

BEFORE THE JUDICIAL QUALIFICATIONS COMMISSION
STATE OF GEORGIA

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| <i>In re:</i> Inquiry Concerning |) Docket Nos.: 2017-02, 2017-03, |
| Judge Brenda S. Weaver |) 2017-05, 2017-06 |
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Dismissal Upon Preliminary Investigation

The Investigative Panel of the Judicial Qualifications Commission met and conducted a preliminary investigation of four complaints against Judge Brenda S. Weaver, Chief Judge of the Appalachian Judicial Circuit. The Panel finds no grounds for discipline under Article VI, Section VII, Paragraph VII (A) of the Georgia Constitution of 1983 and Rule 6A of the Interim Rules of the Judicial Qualifications Commission of Georgia. Panel members Edward D. Tolley and Richard Hyde recused.

In complaints submitted to the Judicial Qualifications Commission [hereinafter “JQC”] by Mark Thomason [hereinafter “Thomason”], the creator of a local publication called “Fannin Focus,” his attorney Russell Stookey [hereinafter “Stookey”], Fannin County Attorney Lynn Doss [hereinafter “Doss”], and the Georgia Chapter of the Society of Professional Journalists [hereinafter “GCSPJ”], Judge Weaver is accused of abusing her judicial position, of willful misconduct, and of conduct prejudicial to the administration of justice bringing her office into disrepute. The complaints allege that Judge Weaver acted illegally to obtain an indictment against Thomason and Stookey, leading to their arrest on a bench warrant. Doss also alleges that Judge Weaver improperly issued an order recusing the three sitting Superior Court judges in the Circuit in which Doss appeared as attorney of record.

The issue is whether any evidence supports these allegations.

I. Bond Hearing Audiotape

All the complaints have a common origin arising from a bond hearing in March 2015 before then-Judge Roger Bradley, a fellow Appalachian Circuit judge (who is now retired), during which he used a repugnant racial epithet. The defendant at the bond proceeding, Thomason, and Judge Weaver contacted the JQC to report the incident. Judge Weaver requested that the official court reporter from the hearing, Rhonda Stubblefield [hereinafter “Stubblefield”], prepare the transcript of the hearing and send it along with the audiotape from which the transcript was prepared to the JQC.

On behalf of Thomason, Stookey filed a petition under the Open Records Act seeking a copy of the audiotape of the bond hearing, alleging that Stubblefield had refused to provide a copy

upon request to Thomason and that the written transcript of the bond hearing did not accurately reflect what was said in court. (See Fannin Focus, LLC v. Stubblefield, Civ. No. 2015 V 251, Superior Court of Fannin County.) Stubblefield counterclaimed for defamation and attorney's fees. The suit was assigned to Senior Judge Martha Christian after all three judges in the circuit recused. Judge Christian, Thomason, Stookey, Stubblefield and attorney Mary Beth Priest listened to the audiotape together and compared it to the transcript. Judge Christian found there were no discrepancies and entered her order denying the petition on September 22, 2015, noting that, "[t]his Court must decide this case on admissible evidence, not innuendo, speculation, gossip, bare allegations, the poor perception of spectators or biased statements of interested deponents . . ." (Order at p. 3.) Hence, nothing remained of the suit but Stubblefield's defamation claim which she later voluntarily dismissed.

Stubblefield had been sued solely because of her status as official court reporter. After notifying the Pickens, Fannin, and Gilmer County Commissions and receiving their approval, Judge Weaver had Stubblefield's attorney's fees and expenses paid from Judge Bradley's operating account. The counties fund such accounts for each of the judges in the Circuit.

II. Judge Weaver's Operating Account

On June 1, 2016, using the style and case number for the Stubblefield action, Thomason and Stookey obtained two blank subpoenas for production of evidence from the Fannin County Clerk's office to obtain bank records for Judge Weaver's operating account. The subpoenas commanded production at a scheduled hearing on attorney's fees in the Stubblefield case on June 16, 2016, and were served without notice to the depositor as required under OCGA § 7-1-360(b) or to opposing parties as required by OCGA § 9-11-34(c). Stookey and Thomason had obtained the Judge's operating account number from copies of cancelled checks in Doss' possession. Stearns Bank honored the subpoena and sent a CD with the records to Stookey. These records were password protected, however, and the password which Stookey later requested was not provided when the bank learned that Stookey had not given notice as required by law.

Thomason, Stookey, and Doss also made allegations that checks drawn from the Judge's operating account had been cashed illegally. Thomason made this allegation when he requested copies of checks written by the Judge from the Pickens County Commission, stating that several banks said that the checks were cashed illegally. The banks have denied making such statements. Upon investigation it was shown that the allegations were false.

Concerned about the potential access to her account information including her Social Security number, Judge Weaver made the GBI aware of the issue, who directed her to the District Attorney. District Attorney Alison Sosebee took the matter to the Pickens County grand jury after investigation by her office. The Judge testified as did the DA's chief investigator. The grand jury returned a true bill of indictment charging Thomason and Stookey with the offenses of identity fraud, criminal attempt to commit identity fraud, and making a false statement on June 24, 2016. In response to inquiry by the Investigative Panel of the JQC, DA Sosebee stated unequivocally that she was not influenced by the Judge in the investigation or handling of the

criminal charges against Thomason and Stookey. Bench warrants were issued following the indictment. Thomason and Stookey were arrested and they bonded out on the charges of identity fraud, criminal attempt to commit identity fraud, and making a false statement.

These complaints ensued.

III. Recusal Order

The three Superior Court judges of the Circuit properly recused based on the information regarding Doss' alleged involvement in the attempt to obtain the bank records and in the allegation of illegal check cashing. All of the judges had legitimate concerns about the appearance of impropriety, given the actions taken concerning Judge Weaver's account, Judge Priest's representation as an attorney of Stubblefield in the Open Records suit brought by Thomason, and the listing of Judge Worcester as a witness on the indictments of Thomason and Stookey. There is nothing unusual or improper about the standing recusal order signed by Chief Judge Weaver.

IV. Judge's investigation

The complainants make much of Judge Weaver's investigation and her supplying information to the DA's office. Had a judge not investigated an allegation of misapplication or theft of public funds, she could be criticized. Nothing prevents a judge or any other victim from cooperating with the State during the course of a criminal investigation.

V. Conclusion

No evidence has been presented to show any violation of the Code of Judicial Ethics by Judge Weaver. Instead, the evidence appears to show a personal dislike of the Judge. For instance, Stookey himself stated that he is "spreading wild stories which are not true but it will give them something to be excited about and I am feeding the cheese eating rat bastards as much as I may." He goes on to ask for help in this effort and promises to those who take up his cause that "[i]t will be fun." In a representative Facebook posting, Stookey wrote, "the FBI has done a great job and Mark and I get new evidence each week. If this goes as we think it will there will be job openings from Blue Ridge to Ellijay. That is not up to me or we would have bodies hanging from street lights now." The JQC has grave concern about the statements and conduct by Stookey in this matter. The FBI did investigate the allegations raised by Stookey and Thomason but found no wrongdoing.

The complainants, including the GCSCJ, have attempted to portray Judge Weaver as mounting some kind of attack on the freedom of the press. From the JQC's perspective, nothing could be further from the truth. Calling oneself a "journalist" and "reporter" should not be a cover for pursuing personal vendettas.

The JQC has long been an advocate for the freedom of the press particularly regarding open courtrooms and the fundamental right of the public to have access to the actions and records

of the courts. The integrity of the press is essential to the functioning of a democratic society.

It is likewise essential to our freedoms to maintain the integrity of the judiciary. Needlessly or maliciously attacking a sitting judge in print without any factual or legal basis perverts and undermines the fair administration of justice and public trust in its judiciary. It is just as much the JQC's responsibility to ensure that integrity is maintained by supporting a judge who has been falsely accused as it is to sanction a judge.

The complaints of Thomason, Stookey, Doss and the GCSPJ are meritless and without any basis in law or fact. The complaints are nothing more than a thinly veiled attempt to enlist the JQC in their fixation upon harming Judge Weaver. The JQC will have no further part in it. All complaints are hereby dismissed.