the testimony crescendos to the cause and manner of death, which is the sex of the testimony;" "You want to tease the jury with the details of the examination;" and "You want to lead them to the climax of the manner and cause of death." Judge giving prosecutor feedback on her cross examination of the medical examiner in a homicide case. *Morrow*, 976 N.W.2d 644 (Michigan) (six-month suspension without pay for this and related misconduct).
- "Esteemed." Judge referring to a police officer's testimony. ***Staggs*** (Arizona Commission) (reprimand for this and related misconduct).
- "Zero credibility with myself or the prosecutor's office." Judge before dismissing cases involving a particular deputy sheriff. *Carroll*, 654 S.W.3d 669 (Arkansas) (18-month suspension without pay).
- "Wasting [my] time," and "idiots." Judge about police officers during arraignments. ***Harshbarger*** (West Virginia Commission) (admonishment).

## Removal cases in 2022

From 1980 through 2021, approximately 464 judges were removed from office as a result of state disciplinary proceedings. In 2022, six judges were removed.

### Black eye for the judicial system

The Alabama Court of the Judiciary removed a judge from office for (1) failing to promptly dispose of many cases; (2) a pattern of abuse of staff, attorneys, and litigants, including making her employees work excessive, unproductive, and unnecessary late nights and weekends and threatening to fire them; (3) using Facebook aliases for ex parte communications with the parties in a domestic relations case; and (4) a pattern of dishonesty and deception, including ordering employees to allow her to see their private cellphones to delete information that might be relevant to the disciplinary investigation and attempting to influence the testimony of witnesses in the proceedings. ***In the Matter of Blocton***, Final judgment (Alabama Court of the Judiciary December 10, 2021). The decision became final in 2022.

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Although she spent substantial time in her office, the judge, who sat in the domestic relations division, failed to promptly dispose of many cases assigned to her and was unable to remedy her backlog. Two judges had been appointed to handle her backlog, and they testified at the disciplinary hearing. One of them acknowledged that domestic relations judges in the county have a high caseload but stated that she was "appalled" by the number that had been pending before Judge Blocton for an inappropriate length of time. The other judge testified that Judge Blocton had not established an effective way of handling cases, noting that her unreasonable delays adversely affected the citizens of the county and gave the judicial system a "black eye."

For examples of the judge's inappropriate comments, *see* What they said to or about court staff and other judges that got them in trouble, *infra*.

## "Pattern of objectionable behavior"

The Alabama Supreme Court affirmed the decision of the Court of the Judiciary removing a judge from office for (1) a pattern of racist demeanor; (2) a pattern of sexually inappropriate demeanor; (3) expressing anger inappropriately and using profanity in the court office; (4) requesting that two attorneys who regularly practiced before him help a woman secure an early release from her sentence; and (4) using court letterhead and his judicial title to seek help for a friend who was selling a life insurance policy. *Jinks v. Judicial Inquiry Commission* (Alabama Supreme Court October 21, 2022). The Court of the Judiciary had held a hearing on the complaint filed by the Judicial Inquiry Commission.

For example, an attorney testified that, once when he was in the judge's chambers before a hearing, the judge asked him if he knew what P-O-N-T-I-A-C stood for, a reference to a racist meaning that includes the N-word. On a local television talk show, the judge admitted that exchange with the attorney but argued, "if I share a racial slur with you that I've learned, that's not using a racial slur."

For other examples of the judge's inappropriate comments, *see* What they said to or about court staff and other judges that got them in trouble, *infra*.

The Court emphasized that the judge's misconduct was "not isolated but occurred on a number of occasions while Judge Jinks was in the probate office acting in his capacity as the probate judge. Those acts were numerous enough to establish a pattern of objectionable behavior on the part of Judge Jinks."

## "Pattern and extent"

Concluding that the severity of the sanction was warranted by "the pattern and extent" of the misconduct, the Kentucky Supreme Court affirmed the decision of the Judicial Conduct Commission removing a judge from office for (1) attempting to influence the outcome of her son's criminal cases; (2) deleting material from her son's social media accounts after he had been arrested and taken into custody; (3) using her position to arrange semi-private meetings with her son in the jailer's office, bringing him drinks and food

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contrary to jail policy, and visiting him outside of normal visiting hours; (4) threatening to fine case workers and supervisors for late reports; (5) arbitrarily removing or threatening to remove attorneys from her guardian ad litem list; (6) having her staff conduct drug tests; (7) presiding over cases in which her son's attorney appeared and regularly appointing him as a guardian ad litem, presiding over cases in which her staff attorney's brother represented a party, and appointing an attorney from her husband's law firm as a guardian ad litem; and (8) failing to be candid with the Commission. *Gordon v. Judicial Conduct Commission*, 655 S.W.3d 167 (Kentucky 2022).

Most of the findings related to the judge's "difficult position" of "concurrently being a parent, victim, and judge in the same county" after her adult son Dalton was charged with crimes in several cases in which she was the complaining witness or victim. The Court emphasized that "judges are responsible for exercising sound judgment even when confronted with difficult issues, especially issues that involve loved ones."

During the disciplinary hearing, the Commission had listened to recordings of calls between the judge and Dalton while he was incarcerated. Noting that the Commission "heard only a few of the hundreds of calls," the Court concluded that "enough were played to prove the allegations" and "the influence Judge Gordon exerted in her son's case is undeniable."

For example, in one call, the judge told her son that she had worked out a plan for one of his cases and warned him to leave it up to her. During another call, the judge reported to Dalton that she had made a proposal for resolving some charges to the county attorney and had told the county attorney that she "wanted to make the decisions for her family and her house."

The judge's ex parte text messages with the county attorney were also admitted as evidence during the hearing, including 80 messages they exchanged over the course of 12 hours on one day. Most of the messages involved the judge "pushing for information and requesting certain outcomes." For example, in one message, the judge requested deferred prosecution if Dalton agreed to get treatment, to which the county attorney responded, "Yes I think I can make that happen."

The Court stated:

> The outcome or actions Judge Gordon requested are immaterial. We deem it of no consequence that she was requesting Dalton be detained in some way, required to attend treatment, etc., as opposed to requesting that he receive preferential treatment or be pardoned for his actions. The operative facts are that she directly inserted herself into Dalton's cases and attempted to influence the outcome.

**In 2022, six judges were removed from office.**

## Facebook posts

The New York State Commission on Judicial Conduct removed a non-lawyer judge from office for, on his Facebook account, (1) promoting and/or approvingly commenting on posts or images that "objectified and

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denigrated women" or were "degrading, vulgar and disturbing" and (2) posting about a fund-raising event for the National Rifle Association. ***In the Matter of Stilson*, Determination** (New York State Commission on Judicial Conduct January 7, 2022). For examples of the judge's posts, *see* **What they said outside the courthouse that got them in trouble**, *infra*. The Commission found that the judge exacerbated his misconduct by not participating in its proceedings after the formal complaint was filed, exhibiting "a disdain for the Commission's important role."

## Pattern of professional misconduct

The New York Commission removed a village court justice from office for professional misconduct as an attorney in six matters, for which he had also been twice suspended from the practice of law in New York. ***In the Matter of Gonzalez*, Determination** (New York State Commission on Judicial Conduct April 13, 2022). The judge argued that he should not be removed because village court justices are not required to be attorneys and he had engaged in the misconduct before he became a judge, but the Commission found that "allowing him to remain on the bench would significantly undermine public confidence in the dignity and integrity of the judiciary."

## Bullying

Based on its **findings of misconduct**, which were based on stipulated facts, the Pennsylvania Court of Judicial Discipline removed a former judge for "two incidents of bullying another as part of a personal grudge or fit of pique;" the Court also barred him from further judicial service. ***In re Toothman*, Opinion and order** (Pennsylvania Court of Judicial Discipline March 17, 2022).

In one incident, the judge imprisoned a probationer for 25 days on a "dubious probation violation charge" after she offended his law clerk in a convenience store. The Court found that the judge "clearly crossed ethical lines," emphasizing that "no judge can act in such an arbitrary manner based on personal whim. . . ."

In the other incident, the judge had attempted to intimidate a courthouse custodian into signing a confidentiality statement by improperly causing the employee's private grievance to be posted on a public bulletin board. When the judge was told that posting the grievance might be considered retaliation, the judge responded: "You think I'm going to retaliate? You're damned right I'm going to retaliate!"

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## What judges said in civil and family law cases that got them in trouble

- "So what'd you do with the money?" and "Just will you stop getting mouthy with me?" Judge to defendant in small claims case. ***Arndt*** (New York Commission) (censure for this and other misconduct).
- "I'm going to think this out and do a judgment against him, more than likely . . . And then you put a lien on his house, but I'm not sure about [the] ladders. You might have to give him his ladder back." Judge to plaintiff in small claims case after the defendant left the courtroom. *Id*.
- "You're trying to get me to figure out this whole mess and it's really a mess . . . This is not something I can do fairly and understand . . . I'm not that qualified to take care of it, to be honest with you." Judge to parties in small claims case. *Id*.
- "I think you're abusing this . . . woman;" "You could've just changed the fricken part here;" "You didn't do anything . . . Where the hell did you go in eight hours?" Judge to defendant plumber in small claims case. ***Kraker*** (New York Commission) (censure for this and other misconduct).
- "Get the f**king wax out of [your] ears." Judge to plaintiff's counsel in an exchange about a motion. *Martin*, 878 S.E.2d 865 (South Carolina) (reprimand for this and other misconduct).
- "The way it works is, file when you can. I'm not going to turn it down. I start reading. And when I get bored, I stop reading . . . Put the good stuff up front." Judge to attorney about filing opposition to a motion. ***Hunt*** (California Commission) (admonition for this and similar misconduct).
- "The worst case of document hiding that I've ever seen. It was like a plot out of a John Grisham movie, except that it was even worse than what he could dream up." Judge on Facebook about defendants in a lawsuit by local governments against opioid manufacturers. ***Young*** (Tennessee Board) (30-day suspension with pay for this and other misconduct).
- "Smart aleck," and "I understand what they were going to testify about, ma'am, I'm not an idiot, okay." Judge to litigant in unlawful detainer case. ***Mulvihill*** (California Commission) (censure for this and other misconduct).
- "Parents, if you can't tell, I'm going to be hostile with you right now. Let me explain something, parents, all right. I haven't seen you folks before, but I give you an order to do something and it doesn't get done, you see my temperament. If you can't be nice to each other, don't even bother taking the witness stand. And if you're not ready to go when we start, you're going to get chewed up and spit out by me. Let's go counselor." Judge during hearing in custody proceeding. ***Placey*** (Pennsylvania Court of Judicial Discipline) (reprimand for outbursts in six cases).

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- "The reality has – has come to me that I may not be suitable for this;'" and "[It would have been easier if you had] fussed [at me]. Then we could have rolled around on the floor and strangled each other . . . ." Judge during ex parte conversation in chambers with the wife's attorney during a divorce trial. ***Wells*** (Texas Commission) (admonition for this and related misconduct).
- "Sinister plan." Judge during an *in camera* interview accusing a six-year-old girl of false allegations against her father. ***Hummel*** (West Virginia Commission) (admonishment).
- "We all look alike. Didn't you know it's a Trans world?" Judge to female witness after accidentally referring to a male witness as "she." *Camilletti* (West Virginia Supreme Court of Appeals), accepting an agreed resolution of a **statement of charges** (12-month suspension without pay).
- "Am I invited? Do you have any single friends?" Judge to an attorney after being told a female litigant was getting married. *Id*.
- "Did I already say it's because they are women?" Judge talking about two daughters who refused to attend a wedding. *Id*.
- "Or you're going to prison forever! I will send you down to live with the sodomites." Judge to a male litigant in a child support case. *Id*.
- "I am so sorry for your continued pain. I don't have the answer, but I am working on the entire situation. I assure you because I am not happy with the current exigencies as currently exist. Keep praying and I will do the same." Judge via Facebook Messenger to a grandmother in a child custody case. *Denton*, 339 So. 3d 574 (Louisiana) (four-month suspension without pay for this and related misconduct).

## What judges said and did in the pandemic that got them in trouble

*Top judicial ethics and discipline stories of 2022*

### Failing to comply

In Ohio, a judge "very publicly flouted her disregard of a court order that was designed to ensure the safety of the public and the court's personnel during the pandemic," punished members of the public who followed the order, and then "lied about it to the press and to the presiding administrative judge of her court." ***Disciplinary Counsel v. Carr*** (Ohio Supreme Court October 18, 2022). She was suspended without pay indefinitely for this and other misconduct.

On March 13, 2020, Judge Michelle Earley, the administrative and presiding judge of the Cleveland Municipal Court, ordered that all civil and

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criminal cases set for hearing between March 16 and April 3 be rescheduled for three weeks later.

However, on Monday, March 16, Judge Carr presided over her regular docket. In eight criminal cases, the defendants did not appear, and the judge issued capias warrants for them, setting bonds for from $2,500 to $10,000. In contrast, she waived fines and court costs for defendants who were, according to her, "brave enough" to appear despite the potential for exposure to COVID-19.

Again on Tuesday, March 17, the judge held court as though the administrative order had never been entered and issued warrants and set bonds for seven defendants who did not appear. When the public defender referred to the administrative order and asked if there was any concern regarding COVID-19, the judge replied that not everyone watches the news and told the public defender that he should not tell his clients not to show up the following day, noting that she would be in court. After the public defender left the courtroom, the judge mocked him to her staff, calling him a "little idiot."

On March 17, *The Cleveland Plain Dealer* published an article online with the headline "**Cleveland judge flouts court's postponements amid coronavirus pandemic, issues warrants for no-shows**."

Throughout the morning docket of March 18, the judge criticized the article. Between proceedings, in an interview with a reporter from a local TV station, she claimed that the article was "untrue" and "reckless" and denied issuing arrest warrants for defendants who had failed to appear that week.

In a text exchange later that day, Judge Earley asked Judge Carr if she was issuing warrants for people who failed to appear, and Judge Carr responded:

> Too late to ask that ridiculous question. My [journal entries] reflect corona day 1, 2, or 3. Time case was called and no defendant or [failed to appear] in which my journalizer notes NO WARRANT TO ISSUE.

In the discipline proceedings, the Ohio Supreme Court emphasized that that "statement was patently false."

In addition, after learning that the court scheduler had cancelled her civil docket pursuant to the administrative order, the judge instructed her bailiff in open court to tell the scheduler "to get his a** back on that phone and put all [her] civil cases back on." As a result, the scheduler had to notify every party to appear in court as originally scheduled.

After learning that Judge Carr had, in fact, issued arrest warrants to defendants who did not appear, Judge Earley had to review all of the entries, recall the warrants, set bonds, and issue summonses for the next court appearances. In addition, she had to reschedule the civil cases that Judge Carr had reset.

* * *

The Arizona Commission on Judicial Conduct publicly reprimanded a judge for failing to grant a continuance requested by an attorney who had

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COVID-19 symptoms or to make arrangements to allow him to appear telephonically and then granting a default judgment against his client, a defendant in a civil traffic case. ***Sears*, Order** (Arizona Commission on Judicial Conduct January 26, 2022). The Commission concluded that, in addition to violating the code of judicial conduct, the judge had violated an administrative order from the Arizona Supreme Court that provided: "Judicial officers shall liberally grant continuances and make accommodations, if necessary and possible, for attorneys, parties, victims, witnesses, jurors, and others with business before the courts who are at a high risk of illness from COVID-19 or who report any COVID-19 diagnosis, symptoms, or exposure notification by public health authorities."

*See also In the Matter of Guthrie*, Order (New Mexico Supreme Court April 25, 2022) (summarized in **annual report**) (permanent resignation; after the court began conducting telephonic hearings due to the pandemic, without determining if they had been properly summoned, judge issued bench warrants when 11 defendants failed to call the court on their appearance date; judge also failed to wear a protective face covering at all times while on court premises as required by the New Mexico Supreme Court's COVID-19 order and asked a clerk if they minded if he did not wear a mask); *In the Matter of Ionta*, Order (New Mexico Supreme Court August 1, 2022) (permanent retirement; judge failed to always wear a protective face covering while on court premises and told attorneys appearing before him for trial that they did not need to wear masks during proceedings, contrary to the COVID-19 order).

## Remote problems

Two discipline cases involved "hot mic" comments by judicial officers—comments during or after hearings that they did not believe others would catch but that were heard because of the technology being used to conduct remote proceedings during the pandemic.

After ruling on a motion in a civil case and sanctioning one of the parties, a judge said that the telephonic hearing was adjourned; then, believing he was no longer on the line or on the record, the judge, who was alone in his chambers, said, "Kicked that motherf**ker's a**." However, he had not disconnected, the attorneys could still hear him, and the courtroom's audio recording was still activated. The attorney whose client had been sanctioned during the hearing believed the comment was directed at him.

Immediately after the hearing, the judge realized what had happened and called both attorneys to apologize. He also self-reported to the Washington State Commission on Judicial Conduct. Later that week, he recused himself from the case.

Explaining that he sometimes uses crude language in private, the judge told the Commission that his comment had not been directed at a particular person or party but was an expression of relief at finishing the hearing. The Commission noted that the incident was isolated and, although reckless, there was no basis to believe it was intentional. However, it emphasized that "regardless of his intention, the impact on the listeners was

Two discipline cases involving "hot mic" comments by judicial officers.

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demeaning and upsetting," creating the impression that he was disrespectful and disdainful of counsel. The Commission also found, "given that the comment occurred following a hearing in which one side was sanctioned, the comment was reasonably interpreted to be directed at a particular attorney creating an appearance of bias or prejudice against that attorney." Based on the judge's agreement, the Commission publicly admonished him. ***In re Dixon*, Stipulation, agreement, and order** (Washington State Commission on Judicial Conduct June 24, 2022).

* * *

Just before a disciplinary hearing, a master stipulated that he had violated the code of judicial conduct by making inappropriate and irrelevant statements during a telephone hearing in a marital case, having a side conversation with staff in the courtroom, failing to disclose his comments to the parties or to disqualify himself from the case, and failing to be candid during the Judicial Conduct Committee investigation. Because the master had retired, no sanction was imposed, but, based on the Committee's **findings and recommendation**, the New Hampshire Supreme Court ordered that he pay over $12,680 in costs for the investigation and prosecution of the matter. ***In the Matter of DalPra*, Order** (New Hampshire Supreme Court November 10, 2022). The judge's comments had not been heard by the parties or lawyers but were reported to the administrative office of the courts by the transcriptionist.

During a telephone hearing in November 2020, the master said under his breath, "Who gives a f**k?" when the father began to testify about matters that the master did not believe were relevant. When the mother was asked whether their children made wise decisions, the master whispered, "Of course not, they're a bunch of morons." The master also made many other "inappropriate" and "not germane" comments under his breath that he did not intend to be part of the record.

In addition, the master appeared to be having a discussion with a staff member during the hearing. For example, the master asked, "Can you imagine if this was in person?", and the staff member responded: "Oh my God. I don't know if I (indiscernible)." He discussed baseball and joked about taking a break to go to the bathroom or leaving the hearing for an hour. For at least seven minutes while the mother was testifying, the master and a staff member apparently were looking at something as he whispers, "Not this—not this one, but the previous," "I don't seem to have the rest of this," and "And while you're looking through that, I'm gonna go pee."

The Committee stated that "it is hard to imagine that DalPra would have made the same off-record remarks if the hearing were conducted live in open court with the litigants and public watching" and that the master probably "became lax in verbalizing his feelings about the case because no one was present to witness his behavior." The Committee emphasized that the master should have treated "the telephonic proceedings with the same level of dignity and decorum as would be expected in a public hearing in open court."

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The Committee noted that "it is not uncommon for staff to interrupt a judge during an in-court hearing to address some pressing matter," but when everyone is in the courtroom, "the judge can ask the parties to pause while he or she addresses the matter" or the lawyers and litigants can witness the exchange and stop or otherwise respond. However, in a telephone hearing, the lawyer and litigants cannot tell that there is an interruption. Thus, the Committee emphasized that the master's "side conversation with someone in the courtroom" during testimony was "troubling." Noting that it had not been "not merely an innocent passing remark to a colleague in court," the Committee stated that "it is difficult to believe that DalPra could also be paying attention to the testimony during this conversation."

## Comments

Several judges were sanctioned for snarky comments about government responses to the COVID-19 pandemic.

- After taking a witness's testimony in a family court case, a judge stated: "That's all I needed. You can go. Put the mask back on there—it's like Gestapo-Land! Are you allowed to say that? The Taliban! It's like the Taliban." *In the Matter of Camilletti*, Order (West Virginia Supreme Court of Appeals September 20, 2022), accepting an agreed resolution of a statement of charges (12-month suspension without pay, with 11 months held in abeyance, reprimand, and counseling for this and other misconduct).
- In an order issued at the beginning of the pandemic, a judge explained that he was cancelling a hearing scheduled to be held over Zoom "because that may require someone (staff person/IT person/lawyer who doesn't have access to the technology?) to leave home and violate Gov. MeMaw's order," a reference to Governor Kay Ivey's stay-at-home order. *In the Matter of Patterson*, Final judgment (Alabama Court of the Judiciary October 27, 2022), accepting an agreed resolution of a complaint (45-day suspension without pay and censure for this and other misconduct).
- A judge liked a LinkedIn post stating, "Biden's been in office 2 days and Democrat cities across the country are reducing Covid restrictions and opening indoor dining. YOU LITERALLY CAN'T MAKE THIS STUFF UP! They ruined American businesses, livelihoods and lives for an election. This should repulse you." *In the Matter of Elia*, Determination (New York State Commission on Judicial Conduct September 28, 2022) (censure for this and other misconduct).

The Texas State Commission on Judicial Conduct publicly warned a justice of the peace for, in addition to other misconduct, issuing peace bond warrants for President Joe Biden and Dr. Anthony Fauci because their COVID-19 health restrictions and immigration and firearms policies allegedly were "threats to commit an offense" under Texas law against anonymous complainants. *Public Warning of Black* (Texas State Commission on Judicial Conduct April 7, 2022). The Commission noted that the judge had given interviews to

Several judges were sanctioned for snarky comments about government responses to the COVID-19 pandemic.

(continued)

the media when his warrants became the subject of national news coverage. The Commission had previously admonished the same judge for stating in a Facebook post that he would release anyone brought before him charged with violating stay-at-home orders. ***Public Admonition of Black*** (Texas State Commission on Judicial Conduct February 28, 2022).

Similarly, a magistrate posted on Facebook that he would dismiss any criminal citation for failing to wear a mask because he thought the requirement was unconstitutional. The West Virginia Judicial Investigation Commission dismissed the complaint with a private warning because he was a new judge and had apologized, as it explained in a subsequent admonishment for unrelated misconduct. *See* ***Public Admonishment of Weiss*** (West Virginia Judicial Investigation Commission April 25, 2022).

## What judges said to or about court staff and other judges that got them in trouble

- "Frigid." Judge referring to court employees. ***Staggs*** (Arizona Commission) (reprimand for this and other misconduct).
- "Just think, if you die before me, I will get to see your naked body;" and "find a fat man like [me] because they have plenty of fat to snuggle with even though their peckers shrink." Judge to court clerk. ***Grissam*** (Texas Commission) (warning).
- "Uncle Tom," "Fat b**ch," and "heifer." Judge referring to other judges and an employee. ***Blocton*** (Alabama Court of the Judiciary) (removal for this and other misconduct).
- "Don't tell nobody but look at this." Judge showing a court employee a video on his phone of women dancing with their breasts exposed. ***Jinks*** (Alabama Supreme Court), affirming **judgment**, following hearing on a **complaint** (removal for this and other misconduct).
- "I seen that car. . . . I'm the judge and I can't even afford a Mercedes. What you doing, selling drugs?" Judge to African-American court employee. *Id*.
- "It was just one person," and "Those sons of b**ches." Judge referring to the death of George Floyd and Black Lives Matter demonstrators. *Id*.
- "What did their black a**es want?" Judge to court employee after she had assisted an African-American couple with a marriage license. *Id*.
- "N****r." Judge comparing calling someone a "Nazi," to using the N-word, in a Zoom meeting with several court staff members. ***Mahoney*** (Washington Commission) (reprimand for this and related misconduct).
- "[She] loves watermelon." Judge about a court employee who is Black in an online video meeting with the employee and a new judge. *Id*.

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# Federal judicial discipline

*Top judicial ethics and discipline stories of 2022*

The application of and transparency under the Judicial Conduct and Disability Act of 1980 and the Rules for Judicial-Conduct and Judicial-Disability Proceedings were illustrated by decisions regarding complaints against several federal judges made public in 2022 at different stages of the process.

## Public interest and transparency

Adopting the findings of a special committee, the Judicial Council of the U.S. Court of Appeals for the Fourth Circuit publicly reprimanded a new district court judge for creating the appearance that he had inexplicably been paid a large amount of money just before taking the bench and had agreed to practice law while serving as a judge. *In the Matter of Judicial Complaints (Dawson)*, Memorandum and order (Fourth Circuit Judicial Council July 29, 2022).

For nearly 20 years prior to his appointment to the U.S. District Court for the District of South Carolina, the judge had been the attorney for a county in South Carolina. On December 9, 2020, after he was nominated for the federal bench but a week before he was confirmed, the judge and the county entered into an employment contract separation agreement. The county agreed to pay the judge $216,000 over the following year for his "institutional and historical knowledge," "insight," and "non-legal advice" and to pay him a contingency fee for his work on the county's pending litigation against opioid makers and distributors. (The special committee noted that, although pre-confirmation conduct is outside the scope of the Act, "the continued operation of the agreement after the Judge took the bench" is not.)

"Following criticism in the press" and a conduct complaint, the judge and the county agreed to an addendum to the contract that eliminated the contingency fee payment related to the opioid litigation and explained that the separate $216,000 payment was for previous services provided by the judge, not for future services.

The special committee appointed to investigate the complaint found that the county had entered into the agreement because it was concerned that the judge's departure would leave "an information void," noting that, according to its officials, the county had previously entered into similar agreements with other departing officials. The county chair said that members of the county council understood that the judge could not represent them after his departure, and the judge said that he had expressly told the council that "he could not be its lawyer, represent it in the future, or be on the County's payroll." After he left, "county officials occasionally contacted him for historical information," but those were brief factual questions, "such as where to locate documentation." The special committee

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found that there was no evidence that the judge "provided legal advice or counsel to the County after taking the bench."

However, the committee noted that, although the addendum "recharacterized the County's payment," it had not specifically identified the past services for which the judge was being compensated. Without a clear and appropriate justification for the payment, the committee concluded, "the cumulative impact of the agreements created the appearance in the public's mind that the Judge received a large payment on the eve of taking the bench for no coherent reason, or worse, that the Judge agreed to practice law while serving as a judge, thereby undermining public confidence in the integrity and impartiality of the judiciary."

The special committee had recommended a private reprimand because, although the judge's misconduct was serious, there was no pattern of improper activity and he had cooperated with the investigation and sincerely apologized. However, the Judicial Council concluded that the public concern about the agreement reflected in local newspapers and on social media requires "a public response" and "the public interest requires transparency and a reprimand."

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## Institutional issues

Acknowledging the challenge of overcoming court employees' fears of retaliation if they report a judge's workplace misconduct, the Judicial Council for the U.S. Court of Appeals for the Tenth Circuit explained that "the most effective way" to assuage those fears "is to demonstrate that the Judiciary's reporting systems are effective at addressing misconduct." Therefore, although it concluded an investigation of a complaint against a former magistrate judge without a saction, it disclosed its determination that there was "reason to believe" that the judge had engaged in misconduct and identified the "institutional issues" revealed by its investigation. *In re: Complaint Under the Judicial Conduct and Disability Act (Garza)*, Order (Tenth Circuit Judicial Council September 14, 2022).

Two former law clerks and two anonymous former employees had filed complaints alleging that the judge had created an abusive and hostile work environment. Investigators interviewed everyone who had worked full-time for the judge in her 16 years on the bench, including law clerks, judicial assistants, and courtroom deputies; they also interviewed four of her judicial colleagues and three other individuals. The judge denied the allegations.

The investigating committee's preliminary conclusion, based on "the source, nature, and consistency of the evidence," was that there was "reason to believe" that the judge had engaged in sanctionable misconduct. Before proceedings could be concluded, however, the district court judges voted not to reappoint the magistrate judge, and her term ended. Therefore, the Council concluded the complaint due to "intervening events."

However, even when a complaint has been concluded without a sanction, federal judicial councils can assess what conditions may "have enabled misconduct or prevented" discovery of misconduct and determine "what

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precautionary or curative steps could be undertaken to prevent its recurrence," under a comment to Rule 20. The Council identified two problems.

First, it found "a lack of awareness about what constitutes abusive conduct and/or a hostile work environment." During the investigation, employees explained that they had not reported the judge because they did not know if her behavior would meet the definitions of those terms. Other judges "questioned whether what little information they had rose to the level of misconduct or implicated their reporting obligations." Second, and "perhaps more problematic," the Council emphasized that employees were deterred from reporting by their "widespread fear of retaliation."

After describing the training that the circuit has already provided on workplace conduct issues, the Council announced additional training on "the practical application" of the terms abusive conduct and hostile work environment to "make judges more mindful of their conduct and their colleagues' conduct" and to give employees confidence about what behavior they should report. The training for judges will also include their reporting obligations, "the prohibition against retaliation, and the need to be aware of possible retaliatory efforts by a colleague;" the training for employees will also include how they can report wrongful conduct and retaliation.

## Transparency and responsibility

"In the interests of transparency and the importance of the judiciary's responsibility to investigate allegations of misconduct" the U.S. Judicial Conference Committee on Judicial Conduct and Disabilities publicly released its order directing that a special committee be appointed to investigate a complaint that two judges had committed misconduct by hiring a law clerk who, according to press reports, had "engaged in extreme racist and hateful conduct" prior to attending law school. ***In Re: Complaint of Judicial Misconduct*, Memorandum decision** (U.S. Judicial Conference Committee on Judicial Conduct and Disabilities July 8, 2022). The order does not identify the judges by name. The complaint was based on a **letter from several members of Congress** and had been transferred to the Second Circuit because one of the subjects was the Chief Judge of the Eleventh Circuit.

The Chief Judge of the Second Circuit had concluded that the subject judges had "performed all of the due diligence that a responsible Judge would undertake" by reviewing the allegations in the media, considering the candidate's record and references, and interviewing the candidate. The Judicial Council affirmed the Chief Judge's conclusion that no special investigating committee was necessary.

Disagreeing, the U.S. Judicial Conference Committee explained that "whether the candidate made the statements attributed to her" and what she "told the Subject Judges about them" were disputed facts that had to be established before it could be concluded that the judges had made the appropriate inquiries, particularly as it was unclear whether the judges had spoken to anyone with first-hand knowledge.

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## What judges said outside the courthouse that got them in trouble

- "I had two beers," and "Doing something stupid." Judge at the scene of an accident falsely telling a police officer how much he had had to drink and that he had been texting while driving. ***Mulvihill*** (California Commission) (censure for this and other misconduct).
- "Come on, let me touch you. Let me play with you." Part-time judge to client's representative in his private law office after pulling her into an embrace. *Falcone*, 278 A.3d 782 (New Jersey), adopting findings and recommendation (censure and permanent disqualification of former judge).
- "Muslims need to learn to be American;" "You're not Special" because "white slaves were sold for centuries;" and "If we had equal rights . . . my southern heritage would be just as important as your black history." Memes posted by judge on his Facebook page. ***Black*** (Texas Commission) (warning for this and other misconduct).
- "Boobies Are proof that men can focus on two things at once!" Caption on photograph judge posted on his Facebook page. ***Stilson*** (New York Commission) (removal for this and other misconduct).
- "Looking for a few more friends to attend the Friends of the NRA Banquet in Olean on March 15th" at "$180.00 each person." *Id*.
- "UNTIL YOU LEAVE YOUR FAMILY AT HOME EVERY DAY TO PROTECT EVERYONE ELSE'S, DON'T TRASH TALK POLICE OR SOLDIERS TO ME." LinkedIn post shared by judge. ***Elia*** (New York Commission) (censure for this and other misconduct).
- "Support Law Enforcement Every Day. I couldn't imagine life without them." Judge in comment to LinkedIn post by "Blue Lives Matter." *Id*.
- "Like." Judge in response to LinkedIn post stating, among other things, that President Biden was in favor of "Killing babies;" and criticizing his administration's "wacky spending." *Id*.
- "You are Invited 2019 Republican Picnic and Meet the Candidates Day!" Invitation to political party fund-raising event posted by judge on her Facebook page. ***Coffinger*** (New York Commission) (admonishment).
- "Democrat." Sample primary ballot in judge's campaign literature incorrectly identifying party of campaign opponent. *Id*.
- "When you vote, the right experience is what matters. While Sharon Marchman has spent her thirty-three year career protecting you, her opponent Jimbo Stephens' law firm, Stephens and Stephens, was getting paid to defend Sonny James Caston, convicted of murdering a deputy sheriff." Judge in campaign ad about opponent. ***Marchman*** (Louisiana Commission) (admonishment).

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- "Pd. Pol. Adv. By the Committee to Re-Elect Mark Blumstein and Mark Blumstein, a Non-Partisan Candidate for Miami-Dade Circuit Court Judge Group 34. Not endorsed or sponsored by DoD or its affiliates. Mark Blumstein is a Retired Officer of the U.S. Navy." Disclaimer on judge's campaign ads printed "so small that it appeared, from a short distance away, to be a solid line as opposed to words or text," contrary to Department of Defense regulations for use of photo of candidate in uniform. ***Blumstein*** (Florida Supreme Court) (reprimand).
- "Unfortunately, I was unaware of the existence of the 2020 Judicial Campaign Ethics Handbook nor was I aware of the existence of the advisory opinions posted on your website." Magistrate "mak[ing] excuses" for campaign ads and social media posts in which he wore a law enforcement uniform and for appearing in photographs with campaign signs for other candidates. ***Jeffries*** (West Virginia Commission) (admonishment).

## Judicial confrontations

*Top judicial ethics and discipline stories of 2022*

In several cases in 2022, judges were sanctioned for verbal and/or physical confrontations inside and outside the courtroom and courthouse.

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### Interrogation

Adopting the findings of the Board of Professional Conduct, which were based on stipulations, the Ohio Supreme Court suspended a judge for six months for berating a litigant who had criticized the judge at a board of commissioners meeting. *Disciplinary Counsel v. O'Diam*, 196 N.E.3d 812 (Ohio 2022). The Court stayed the suspension as long as the judge committed no additional misconduct and completed six hours of continuing judicial education.

In May 2018, on behalf of the administrator of an estate, the judge's daughter, Brittany O'Diam, filed an application to probate a will in Greene County where Judge O'Diam is the probate court judge. Brittany also filed waivers of disqualification signed by the beneficiaries of the estate, including Grant Buccalo.

On May 26, 2019, at a public meeting of the county board of commissioners, Buccalo expressed his belief that the judge should recuse himself from cases in which his family members represented parties. He spoke for approximately two and a half minutes.

After learning of Buccalo's statements, the judge watched a recording of the meeting. He then scheduled a status conference in the case.

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During the status conference, the judge called Buccalo to the stand, placed him under oath, and interrogated him for almost an hour in a "strident and confrontational" tone and demeanor.

For example, the judge accused Buccalo of "demagogu[ing]" him in front of the commissioners * * *." When Buccalo stated, "I wouldn't call it demagogue," the judge responded, "I'll tell you what I would call it. I would call it slander." The judge told Buccalo that he and the commissioners had had a "run-in" before and "almost went to blows" over the board's attempt to interfere with the administration of his court.

After questioning Buccalo for almost an hour, the judge allowed Brittany "to continue his line of intemperate interrogation" for more than 15 minutes. The judge then concluded:

> There has not been one thing in this case that we have heard today that didn't . . . follow every Supreme Court rule to the letter. In fact, above and beyond what the letter requires. But since you had a problem, I am going to formally recuse myself from the case, and we are going to get a visiting judge. And, unfortunately, it is going to cause your estate an extensive delay and a lot more money. But I am not going to stand for anybody slandering me or [Brittany] privately or in a public forum when you have absolutely no legal or factual basis for doing so. What you did is despicable. We're finished.

At a board of commissioners' meeting a week later, the judge explained that he and Brittany obtained waivers of disqualification whenever she represents parties before him and said that Buccalo "chose to be untruthful to you and the public, to unjustly smear myself and my daughter. That is simply despicable." The judge claimed, "We do not have a problem in probate court. What we have is a problem with people improperly using this Board as a public forum to lodge unfounded and false accusations."

Rejecting the judge's argument that he had questioned Buccalo to determine whether he could continue to preside over the case, the Board of Professional Conduct concluded that his "primary concerns were the effects that Buccalo's public statements had on [his] reputation, his daughter's reputation, and the reputation of his court and how those statements personally offended him." The Court noted that the judge had "planned his course of action against Buccalo—and had more than a week to contemplate whether it was appropriate for him to appear before the commissioners and publicly berate Buccalo for a second time." The Court found that the judge had failed to be patient, dignified, and courteous while interrogating Buccalo, failed to "require Brittany—an attorney who was under his direction and control—to conduct herself in a patient, dignified, and courteous manner when she questioned Buccalo," and failed to be patient, dignified, and courteous before the county board.

## Beyond defense of reputation

On July 5, 2019, the *Athens Banner-Herald* published an article about a defendant who had failed to appear in court for the retrial of rape charges after a judge had released him on his own recognizance following a mistrial.

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Reposting the story to his personal Facebook page and to a large Facebook group called "Overheard at UGA," Nathan Owens, a local bail bondsman, expressed his opinion that the defendant should not have been released on his own recognizance. After "Owens's post gained a lot of attention," the judge who had released the defendant asked another bondsman about contacting Owens.

On the morning of July 10, Owens went to the judge's chambers with two other bondsmen. An armed deputy took their cell phones. The judge instructed the others to remain in the lobby while Owens went into his office. A deputy stood at the only apparent exit.

"With his lip quivering and hands shaking," the judge instructed Owens to "sit down and listen to what I have to say." Owens asked that his lawyer be present, but the judge ignored the request although he did allow the other bondsmen to come into his office.

For 30 minutes, the judge chastised, berated, and lectured Owens, implying that Owens did not have "good moral character," insinuating that he had the power to affect Owens's livelihood, and reprimanding Owens for attacking him online and spreading "fake news." Owens, who felt that he was not free to leave, sat quietly and did not respond.

The Georgia Supreme Court emphasized that the judge's "deliberate and conscious planning of this confrontation is particularly problematic, as his misconduct was not the result of a sudden or brief loss of temper." *Inquiry Concerning Norris*, 875 S.E.2d 627 (Georgia 2022). Stating that "a judge's defense of himself and his reputation against public criticism is not necessarily, on its own, a rule violation," the Court concluded that the judge "went beyond simply defending his reputation, using his power and authority as a judicial officer to summon Owens to his chambers for a meeting, to threaten and intimidate Owens, and to discuss a pending case." The Court publicly reprimanded the judge based on the report and recommendation of the hearing panel of the Judicial Qualifications Commission, to which the judge had not filed objections.



## "Thick skin"

In early November 2021, Police Captain Matthew Solomon told a local newspaper reporter that he was concerned that a magistrate had set the bond too low for a defendant charged with damaging several police cruisers. The magistrate told the reporter that he gave the defendant a low bond to make sure "the department gets restitution." The magistrate also "insinuated" that law enforcement officers had beaten the defendant, stating, "He'd taken some knocks. I mean his face was all swollen and I was kinda like 'yikes,' that he'd kinda done, he'd paid for that." After the reporter's article was published, the magistrate met with Captain Solomon and Police Chief Eric Powell.

In the disciplinary proceedings, the magistrate admitted that in the meeting he had been "livid," had had a heated verbal exchange with Solomon, and had told Solomon that speaking to the reporter was "an a**hole decision." The magistrate initially insisted that his conduct was

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appropriate, "just men being blunt in an attempt to work through their differences." However, when disciplinary counsel pointed out to him that the law enforcement officers saw an unequal balance of power, the magistrate admitted that his conduct was inappropriate. The West Virginia Judicial Investigation Commission publicly admonished him for his statements to the reporter and the meeting, in addition to a second incident. *Public Admonishment of Gaujot* (West Virginia Judicial Investigation Commission April 25, 2022).

The second incident related to the arraignment of a mother charged with gross child neglect after a crash that caused injury to several children. The prosecuting attorney requested a bond of $250,000 for the mother while the magistrate thought that she should be given a personal recognizance bond. He called another magistrate to discuss the prosecutor's request, and the other magistrate added Captain Tichnell, the police captain who had investigated the crash, to the call. Captain Tichnell threatened that, if Magistrate Gaujot set a PR bond, he would dismiss the charge against the mother, file more serious charges, and file a complaint against the judge.

According to Captain Tichnell, the magistrate repeatedly responded in a vulgar manner. In his sworn statement, the magistrate explained that Captain Tichnell had been emotional on the phone and would not let him speak and that he believed Captain Tichnell's tone, demands, and threats were out of line. However, the magistrate admitted that he had sworn at Tichnell and that his conduct was inappropriate.

The Commission stated:

> A judge must have a thick skin. Not everyone will agree with the decisions that judges must make in cases on a daily basis. There will always be at least one party who will disagree with the decision and they are free to openly criticize the judge if they so choose. However, judges are constrained by the rules from replying to criticisms and shall not do so when they involve a matter that is pending or impending in any court.
>
> Judicial temperament is an absolute requirement. Not only does a judge set the tone of his/her courtroom but he/she in large part owes his/her reputation to acts of courtesy, civility and consideration. Judges must also realize that how people view the judge is how they view the court system as a whole. In order to gain respect, a judge must give respect even in difficult circumstances.
>
> Judges are often perceived as the most powerful person in his/her county. In other words, the balance of power is never equal where a judge is involved and it is usually heavily tipped in his/her favor. Therefore, a judge must at all times take into consideration how he/she is viewed by his/her opponent before commenting. A simple negative comment by a judge may be viewed by his/her opponent as a threat. Therefore, judges should choose their words wisely.

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## "Grave violation"

In December 2020, a defendant began cursing at a judge in response to a bond determination, continuing while a law enforcement officer led him out of the courtoom, handcuffed and shackled. The defendant never physically threatened the judge or anyone else and did not attempt to flee.

The judge verbally engaged with the defendant, followed him into the hallway, and exchanged more words with him. The judge then grabbed the defendant and pushed him against the wall. The defendant was not injured.

Pursuant to his agreement, the judge was suspended for 30 days without pay and publicly reprimanded. *Inquiry Concerning Hays*, 868 S.E.2d 792 (Georgia 2022). Noting that was one of the most significant sanctions it had "ever imposed, short of removal from office," the Georgia Supreme Court stated that, "given the circumstances, it would have to be." The Court explained:

> It is a grave violation for a judge to use violence against any person appearing before him, except in self-defense or defense of others, which was not the situation here. The rule of law enables our society to resolve disputes without resort to force. When a judge uses force against someone appearing before him, that judge thus undermines the rule of law. It removes the judge from the role of neutral arbiter.

However, the Court concluded that removal was not necessary because "the incident—grave as it was—was momentary, and no actual injury was inflicted."

## Parking space

On Friday, April 30, 2021, after dinner at a restaurant in Bentonville, Arkansas, Davy Carter tweeted:

> I walked out and saw a very angry man with a gun on his hip and a cane berating my son and wife because my son parked in "his" parking spot. It was beyond berating, and like any dad or husband, immediately caught my attention.

Carter described the man as "rabid" and "angry" even after his wife and son had repeatedly apologized. In another tweet, Carter posted a 27-second video in which the man is shown throwing his cane to the ground while moving aggressively towards Carter. During the confrontation, pedestrians, cyclists, and cars were passing by.

The incident attracted public attention through social media and traditional media coverage, particularly as Carter is a former speaker of the Arkansas House of Representatives. Eventually, national news outlets picked up the story. Videos of the incident have been viewed thousands of times online.

The man in the video is a judge who, after sitting in Hot Springs that day, had returned with his bailiff to the courthouse in Bentonville, where his bailiff's car was parked. Carter's son had parked in the government lot a little after 7:00 p.m. There were signs stating, "Benton County employee



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parking only, 7 am to 5 pm," but he had parked in one of four spots with a sign that stated, "Reserved parking 24/7 violators towed."

Censuring the judge pursuant to his agreement, the Arkansas Judicial Discipline & Disability Commission stated that "judges routinely order people to conduct themselves with self-control, show restraint, and avoid confrontation" and emphasized that "it is incumbent" on judges to "adhere to the same behavioral standards in their life encounters." ***Re Karren*, Letter** (Arkansas Judicial Discipline & Disability Commission January 21, 2022). Noting that the case "was about common courtesy and conduct when in a minor confrontation," the censure emphasized: "It is not too much to ask that our judiciary interact with the public with the same patience, self-control, and kindness that should be the social norm throughout our state."

After the incident, the judge sought professional counseling through the Judges and Lawyers Assistance Program. In mitigation, the panel noted that the judge had agreed to continue counseling and expressed its hope that his candor "will help others in the judiciary who face complicated and stressful situations as part of their profession."

*See also In the Matter of Thompson*, 516 P.3d 28 (Colorado 2022) (30-day suspension without pay and censure; judge pointed an AR-15 style rifle at his adult stepson during a confrontation); ***Public Admonishment of Weiss*** (West Virginia Judicial Investigation Commission April 25, 2022) (when police officers responded to a neighborhood incident, magistrate swore, invoked his position as a magistrate, made a demeaning stereotypical comment about his neighbor's wife, and denigrated the homeless); ***In the Matter of Hummel*, Public admonishment** (West Virginia Judicial Investigation Commission December 2, 2022) (magistrate pulled out a gun in the courtroom, put it on the bench in open view, and picked it up and displayed it).

## What judges said that abused the prestige of office that got them in trouble

- "Neighbor, friend, and co-worker," "currently serves as my appointed Court Clerk," and a "wonderful and trusted friend and neighbor." Judge on character reference forms in support of applications for pistol licenses. ***Aronian*** (New York Commission) (admonishment).
- "It appears that both detectives conducted themselves appropriately in this case, and I find no fault with their investigation." Judge in letter to the police chief about detectives under investigation for conduct in a case over which she had presided. ***Meyer*** (California Commission) (admonishment).
- "The newly elected Pima County Attorney would have served her office and this community well had she found a way to keep Unklesbay on her staff instead of the odd and inexplicable decision to disparage him

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at every turn." Judge in letter to the editor defending a retired deputy county attorney. ***Bernini*** (Arizona Commission) (reprimand for this and related misconduct).

- "One more ticket needs to go away before trial." Judge in telephone call to colonel of the game and fish commission enforcement division. *Carroll*, 654 S.W.3d 669 (Arkansas) (18-month suspension without pay).
- "Please please please get things worked out today for Dalton to serve some time as a consequence." Judge in text message to the county attorney about cases pending against her son. *Gordon,* 655 S.W.3d 167 (Kentucky) (removal for this and other misconduct).
- "Your Honor, I'll state that to the court that it's no secret I'm a judge in another locality, and prior to that, I was a state trooper for 30 years." Judge appearing at a small claims trial as if he were an attorney for his wife. ***Kennedy*** (New York Commission) (censure).
- "You need to calm your a** down! I am a Magistrate;" "sh** bags;" and "started running her mouth because she's a woman." Judge during neighborhood incident. ***Weiss*** (West Virginia Commission) (admonishment).
- "Need legal help? I'm a defense attorney in the State of Nevada." Instagram and TikTok ads for pro tem judge's law practice that used videos of him presiding over actual proceedings. ***Vander Heyden*** (Nevada Commission) (reprimand).
- "Judgeklr@. . . ." and "City Court Judge." Part-time judge using title in emails and notices of appearances when representing a client. ***Robichaud*** (New York Commission) (censure).

## Recent posts on the blog of the Center for Judicial Ethics

"Unprecedented misconduct"

"A huge unknown called court"

Favorite word and adequate funding

Recent cases (October)

Recent cases (November)

Recent cases (December)

A sampling of recent judicial ethics advisory opinions (November)

A sampling of recent judicial ethics advisory opinions (February)

The bar and prejudice to the administration of justice