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Honorable Fred D. Davis
Suspension with pay

Granting a motion filed by the Judicial Discipline and Disability Commission, on July 13, 2004 the Arkansas Supreme Court suspended Judge Fred D. Davis with pay pending the outcome of disciplinary proceedings arising from criminal charges filed against him. The judge had been charged with driving while intoxicated, failure to register a vehicle, and unlawful use of dealer tag. The court directed that the judge's matters be expedited and all issues decided at the earliest possible time.

The court noted that the judge admitted to being aware that his tag had expired but denied the arresting officer's allegation that he used the unlawful tag to avoid paying the sales tax on the vehicle. He denied that his eyes were bloodshot or that his speech was "mumbled." The court rejected the judge's argument that the Commission's decision to file the motion for interim suspension denied him due process and was premature. The court noted that "at this point, the commission has not 'deprived' him of anything" because he "can only be suspended with pay." The court also stated that "obviously, the commission disagrees with Judge Davis's reliance on the 'leading members' [of the county bar] who have offered their opinions that Judge Davis, as a sitting judge, could continue his judicial duties while defending himself against criminal misdemeanor charges." The court rejected a suggestion that the judge could continue to handle civil cases, but not criminal, stating "certainly attorneys as well as parties may find themselves at times in both types of cases, rendering conflicts of interest as real possibilities" and the "court would still be required to assign a new judge to handle all criminal cases."

One justice dissented from a blanket suspension, arguing that the filing of misdemeanor charges should not disqualify a judge from unrelated civil cases when the judge has not been convicted of any misdemeanor or charged with any felony. The dissent noted his concern that the court's suspension invited "the filing of frivolous charges in order to remove a judge from considering unrelated cases. There is no need to overreact."

October 15, 2004
The Hon. L.T. Simes, II
Re: Complaint No. 03-178
Circuit Judge
P.O. Box 2775
Helena, Arkansas 72390-2775

Dear Judge Simes:

In its September 17, 2004 meeting, the Judicial Discipline & Disability Commission imposed an informal adjustment and decided that no further action will be taken in Complaint No. 03-178. In that complaint it was alleged that you violated the Arkansas Code of Judicial Conduct.

The Commission considered the facts and circumstances surrounding the allegation, your statements, documents, and the other evidence produced. Applying these materials to the Code of Judicial Conduct, the Commission found that there had been conduct that might be cause for discipline but for which an informal adjustment is appropriate.

The Commission found that you produced a musical compact disk ("CD") entitled "The Testimony," a collection of your inspirational musical performances. You appeared on the cover of that CD in your judicial robes, holding a gavel, identified as "Judge L.T. Simes."

You explained that "The Testimony" was your attempt to inspire young people from backgrounds similar to yours to transcend what may have been difficult beginnings in their own lives and that it was motivated by your sincere religious beliefs. Although the Commission commends your efforts, it found that the CD and its cover constituted a technical, although unintentional, violation of the Code of Judicial Conduct. However, in light of your explanation, the Commission has accepted your promise not to so employ your judicial office in the future and to refrain from selling copies of "The Testimony" henceforth as a satisfactory and appropriate resolution of this complaint. Of course, you certainly may distribute the remaining copies free of cost.

The Commission has instructed me to give you notice of this informal resolution and that, in view of your pledge, no further action will be taken.

This Commission action is public information.

Sincerely,
James A. Badami
Executive Director

November 29, 2004
Honorable Edwin J. Alford
PO Box 1588
Nashville, AR 71852
RE: Case #04236

Dear Judge Alford:

The Judicial Discipline and Disability Commission held a Probable Cause hearing on November 19, 2004 to review a Statement of Allegations, your response and the results of the Commission investigation in case #04236. In summary, it was alleged that while serving as the district court judge for Nashville/Howard County, you were not an attorney in good standing because you were suspended from the practice of law for failing to pay your annual attorney license fees by March 1, 2004.

The facts developed show that you have continuously served as the Nashville/Howard County District Court Judge since 1995. Arkansas Supreme Court Rules require Arkansas attorneys to pay an annual attorney's license fee by March 1 of each year to remain in good standing. As a result of your failure to pay your 2004 annual attorney's license fee until June 4, 2004, you were in violation of Rule VII of the Rules governing Admission to the Arkansas Bar.

Paragraph VII C of the rules governing admission to the Arkansas Bar states that failure to pay the annual license fee shall automatically suspend the delinquent lawyer from the practice of law in Arkansas according to this rule. It appears that your delinquent payment of license fees resulted in a suspension of your license making you not an attorney in good standing from March 1 to June 4, 2004. Arkansas state law requires all attorneys serving as district court judges be licensed to practice law in good standing within the state.

The Judicial Discipline and Disability Commission found that under the circumstances of this case as described above, you failed to respect and comply with the law. Your actions denigrate the public confidence of the judiciary and was inconsistent with maintaining the high standards of conduct essential in preserving the integrity and impartiality of the judiciary. This constitutes a violation of Canons 1 and 2A of the Arkansas Code of Judicial Conduct. It is the judgment of the Commission that you be and hereby are admonished.

This public admonition constitutes adequate discipline and no further action is warranted. The Commission indulges the expectation that this conduct will not be repeated.

This Commission action is public information.

BY DIRECTION OF THE COMMISSION.

Sincerely
James A. Badami
Executive Director