

IN THE JUDICIAL DISCIPLINE AND DISABILITY COMMISSION

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JUDICIAL DISCIPLINE & DISABILITY COMMISSION

JUDICIAL DISCIPLINE AND DISABILITY COMMISSION
COMPLAINANT

V.

JDDC #17-145

JUDGE BOBBY McCALLISTER

RESPONDENT

RESIGNATION AND REMOVAL FROM OFFICE BY AGREEMENT

You were alleged to have committed violations of the Code of Judicial Conduct in the above referenced case filed by the Executive Director. The attached Statement of Allegations was filed on July 11, 2017:

Agreed Facts:

1. You are an elected Circuit Court Judge in the 22nd Judicial District and have served in this capacity since being sworn into office on January 1, 2009 after winning election in 2008. You were re-elected in 2014. Your current term is scheduled to end on December 31, 2020.
2. Allegations that are supported by sworn testimony from two public hearings and your sworn testimony in a deposition showed that you may not have filed state or federal income tax returns for all but two of the years you have been a Circuit Court Judge as well as for many years before ascending to the bench. You admitted failure to file tax returns and others supported your statements.

3. Executive Director David J. Sachar filed a complaint on March 2, 2017, asking for your response to these allegations within twenty-one (21) days. You did not respond to that letter.
4. JDDC Investigation Panel 1, authorized a full investigation of these allegations and obtained transcripts, documents and official records. You hired counsel to file responses on your behalf.
5. On July 11, 2017, you were charged with violations of the Code of Judicial Conduct by this office.
6. On July 11, 2017, Special Prosecuting Attorney David Gibbons filed a Criminal Information (i.e. charging document) against you for violations of A.C.A. § 26-18-202, a Class D Felony for each offense. That case is pending and set for trial November 6th and 7th in Saline County in front of Special Judge David Laser.
7. The JDDC case, JDDC #17-145, is set for a Formal Disciplinary Hearing on November 17, 2017.
8. Your willingness to resign your public office and render yourself permanently ineligible to serve in the judiciary again, ended the JDDC case before a final hearing. You have also cited some serious personal health concerns and other personal matters as factors in your decision to resign at this time.

Removal from Office:

9. You do not contest the allegations in paragraphs one (1) through eight (8).
10. The totality of your conduct referenced in the paragraphs above, exhibited a disregard for the law and failure to promote confidence and uphold the integrity of the judiciary.

11. You could have contested the allegations and fully availed yourself of any and all defenses during a formal disciplinary hearing. You chose to resign in lieu of contesting the allegations; making no further admissions. Your resignation is acknowledged as an acceptance of responsibility for your actions. Your resignation is not an admission to any criminal act, ancillary civil case or regulatory matter. You have agreed your actions fit specific violations of the Code of Judicial Conduct and could have been proven at the standard of proof set out in the Rules of Procedure of the Judicial Discipline & Disability Commission.

Conclusion:

You agree that a voluntary resignation and removal from judicial office is appropriate. Your actions and this agreement result in your elected judicial office being vacated at the end of business on December 15, 2017.

The Preamble to the Code of Judicial Conduct is on point with the issues in this case when it states:

“Judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to maintain and enhance confidence in the legal system. Judges should maintain the dignity of judicial office at all times, and avoid both impropriety and the appearance of impropriety in their professional and personal lives. They should aspire at all times to conduct that ensures the greatest possible public confidence in their independence, impartiality, integrity, and competence.”

The robe magnifies the conduct and, in this case, the conduct has rendered you ineligible to hold public trust as a judge. Pursuant to your agreement, as of

December 15th, 2017, you will resign as Circuit Court Judge, First Division, 22nd Judicial District. You will send a letter to the Governor by November 17, 2017 informing him you will resign from your elected office on Friday, December 15, 2017.

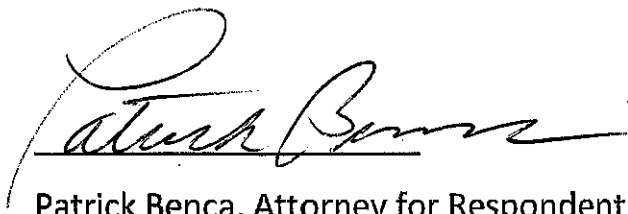
Following the Arkansas Supreme Court's determination that the meaning of "removal" from office (see *Proctor v. Daniels*, 2010 Ark. 206 (Ark. 2010)), you are permanently ineligible to serve in any judicial capacity in the State of Arkansas. The JDDC has detrimentally relied upon this agreement and will use all legal remedies to enforce your voluntary and permanent removal from office. Should you seek any Federal office or other State public office, the JDDC may respond to a background check with information in our investigation file concerning the allegations you were facing upon acceptance of this negotiated agreement for your permanent removal from office. This final action agreement concludes JDDC Case #17-145.

This Commission action is public information.

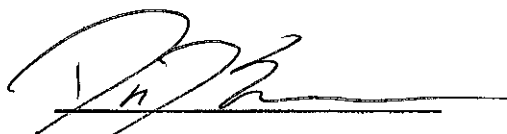
AGREED AND APPROVED:



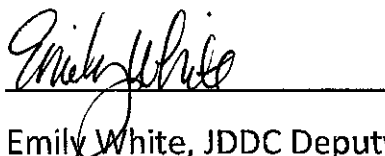
Judge Bobby D. McCallister



Patrick Benca, Attorney for Respondent



David J. Sachar, JDDC Director

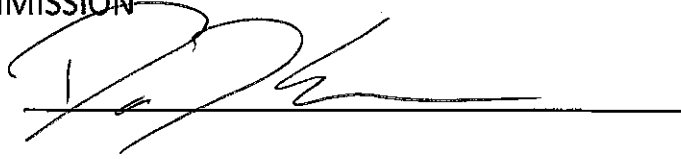


Emily White, JDDC Deputy Director

Respectfully submitted,

ARKANSAS JUDICIAL DISCIPLINE & DISABILITY
COMMISSION

BY:

A handwritten signature in black ink, appearing to be "D. Sachar", written over a solid horizontal line.

David J. Sachar, Executive Director
Emily White, Deputy Executive Director
323 Center Street, Suite 1060
Little Rock, AR 72201
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CERTIFICATE OF SERVICE

I, the undersigned counsel do hereby state that a true and correct copy of the foregoing was mailed to the following attorneys of record on this the 15^h day of December, 2017:

Patrick Benca, Attorney for Respondent

BENCA & BENCA

Attorneys at Law

1311 Broadway Street

Little Rock, AR 72201

A handwritten signature in black ink, appearing to read 'David J. Sachar', is written over a solid horizontal line.

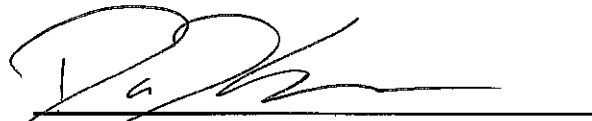
David J. Sachar

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Patrick Benca, Attorney for Respondent

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Attorneys at Law
1311 Broadway Street
Little Rock, AR 72201

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David J. Sachar