

BEFORE THE JUDICIAL STANDARDS COMMISSION

STATE OF NORTH CAROLINA

FILED

APR 6 2009



JUDICIAL STANDARDS
COMMISSION

IN RE:)
INQUIRY CONCERNING A JUDGE,)
NO. 08-123 – JOHN M. TYSON,)
Respondent)

ORDER

This proceeding came on to be heard and was heard before the Judicial Standards Commission at 10:00 a.m. beginning March 30, 2009, in the BOARD ROOM of the North Carolina Judicial Center in Raleigh, North Carolina.

The Commission is a body duly organized under the laws of North Carolina and is authorized to recommend to the North Carolina Supreme Court the censure and removal of judges of the General Court of Justice pursuant to the Constitution of North Carolina, Article IV, Section 17, and the procedures prescribed by the North Carolina General Assembly in the North Carolina General Statutes, Chapter 7A, Article 30.

Judge John M. Tyson is now an Emergency Judge for the Superior Court/Recalled Judge for the North Carolina Court of Appeals and was at all times referred to herein a Judge of the Court of Appeals of North Carolina, and as such is subject to the Canons of the North Carolina Code of Judicial Conduct, the laws of the State of North Carolina, and the provisions of the oath of office for a member of the Court of Appeals set forth in the North Carolina General Statutes, Chapter 11.

Six (6) members of the Commission were present and participated at this hearing. Counsel for the Commission at the hearing was Nancy A. Vecchia. Attorneys Phillip R. Isley and G. Eugene Boyce appeared at the hearing on behalf of the respondent who was

present in person at the hearing.

Before evidence was presented at the hearing, counsel for the Commission dismissed count three (3) of the COMPLAINT. After hearing all of the evidence presented, reviewing all documents admitted into evidence, observing the demeanor and determining the credibility of the witnesses, and hearing oral arguments from counsel, the Commission determined that as to the remaining allegations in the COMPLAINT, the conduct proven failed to establish willful misconduct in office or conduct prejudicial to the administration of justice that brings the judicial office into disrepute. Specifically, with no definition of "joint judicial campaign" provided by the Code, the Commission cannot determine that Respondent's activities in paragraphs 5, 6, and 7 of the COMPLAINT to be outside the boundaries of a "joint judicial campaign" by clear and convincing evidence. As to paragraph 4, the evidence does not establish Judge Tyson's knowing or willful participation therein.

Therefore, the Commission makes no findings of fact, conclusions of law, or recommendation concerning the remaining paragraphs in the COMPLAINT.

ORDER

Based on the above, the Commission makes no recommendation for discipline in this matter, and it is, therefore, dismissed.

By order of the Commission, this the 31st day of March, 2009.



Tanya T. Wallace
Acting Chairman
Judicial Standards Commission