

In the
Indiana Supreme Court



In the Matter of the Honorable
Patrick R. Miller,
Judge of the Adams Superior Court

Supreme Court Case No.
20S-JD-108

**Published Order Approving Statement of Circumstances
and Conditional Agreement for Discipline**

We find that the Honorable Patrick R. Miller, Judge of the Adams Superior Court, engaged in judicial misconduct by abusing the power of his office in a dispute with county officials regarding benefit payments for the Adams County Drug Court Coordinator.

The matter is before us on the Indiana Commission on Judicial Qualifications' "Notice of the Institution of Formal Proceedings and Statement of Charges" against Judge Miller. Together with the filing of formal charges, the parties jointly tendered a confidential "Statement of Circumstances and Conditional Agreement for Discipline" stipulating to the following facts.

In 2015, "Coordinator" began working for the Adams County Drug Court, reporting directly to Judge Miller. In October 2016, a dispute arose between the County Council, the Board of Commissioners, and Judge Miller regarding whether Coordinator was a contract employee (and therefore entitled to benefits) or an independent contractor. At the direction of the County Council and Board of Commissioners, from October 2016 through March 2017, the Auditor did not authorize the payment of certain county benefits on Coordinator's behalf.

From December 2016 through March 2017, Judge Miller communicated with county officials regarding his concerns about the nonpayment of Coordinator's benefit claims. At the same time, Coordinator's private attorney, J. Michael Loomis, was negotiating with the County Attorney to reach a settlement on Coordinator's tort claim against the Auditor.

On June 7, 2017, Judge Miller issued an order directing the Auditor to provide confirmation of the payment of Coordinator's claims within 48 hours or face contempt. The case was stayed on this Court's grant of the Auditor's Verified Petition for Emergency Writ of Mandamus and Writ of Prohibition. After the stay was lifted, a Special County Attorney notified Judge Miller that the disputed claims had been paid and then requested a change of judge, which Judge Miller granted.

Thereafter, Judge Miller sent a letter to the special judge, on Adams Superior Court letterhead, arguing that the Auditor should be held in contempt, and he regularly communicated with Coordinator, and sometimes Loomis, regarding Coordinator's tort claim. Loomis sent emails to the Special County Attorney giving the impression that he had strategized with Judge Miller on

Coordinator's claims. Judge Miller was aware of these emails but took no steps to correct the impression that Loomis was speaking on his behalf.

Finally, in an October 2017 meeting with the County Attorney, Judge Miller indicated that he had drafted a complaint for contempt against the Auditor and suggested that he would agree to not file this complaint only if Coordinator was offered a settlement. County officials rejected this proposal and the special judge ultimately entered a judgment in the Auditor's favor, which was affirmed on appeal. *Sickafoose v. Beery*, 116 N.E.3d 486 (Ind. Ct. App. 2018).

The Commission charges, and Judge Miller agrees, that his conduct violated four provisions of the Code of Judicial Conduct:

- Rule 1.1, which requires a judge to comply with the law, including the Code of Judicial Conduct;
- Rule 1.2, which requires a judge to “act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary,” and to “avoid impropriety and the appearance of impropriety”;
- Rule 1.3, which provides that “[a] judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so”; and
- Rule 3.10, which prohibits a judge from practicing law.

The parties cite one aggravator: that Judge Miller's misconduct occurred in his official capacity in his administrative role. As mitigators, the parties agree that Judge Miller cooperated with the investigation of this matter, has taken steps to modify his conduct, and is remorseful. The parties also note that Judge Miller's efforts to create a Drug Court have benefited the county. Finally, they agree that the appropriate sanction under the circumstances is a public reprimand.

We accept the parties' agreement. “A public reprimand is a significant blemish on a sitting judge's reputation, adversely affecting the public's evaluation of the judge's performance in office.” *In re Newman*, 858 N.E.2d 632, 635-36 (Ind. 2006). And we have publicly reprimanded a judge under comparable circumstances. *In re Morton*, 770 N.E.2d 827 (Ind. 2002).

In *Morton*, the judge engaged in *ex parte* communication in a child custody case and failed to disclose this communication to all parties, initiated a criminal prosecution of a therapist in the case by making a referral to law enforcement, and refused to disqualify himself from the matter. Here, though Judge Miller disqualified himself from the dispute between Coordinator and the Auditor, he continued to negotiate on Coordinator's behalf—both in his capacity as judge and behind the scenes with Coordinator's attorney. These discussions concluded with an ultimatum in which Judge Miller threatened the Auditor with contempt unless Coordinator was offered a substantial settlement from public funds. Such blatant abuses of judicial power “diminish[] public confidence in the judiciary” and “erode the public's perception of the courts as dispensers of impartial justice.” *In re Van Rider*, 715 N.E.2d 402, 404 (Ind. 1999).

However, “the fact that we are considering this matter following the parties' submission of a Conditional Agreement for Discipline cannot be overlooked.” *In re Koethe*, 922 N.E.2d 613, 616 (Ind. 2010). Such conditional agreements are often the product of lengthy negotiations and

may merit a less severe sanction than might otherwise be imposed after a trial on the merits. *Id.* at 616; *see also In re Young*, 943 N.E.2d 1276, 1280 (Ind. 2011).

Accordingly, Patrick R. Miller, Judge of the Adams Superior Court, is hereby reprimanded for his judicial misconduct. This discipline terminates the disciplinary proceedings relating to the circumstances giving rise to this cause.

Done at Indianapolis, Indiana, on 4/30/2020.



Loretta H. Rush
Chief Justice of Indiana

All Justices concur.