

STATE OF KANSAS

BEFORE THE COMMISSION ON JUDICIAL QUALIFICATIONS SEP 23 1999

FILED

COMMISSION ON
JUDICIAL QUALIFICATIONS

Docket No. 652

Inquiry Concerning
A Judge

ORDER

Members of the Commission present include: Mr. David J. Waxse, Chair *pendente lite*; Hon. Kathryn Carter; Mr. Ray Call; Mr. Robert A. Creighton; Hon. James W. Paddock; Ms. Carol Sader; and Mr. Mikel L. Stout. Chief Judge J. Patrick Brazil is recused. Judge Theodore B. Ice did not participate.

FINDINGS OF FACT

There is no dispute regarding the facts set out below:

1. The Honorable David R. Platt is a district judge in the 8th Judicial District, Division 5, District Court, Junction City, Kansas.
2. That commencing in March 1993, Respondent developed a practice in Chapter 61 cases of allowing attorneys to issue documents ordering debtors who were in court on aids of execution to return to court at a future date for an appearance.
3. That when some debtors who were issued appearance orders failed to appear, bench warrants were issued without the judge's signature or review and the debtors were arrested for failing to appear.
4. That clerks were allowed to issue orders to show cause in contempt proceedings in these same Chapter 61 cases, and/or issue bench warrants, and/or enter default judgments without Respondent's signature on the original of the respective documents entering such orders.
5. In the course of investigating these practices, a 609 letter dated August 26, 1997, was sent to Respondent requesting that certain information be provided by September 15, 1997. A response was received October 2, 1997.
6. The October 2, 1997, response prompted further inquiry and by letter to Respondent's counsel, Thomas D. Haney, dated December 18, 1997, the Commission requested that further specific information be provided by January 26, 1998. On January 30, 1998, Mr. Haney notified the Commission

office that there might be no response to the Commission letter dated December 18, 1997, and there in fact was no response.

7. On October 1, 1998, the Commission determined that Respondent should receive a private cease and desist order which was issued to Respondent on October 19, 1998. Respondent did not accept the private cease and desist order; therefore, the matter proceeded to formal hearing.
8. When this matter was called for hearing on August 16, 1999, Respondent agreed to accept the findings and conclusions proffered on October 19, 1998, with regard to Respondent's practice of allowing attorneys or clerks to issue orders for warrants without Respondent's review and signature.

CONCLUSIONS OF LAW

1. Canon 1 of the Code of Judicial Conduct (Rule 601A) provides in relevant part:

A Judge Shall Uphold the Integrity and Independence of the Judiciary

...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...1998 Kan. Ct. R. Annot. 449.

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. 1998 Kan. Ct. R. Annot. 449.

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

(1) A judge shall hear and decide matters assigned to the judge except those in which disqualification is required.

(2) A judge shall be faithful to the law and maintain professional competence in it...

....

(7) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law....

(8) A judge shall dispose of all judicial matters promptly, efficiently and fairly.

....

C. Administrative Responsibilities

(1) A judge shall diligently discharge the judge's administrative responsibilities...and maintain professional competence in judicial administration....

(2) A judge shall require staff, court officials and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge.... 1998 Kan. Ct. R. Annot. 454.

Respondent's prior practice of allowing attorneys or clerks to issue orders for warrants without Respondent's review and signature constituted a violation of those portions of Canons 1, 2, and 3 set out above. Since it now appears that those types of procedures have ceased, no action other than this cease and desist order is required.

IT IS THEREFORE ORDERED that the Honorable David R. Platt cease and desist from any activity in violation of the above-cited Canons.

In accordance with the oral agreement reached at the August 16, 1999, hearing, the Secretary of the Commission on Judicial Qualifications is hereby instructed to mail a copy of this Order to Respondent. Respondent shall return the signed Order to the Secretary of the Commission on or before September 21, 1999.

Costs will be assessed after the parties have had an opportunity to respond to the bill of costs provided by the Secretary of the Commission.

Object to

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BY ORDER OF THE COMMISSION dated this 1st day of September, 1999.

COMMISSION ON JUDICIAL QUALIFICATIONS

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

APPROVED & ACCEPTED *with the exception of costs.*

as of 8/16/99
(date)

David R. Platt
David R. Platt, Respondent