

FILED
JUN 20 1997

STATE OF KANSAS

BEFORE THE COMMISSION ON JUDICIAL QUALIFICATIONS

COMMISSION ON
JUDICIAL QUALIFICATIONS

Inquiry Concerning
A Judge

Docket No. 621

ORDER

Members of the Commission present include: Mr. Mikel L. Stout, Chair; Mr. David J. Waxse, Vice-Chair; Hon. J. Patrick Brazil; Mr. Ray Call; Mr. Robert A. Creighton; Hon. Theodore B. Ice; Hon. James W. Paddock; and Ms. Carol Sader.

FINDINGS OF FACT

There is no dispute regarding the facts set out below:

1. The Honorable Lawrence H. Litson is a district magistrate judge from the Twenty-Third Judicial District at Gove County, Gove, Kansas, serving also Rooks, Trego, and Ellis Counties.
2. On June 4, 1996, at the Ellis County Courthouse, at a break in traffic court proceedings, Jamie McAllister, the clerk taking notes, referred to back problems and welcomed the opportunity to get up and move around a bit. At that time a touching incident occurred which Ms. McAllister characterized as a massage. Judge Litson admits only to touching the small of Ms. McAllister's back. It is uncontroverted that some touching occurred.
3. On June 11, 1996, during a break in the proceedings, Judge Litson made a remark to Ms. McAllister which she considered inappropriate. The judge contends Ms. McAllister misunderstood, and he avers that he did not intend anything improper.
4. On August 22, 1996, Debra Pfeifer, Administrative Assistant at Ellis County District Court, was working on the computer in her office and commented to respondent, who was visiting in her office at the time, that she had a catch in her neck. She began rubbing the right side of her neck. When Respondent placed his hands on the back of her neck and asked if it hurt where his thumbs were or if it was a sore muscle in her neck, Ms. Pfeifer moved quickly forward, and Respondent stopped. The judge admits the incident but denies any inappropriate intent.

5. Rachel Stiawalt worked for two or three months at the Ellis County Courthouse. Respondent made comments to Ms. Stiawalt which she considered inappropriate and were a factor in her decision to leave the job.
6. While Respondent was playing on the Internet at a computer terminal in his office at the Gove County Courthouse, on two or three occasions the screen displayed pictures of nude women. On one occasion an employee entered the office when a picture of a nude woman was displayed on the screen.

CONCLUSIONS OF LAW

1. Canon 1 of the Code of Judicial Conduct, Rule 601A, provides:

A Judge Shall Uphold the Integrity and Independence of the Judiciary

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective. 1996 Kan. Ct. R. Annot. 410-411.

2. Canon 2 of the Code of Judicial Conduct, Rule 601A, provides in relevant part:

A Judge Shall Avoid Impropriety and the Appearance of Impropriety in All of the Judge's Activities

A. A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. 1996 Kan. Ct. R. Annot. 411.

3. Canon 3 of the Code of Judicial Conduct, Rule 601A, provides in relevant part:

A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently

B. Adjudicative Responsibilities.

- (4) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity. . . .
4. The Commission, having reviewed the comments referred to in Nos. 3 and 5 in the Findings of Fact, finds the comments inappropriate.
5. The Commission has determined that Respondent violated Canon 1, Canon 2A, and Canon 3B(4) when he, intentionally or unintentionally, made remarks which female staff members found to be inappropriate or engaged in inappropriate conduct or the appearance thereof.

IT IS THEREFORE ORDERED that the Honorable Lawrence H. Litson cease and desist from any activity in violation of the above-cited Canons. It is further ordered that respondent obtain appropriate counseling regarding sexual harassment and boundary violation issues from a suitably qualified individual or organization. Said counseling is to be verified to the Commission within six months from the date of acceptance of this order.

This Order, if accepted, shall be made public pursuant to Rule 611(a). See 1996 Kan. Ct. R. Annot. 438.

The Secretary of the Commission on Judicial Qualifications is hereby instructed to mail a copy of this Order with a copy of Rule 611, as adopted by the Supreme Court of Kansas, to Respondent. Respondent is requested, in accordance with Rule 611, to either (a) comply by accepting the Order by written acknowledgment directed to the Secretary of the Commission; or (b) refuse to accept the Order. Any agreement to comply or refusal to accept shall be served upon the Commission within twenty days from this date. In the event the Respondent shall not agree to comply by accepting this Order by written acknowledgment within said period, Respondent shall be deemed to have refused to accept this Order.

BY ORDER OF THE COMMISSION dated this 16th day of June, 1997.

COMMISSION ON JUDICIAL QUALIFICATIONS

By: Carol G. Green
Carol G. Green, Secretary

APPROVED & ACCEPTED

June 18, 1997
(date)
Lawrence H. Litson
Lawrence H. Litson, Respondent