

THE JUDICIAL COUNCIL OF THE FIFTH CIRCUIT

Before: STEWART, Chief Judge, OWEN, JONES, SMITH, DENNIS, ELROD, SOUTHWICK, HAYNES, GRAVES, HIGGINSON, N. BROWN, DICK, HICKS, D. BROWN, OZERDEN, LYNN, ROSENTHAL, GILSTRAP, and MARTINEZ

COMPLAINT NO. 05-18-90083

IN RE: Complaint of Judicial Misconduct Under the Judicial Improvements Act of 2002

MEMORANDUM

After receiving information regarding possible inappropriate behavior by a magistrate judge, Chief Judge Carl E. Stewart identified a complaint pursuant to Rule 5 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. He then referred the complaint to a Special Committee for investigation and recommendations to the Judicial Council pursuant to Rules 11(a)(4) and (f).

After investigation, the Special Committee submitted its report to the Judicial Council. The Special Committee determined that the subject judge had inappropriately pursued social relationships with an attorney who practices before him and with a court employee.

The Special Committee found no evidence that inappropriate physical contact was attempted by the subject judge in either matter. The Special Committee also found no evidence that the subject judge used his position to coerce either woman to socialize with him. However, the Special Committee determined that the subject judge was insensitive to his position of power over both women and the difficulty they would feel in turning down his repeated invitations to dinner and drinks. It further determined that he was not mindful of the impropriety of socializing with them in a manner that was intended to be or could have been construed as being romantic, and which included discussion of private, personal matters. The Special Committee also found that the subject judge was not attentive to the appearance of impropriety inherent in socializing one-on-one with an attorney who practices before him.

The Special Committee met with the subject judge in person, and expressed to him their serious concerns about his interactions as outlined above. The Special Committee found that the subject judge acknowledged the Special Committee's concerns, evidenced a clear understanding of why his behavior was problematic, took responsibility for his behavior, and expressed willingness to make amends. In particular, the subject judge composed and has sent written apologies to the two women in question. He further represented, both in those apologies and in person to the Special Committee, that he would respect the confidentiality of the two women, and would not retaliate against or disparage them personally or professionally. The Special Committee found the subject judge's contrition and representations to be sincere.

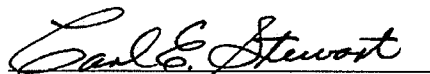
For the foregoing reasons, the Special Committee recommended that the Judicial Council conclude the proceeding because appropriate corrective action has been taken. See Rules for Judicial-Conduct and Judicial-Disability Proceedings, Rule 20(b)(1)(B). The Judicial Council accepts this recommendation and concludes the proceeding pursuant to Rule 20(b)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Pursuant to Rule 24(a)(2) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, the Judicial Council determines that the name of the subject judge should not be disclosed.

An order concluding the complaint is entered simultaneously herewith.

For the Council:

Date: November 9, 2018



Carl E. Stewart
Chief Judge