

IN THE SUPREME COURT OF OHIO

Disciplinary Counsel	:	
	:	Case No.: 2014-1905
Relator,	:	
	:	
	:	RELATOR'S RESPONSE TO
	:	RESPONDENT'S MOTION FOR
	:	DISSOLUTION OR
	:	MODIFICATION OF ORDER OF
Hon. Angela R. Stokes (0025650)	:	SUSPENSION
	:	
Respondent.	:	

**RELATOR'S RESPONSE TO RESPONDENT'S MOTION FOR DISSOLUTION OR
MODIFICATION OF ORDER OF SUSPENSION**

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Background and Procedural History

On October 14, 2013, relator filed a seven-count disciplinary complaint against respondent. Shortly before, and continuing after the filing of this complaint, relator learned that respondent was continuing to engage in the same type of misconduct that was alleged in the disciplinary complaint. After investigation of these additional matters, relator filed an amended complaint on April 24, 2014, alleging eight counts of misconduct in total.

In March 2014, Judge Ronald B. Adrine, the Administrative and Presiding Judge of the Cleveland Municipal Court, issued a series of administrative orders that removed respondent's criminal docket from her. Following the removal of respondent's criminal docket, Judge Adrine reported that the morale and productivity of the entire Cleveland Municipal Court had increased. *See* ¶ 33 of Judge Adrine's Affidavit, Attached to Relator's Motion for Immediate Interim Remedial Suspension as Ex. 2. Accordingly, while relator had given serious consideration to the filing of a Motion for Interim Remedial Suspension at or around the time the amended

complaint was filed, relator ultimately determined that such action was not warranted at that time due to the removal of respondent's criminal docket.

In late March 2014, however, respondent filed a Complaint in Quo Warranto, Mandamus, and Prohibition with this Court requesting that her criminal docket be restored. *See* Case No. 2014-0467. On September 3, 2014, this Court dismissed respondent's writs of quo warranto and mandamus, but granted an alternative writ of prohibition. In accordance with this Court's alternative writ, Judge Adrine issued an administrative order on September 17, 2014 ostensibly restoring respondent's criminal docket to her; however, he delayed the execution of the order pending a Motion for Clarification that he filed, through counsel, on September 22, 2014.

In light of Judge Adrine's September 17, 2014 administrative order and this Court's granting of an alternative writ, it appeared likely to relator that respondent's criminal docket would soon be restored. It further appeared that if respondent's criminal docket were restored, she would resume engaging in misconduct similar to what is alleged in the amended complaint. Accordingly, relator determined that a Motion for Immediate Interim Remedial Suspension was warranted in order to prevent substantial harm to the public.

On October 27, 2014, and in accordance with Gov. Bar R. V(19)(A)(1)(a), relator contacted respondent's prior counsel, Richard C. Alkire, and informed him of relator's intent to seek an interim remedial suspension. On the same day, relator also sent Alkire a letter confirming the same and explaining the grounds on which relator's request would be based. *See* October 27, 2014 letter, attached to Relator's Motion for Immediate Interim Remedial Suspension as Ex. 11. On November 4, 2014, relator filed a Motion for Immediate Interim Remedial Suspension against respondent.

On November 12, 2014, respondent filed a nine-page request for an extension of time to respond to relator's Motion for Immediate Interim Remedial Suspension, along with over 200 pages of exhibits in support of her motion for an extension of time to respond. This Court granted respondent's motion and gave her until November 24, 2014 to respond. On November 24, 2014, respondent filed a 12-page Memorandum in Opposition to Relator's Motion for an Immediate Interim Remedial Suspension, a 9-page personal affidavit, and 33 exhibits consisting of over 500 pages (conservatively) of transcripts, journal entries, probation reports, etc. in support of her Memorandum in Opposition.

Upon consideration of relator's Motion for Immediate Interim Remedial Suspension and the information that respondent submitted in opposition, this Court determined that an interim remedial suspension was warranted and granted the same on December 18, 2014. Before doing so, this Court had dismissed the writ action in Case No. 2014-0467, thus establishing that this Court was aware that respondent was not likely to have her criminal docket restored in the near future.¹ Nonetheless, this Court determined in a 7-0 decision that an interim remedial suspension was warranted.

On January 20, 2015, respondent filed a Motion for Dissolution or Modification of Order of Suspension pursuant to Gov. Bar R. V(19)(C)(1).² For the reasons set forth below, relator opposes respondent's motion.

¹ Case No. 2014-0467 was dismissed on November 19, 2014.

² Respondent's motion states that it is pursuant to Gov. Bar R. V(5a)(C)(1). Upon information and belief, this was the prior rule; however, on January 1, 2015, this Court adopted substantial amendments to the Rules for the Government of the Bar of Ohio.

Memorandum in Opposition

1. Respondent's Motion for Dissolution or Modification is Actually a Motion for Reconsideration.

Gov. Bar R. V(19)(C)(1) permits respondent to request dissolution or modification of an interim remedial suspension order so long as there is evidence that she *no longer* poses a substantial threat of serious harm to the public. This undoubtedly requires the presentation of evidence showing that some change has occurred since the imposition of the interim remedial suspension that would prevent future harm to the public. Rather than providing this evidence, respondent has chosen to rehash the same arguments that were made in her Memorandum in Opposition to Relator's Motion for Immediate Interim Remedial Suspension, as well as her affidavit, and supporting exhibits – all of which were available to this Court at the time it decided to suspend respondent from the practice of law on an interim basis.³ Clearly, what respondent is asking this Court to do in her Motion for Dissolution or Modification is to *reconsider* its December 18, 2014 decision to suspend her from the practice of law; however, S.Ct.Prac.R. 18.02 requires that all motions for reconsideration be filed within ten days of the Court's judgment entry or order – a time limit which respondent has far exceeded.

2. Respondent still poses a Substantial Threat of Serious Harm to the Public.

Despite the fact that Gov. Bar R. V(19)(C)(1) requires respondent to show that she no longer poses a threat of serious harm to the public, respondent has premised her motion on the fact that she “never did pose” a substantial threat of serious harm to the public. However, as

³ At the time that respondent filed her motion in opposition, she was represented by competent legal counsel who regularly practices in the area of professional ethics.

noted in relator's Motion for Immediate Interim Remedial Suspension, respondent's conduct has resulted in hundreds of formal and informal complaints being communicated to officials of the Cleveland Municipal Court. These complaints range from respondent's mistreatment of defendants, attorneys, and court staff appearing before her to her chronic misuse of court resources and personnel. Moreover, respondent's conduct has negatively impacted every office of the Cleveland Municipal Court and those agencies associated with it, including, but not limited to, the court's administrative office, the court's bailiff's department, the court's probation department, and the county's public defender office.

Other than completing a three-hour online legal education course in professional ethics, respondent has failed to provide any evidence showing that she has taken steps to address her misconduct or even acknowledge her misconduct. In fact, she continues to deny any wrongdoing with respect to the allegations against her. As reflected by Respondent's Motion for Dissolution or Modification, respondent's position on the pending disciplinary case is that all of the allegations against her stem from a conspiracy orchestrated by Judge Ronald B. Adrine or are the result of actions by court employees, staff, attorneys, and defendants.

Not only does respondent's motion illustrate a severe lack of insight into her poor judicial temperament and administrative incompetence, it also shows that she clearly fails to appreciate the overall effect that her conduct has had on the Cleveland Municipal Court and the defendants and attorneys that appear before her. The mere fact that respondent is unwilling or unable to acknowledge or accept responsibility for her actions leads relator to believe that she will continue to engage in the same or similar conduct if she is permitted to handle a criminal

docket.⁴ As so eloquently noted by Judge Adrine in his affidavit that was attached to relator's Motion for an Immediate Interim Remedial Suspension, respondent will likely "feel empowered and emboldened" if she is permitted to return to the bench, and her conduct is "likely to become even more stringent." See ¶ 36 of Judge Adrine's Affidavit, Attached to Relator's Motion for Immediate Interim Remedial Suspension as Ex. 2.

3. Respondent's Constitutional Arguments are outside the Scope of Gov. Bar R. V(19)(C)(1).

In her Motion for Modification or Dissolution, respondent raises two constitutional equal protection arguments. Specifically, she claims that she was not afforded due process due to the fact that she was not given a post-suspension hearing or a definite time by which this Court would render its decision, and second, she claims that she was discriminated against due to her race or gender. Not only do these constitutional arguments lack merit, they are inapplicable to this case.

Respondent's constitutional arguments are outside the scope of Gov. Bar R. V(19)(C)(1). As noted above, Gov. Bar R. V(19)(C)(1) permits an attorney to seek dissolution or modification of an interim suspension order if there is evidence that she no longer poses a substantial threat of serious harm to the public. Respondent's constitutional claims provide no evidence with respect

⁴ Although relator has not been informed of any extensive problems arising from respondent's handling of her civil docket, there is nothing preventing respondent from seeking the restoration of her criminal docket again by filing another writ with this Court or some other type of legal action.

to her threat of harm to the public, and should have been raised, if at all, in her response to Relator's Motion for Immediate Interim Remedial Suspension.⁵

Nevertheless, should this Court determine that respondent's constitutional claims are appropriately raised in her Motion for Dissolution or Modification, this Court should determine that they are invalid. Contrary to her claim, respondent was afforded due process in the interim remedial suspension process. As noted by respondent, due process merely requires notice of an action and an "opportunity to present their objections." *Armstrong v. Manzo*, 380 U.S. 545, 85 S.Ct.1187, 14 L.Ed.2d (1965). There is no doubt that respondent was aware that relator was seeking an interim remedial suspension against her. In fact, relator spoke with respondent's prior counsel on October 27, 2014 and informed him of relator's intention to seek an interim remedial suspension. On the same day, relator sent respondent's counsel a letter detailing the grounds on which relator's request would be based.

Moreover, respondent was not only afforded an opportunity to respond to relator's Motion for an Immediate Interim Remedial Suspension, she was granted an extension of time to do so. In addition, this Court accepted respondent's affidavit and supporting exhibits, consisting of over 500 pages (conservatively), even though she failed to file them in a timely manner.

As to respondent's claim that this Court's order violates her due process rights because there is no definite end to her suspension, this Court's December 18, 2014 suspension order clearly states that her suspension is "pending final disposition of disciplinary proceedings predicated on the conduct threatening the serious harm" and further orders that the "underlying disciplinary case in this matter is to proceed expeditiously." As respondent is well aware, the

⁵ Once again, it is important to note that respondent was represented by competent ethics counsel at the time she filed her response to relator's Motion for Immediate Interim Remedial Suspension.

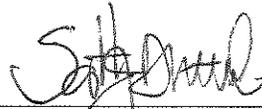
Board of Professional Conduct has already scheduled multiple hearing dates between February 23, 2015 and June 19, 2015 to accommodate the number of witnesses that will be required to testify at the disciplinary hearing due to respondent's refusal to acknowledge any wrongdoing.

With respect to respondent's claims of discrimination, it is true that relator has never sought an interim remedial suspension against a sitting judge who has been accused of non-criminal conduct; however, there has never been a case where a judge's conduct has had such a profound effect on an entire court's ability to function. As noted above, respondent's conduct has negatively impacted every department or agency associated with the Cleveland Municipal Court, as well as the attorneys and defendants who appear before her. Respondent's misconduct, coupled with her unwillingness or inability to appreciate the gravity of her misconduct, has led relator to conclude that an interim remedial suspension is warranted in this matter in order to prevent substantial harm to the public. Relator's decision to seek an interim remedial suspension was not based on respondent's race or gender – but solely on her conduct, the effect that it has had on the Cleveland Municipal Court and those associated with the court, and the potential for substantial harm to the public.

Conclusion

This Court correctly determined that respondent poses a serious threat of substantial harm to the public. In that respondent has chosen to repeat previously made arguments rather than to provide any evidence as to why she *no longer* poses a serious threat of substantial harm to the public, this Court should deny respondent's Motion for Dissolution or Modification of Order of Suspension and affirm its December 18, 2014 order suspending respondent from the practice of law on an interim basis.

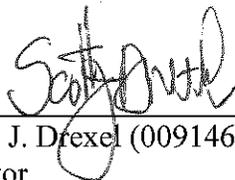
Respectfully submitted,



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CERTIFICATE OF SERVICE

A copy of the foregoing *Relator's Response to Respondent's Motion for Dissolution or Modification of Order of Suspension* has been served upon respondent's counsel, Larry W. Zukerman, Paul B. Daiker, S. Michael Lear, and Brian A. Murray at Zukerman, Daiker, & Lear Co., LPA, 3912 Prospect Ave. E., Cleveland, Ohio 44115 this 30th day of January 2015 via regular U.S. mail and electronic mail.



Scott J. Drexel (0091467)
Relator