

BEFORE THE JUDICIAL QUALIFICATIONS COMMISSION

STATE OF GEORGIA

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)
In re: Inquiry Concerning) Complaint No. 2019-277
Judge Eric W. Norris)
)

FORMAL CHARGES

The Judicial Qualifications Commission (“JQC”) Investigative Panel (“IP”) initiated and conducted a Full Investigation regarding allegations of misconduct against Judge Eric W. Norris (“Judge Norris”), Chief Judge of the Superior Court of the Western Judicial Circuit. Pursuant to JQC Rule 17, the IP concluded that formal charges should be instituted for the purpose of determining whether Judge Norris has violated the Georgia Code of Judicial Conduct, whether he has committed willful misconduct in office, and whether his conduct is prejudicial to the administration of justice such that it brings the judicial office into disrepute.

Accordingly, the Director files the below Formal Charges with the JQC Hearing Panel pursuant to JQC Rule 19 and requests that proceedings be instituted for the purpose of determining if Judge Norris has violated of the Code of Judicial Conduct and, if so, the appropriate sanction. The allegations underlying this matter (Complaint No. 2019-277) were originally charged in Case No. S20Z1204, and the

Director will be requesting that the Formal Charges in Case No. S20Z1204 be dismissed as the Director will seek to proceed on this Formal Charging document.

II. JURISDICTION

1.

Judge Norris was admitted to the State Bar of Georgia in 1995. Judge Norris was sworn-in as a Judge on the Superior Court of the Western Judicial Circuit on April 28, 2016. At all times pertinent to these Charges, Judge Norris was serving in this judicial capacity and, as such, was subject to the Canons and Rules of the Code of Judicial Conduct and the laws of the State of Georgia.

2.

Judge Norris' chambers in Athens-Clarke County are located in the Athens-Clarke County Courthouse at 325 E. Washington St., Room 580, Athens, GA 30601.

III. FACTS

3.

On July 5, 2019, the Athens Banner Herald published an article written by Wayne Ford titled, "Rape Suspect wanted after failing to appear in Athens Court." On that date, the article was printed for circulation and was also posted to Online Athens, the Athens Banner Herald's website. The article concerned a defendant who

had an outstanding bench warrant for failing to appear for a retrial on felony sexual assault criminal charges following a mistrial in his first trial. Judge Norris had presided over the first trial and released the defendant on his own recognizance after the mistrial.¹

4.

On the same day that the Athens Banner Herald published the above-referenced article, Mr. Nathan Owens (“Mr. Owens”), a local twenty-nine-year-old professional bondsman, shared it on his personal Facebook page. In doing so, Mr. Owens spurred an internet-based discussion on his post about various issues involving the case, including general discussion of the crime in Athens, bond issues, and the defendant’s past encounters with the court system. Various members of the public commented on Mr. Owens’ post and engaged in commentary and disparaging remarks about Judge Norris’ decisions in the case.

5.

As a result of the article’s publication, Judge Norris and his wife began receiving messages from members of the public about the article and the case, many of them expressing displeasure with the Judge’s decision to grant bond.

¹ The jury was deadlocked at eleven to one to acquit the defendant and he had been incarcerated for nine months preceding his trial. At the bond hearing after the mistrial, the State did not oppose a bond, but requested a \$25,000 bond and an ankle monitor. The defendant’s attorney requested that the defendant be released on his own recognizance.

Judge Norris was unhappy about the messages he was receiving which were critical of his decisions.

6.

On July 8, 2019, a fellow professional bondsman and business associate of Mr. Owens, Mr. John Elliot (“Mr. Elliot”), contacted Mr. Owens by cell phone to relay that Judge Norris had contacted him about Mr. Owens’ online sharing of the Athens Banner Herald article on his Facebook page. Mr. Elliot said that Judge Norris wanted to meet with Mr. Owens to discuss the news story and the case and to provide Judge Norris’ perspective and side of the story. At Judge Norris’ request, Mr. Elliot gave Mr. Owens the Judge’s cell phone number so that Mr. Owens could call Judge Norris to discuss a meeting.

7.

Mr. Owens obliged and sent Judge Norris a text message the next day, July 9, 2019. In response, Judge Norris suggested that Mr. Owens come to his courthouse chambers that day. Due to a prior commitment, Mr. Owens was unable to meet that day, but agreed to go to Judge Norris’ chambers for a meeting the following morning, July 10, 2019, at 9:00am. Judge Norris and Mr. Owens did not know each other prior to meeting on July 10, 2019.

8.

On July 10, 2019, Mr. Owens proceeded to the courthouse with his friend and fellow professional bondsman, Mr. Scott Hall (“Mr. Hall”), where they met Mr. Elliott.

9.

The three men took the elevator together, exited the elevator and walked into the waiting area of Judge Norris’ chambers. Immediately upon arriving in the waiting area, the men were met by armed Athens-Clarke County Sheriff’s Deputy Dan Henson (“Deputy Henson”). Deputy Henson asked the three men if they possessed any electronic devices and informed them that such devices were not allowed pursuant to “Rule 22.”² The men indicated that they only had their cell phones, and Deputy Henson then told the men that he would be collecting their cell phones and instructed them to place the cell phones into a wooden box. Though the men thought the collection of their personal cell phones was strange for the circumstance, they complied by each placing their cell phones in the wooden box. Deputy Henson then placed the wooden box behind a reception window.

² Georgia Uniform Superior Court Rule 22 applies specifically to the use of electronic devices in a public and open courtroom setting. There appears to be no justification or application allowing for a confiscation of a personal cell phone belonging to a visitor to a judge’s private chambers under the auspices of Ga. Unif. Super. Ct. 22. Notwithstanding the clear inapplicability of Rule 22 to this circumstance, Judge Norris justified the taking of the men’s cell phones pursuant to this Rule.

10.

Judge Norris then entered the waiting area, said hello to Mr. Elliott, introduced himself to Mr. Owens and Mr. Scott, and instructed Mr. Elliott and Mr. Scott to remain in the waiting area. Judge Norris then advised Mr. Owens to follow him into his chambers and Judge Norris, Mr. Owens, and Deputy Henson proceeded to the Judge's chambers. After entering Judge Norris' chambers, Mr. Owens was led into a conference room where Judge Norris' staff attorney, Walker McNiff ("Ms. McNiff") was already seated at a table. Once inside the conference room, Judge Norris walked to one end of the table and told Mr. Owens to "have a seat" so they could talk about the matter that led Judge Norris to request the meeting. Deputy Henson, who had followed Judge Norris and Mr. Owens to the room, positioned himself at the doorway that had been used to enter the room. Mr. Owens did not sit down at this time.

11.

As both men continued to stand on different sides of the table, Mr. Owens noticed that Judge Norris was visibly agitated. Mr. Owens noticed that the Judge's hands were shaking and he described Judge Norris as being "extremely upset." Mr. Owens also noticed that Judge Norris had Mr. Owens' Facebook post sharing the article and the corresponding comments on his post printed out and clearly displayed on the table. Mr. Owens also saw a Georgia code book out and open on the table.

Specifically, the code book was opened to O.C.G.A. § 17-6-50, the Georgia code section which provides the qualifications for professional bondspersons.

12.

Mr. Owens remained standing and Judge Norris raised his voice and began to read O.C.G.A. § 17-6-50 out loud. As he was concerned about the Judge's demeanor and the fact that he was referencing the code section which sets out qualifications for his employment, Mr. Owens told Judge Norris that he had come to the courthouse to have a respectful conversation and that he wished to leave the meeting. In response to this request, Judge Norris again instructed Mr. Owens to sit down.

13.

Mr. Owens then became concerned about the tenor of the meeting, as he had asked to leave and was told to sit down. Mr. Owens then told Judge Norris that if he could not leave, he wanted to have his attorney present. Judge Norris responded that Mr. Owens just needed to sit down and listen. During this exchange, armed Deputy Henson remained at the doorway.

14.

Judge Norris then advised that Mr. Owens' friends could join the meeting. Mr. Owens advised he still wished to have his attorney present. Judge Norris did not respond to this request.

15.

Judge Norris then instructed Deputy Henson to bring Mr. Elliott and Mr. Hall into the room. Deputy Henson left to get Mr. Elliott and Mr. Hall in order to escort them to the room.

16.

Once Mr. Elliott and Mr. Hall entered the room, Mr. Owens again stated that he wished to have his attorney present. Mr. Hall observed that Judge Norris was visibly agitated. In response to Mr. Owens' latest request for his attorney to be present, Judge Norris advised that Mr. Owens did not have to answer any questions but that he was going to sit down and listen to what Judge Norris had to say. Deputy Henson had resumed his position at the doorway at this time.

17.

Mr. Owens finally sat down. Judge Norris then proceeded to berate and demean Mr. Owens by comparing his educational and professional background to that of the Judge, noting that all Mr. Owens had done was go to high school and then work. Judge Norris outlined the years he had spent in the military, his educational background, the numerous judicial circuits he practiced in as a private attorney, his appointment to the bench by Governor Deal and his subsequent re-election as judge, and his past service as President of the Western Circuit Bar Association. Judge Norris then stated that "while he didn't have to ask," he assumed Mr. Owens had

never served his country. Judge Norris told Mr. Owens that he should have known better than to attack him online, that the article and some of Mr. Owens' commentary was inaccurate, and that his sharing the article and his own commentary had tarnished the Judge's reputation.

18.

Judge Norris turned back to the Georgia code book and said he had read the statute regarding professional bondsmen and felt that because Mr. Owens did not have "good moral character" he was failing to uphold the requirements of a professional bondsman as outlined by Georgia law.³ Judge Norris also mentioned that he knew Mr. Owens' business was failing, referencing testimony Mr. Owens had given in front of the legislature in 2019.

19.

In an attempt to redirect the conversation and calm Judge Norris, Mr. Hall brought up the article and the issue of the defendant's release on his own recognizance. Judge Norris quickly interrupted Mr. Hall and advised that he was merely an invited guest and was not going to speak.

³ O.C.G.A. § 17-6-50 (b) states, in part, that "A professional bondsperson is one who holds himself or herself out as a signer or surety of bonds for compensation who must meet the following qualifications: ... (2) [i]s a person of *good moral character*" (Emphasis added).

20.

Judge Norris then addressed Mr. Owens' sharing of the article, accusing him of spreading "fake news" and "fearmongering," as Mr. Owens knew nothing about the case because he was not there. Judge Norris then picked up the print outs of Mr. Owens' post and the corresponding comments and began to read them out loud. As he read through the post and the comments, Judge Norris looked up after reading certain derogatory comments and told Mr. Owens, "this is your fault."

21.

Judge Norris mentioned a specific comment on the post from an individual named Madeline Shepard, stating "Oh, I just love her. She came to me asking for a TPO against her roommate, which I denied."

22.

During this tirade, Judge Norris mentioned that Mr. Owens must not have "testicular fortitude," and must have been too scared or afraid to come to meet with him alone. Judge Norris also repeatedly stated that other people "knew" about this issue, and that his (Judge Norris') words carry weight.

23.

Judge Norris repeatedly told Mr. Owens that Mr. Owens knew nothing about the case that was written about in the article, as he was not there, and proceeded to pose questions to Mr. Owens about his knowledge of the case. These questions

included asking Mr. Owens if he knew that marijuana was smoked by both parties in the case (the victim and the defendant); asking if he knew the jury was deadlocked at 11-1 to acquit the defendant; asking if he knew for a fact whether the defendant had a history of failing to appear in court; and asking if he knew that the Assistant District Attorney in the case had agreed that the defendant should be granted a bond after the mistrial.

24.

Mr. Owens was in Judge Norris' chambers for approximately 30 minutes, almost the entirety of which was spent being criticized, berated, and demeaned by Judge Norris. At the end of the tirade, Judge Norris asked Mr. Owens, who had hardly spoken other than to ask to leave and to ask for his attorney to be present, if he had anything to say. Mr. Owens told Judge Norris that he did not know Mr. Owens at all. At no time while he was in Judge Norris' chambers did Mr. Owens feel like he was free to leave.

25.

After Mr. Owens' statement to Judge Norris, Mr. Owens, Mr. Elliott, and Mr. Hall were permitted to leave the room. They were escorted out by Deputy Henson, who retrieved the wooden box and returned their cell phones. As Mr. Owens left the courthouse that day with Mr. Elliott and Mr. Hall, he feared that his professional livelihood and career might be ruined by Judge Norris. Once outside,

Mr. Owens turned to Mr. Hall and asked him for a job, as he was concerned about his business and future employment.

26.

In the days and weeks after the interaction between Judge Norris and Mr. Owens, it became known around the courthouse and on social media that Judge Norris had personally confronted Mr. Owens regarding the Facebook post critical of Judge Norris's decisions. Despite Mr. Owens choosing to keep the meeting with Judge Norris confidential, Mr. Owens was asked about the interaction by various courthouse personnel. Approximately two days after Mr. Owens' meeting with Judge Norris, Public Defender Rachel Williams ("Ms. Williams") publicly announced in the courthouse that people should never use Liberty Bonding. Liberty Bonding is Mr. Owens' bonding business. In addition, Ms. Williams went onto Mr. Owens' business webpage and left an unfavorable review of the business, advising that Liberty Bonding was "horrible" and urging people to "please not use" Liberty Bonding, as they were "harassing and vindictive." Mr. Owens had never met Ms. Williams, had never posted bond for her, or for anyone else at her request.

VIOLATIONS OF THE CODE OF JUDICIAL CONDUCT

COUNT ONE

RULE 1.2 (A) VIOLATION

27.

Rule 1.2 (A) of the Georgia Code of Judicial Conduct states:

Judges shall act at all times in a manner that promotes public confidence in the *independence, integrity, and impartiality* of the judiciary.

28.

On or about July 10, 2019, Judge Norris failed to act in a manner that promotes public confidence in the integrity of the judiciary, to wit: Judge Norris orchestrated a meeting in his chambers with Mr. Owens and used that meeting to berate and criticize Mr. Owens about his exercise of constitutional right to free speech in sharing an article and his commentary on his personal Facebook page which was critical of Judge Norris and his decisions. Judge Norris held the private meeting in his judicial chambers in the Athens-Clarke County Courthouse and had an armed courthouse deputy confiscate Mr. Owens' cell phone before having him enter the chambers for the meeting. Judge Norris initially excluded people accompanying Mr. Owens from joining the meeting, and created the impression that Mr. Owens was prohibited from leaving his chambers once the meeting began.

During the approximately 30-minute meeting, the majority of which consisted of Judge Norris speaking to and at Mr. Owens in a raised voice, Judge Norris demeaned Mr. Owens' professional and educational background, made veiled threats and remarks which caused Mr. Owens to be concerned about adverse career consequences for Mr. Owens' exercise of his constitutional right to free speech, and required Mr. Owens to sit and listen to Judge Norris' comments even though Mr. Owens had requested to leave and to have his attorney present with him.

29.

The allegations contained in paragraphs 3 through 26 are realleged and incorporated herein by reference.

COUNT TWO

RULE 2.8 (B) VIOLATION

30.

Rule 2.8 (B) of the Georgia Code of Judicial Conduct states:

Judges shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom they deal with in their official capacity, and shall require similar conduct of all persons subject to their direction and control.

31.

On or about July 10, 2019, Judge Norris failed to act in a manner that promotes public confidence in the integrity of the judiciary, to wit: Judge Norris orchestrated a meeting in his chambers with Mr. Owens and used that meeting to berate and criticize Mr. Owens about his exercise of constitutional right to free speech in sharing an article and his commentary on his personal Facebook page which was critical of Judge Norris and his decisions. Judge Norris held the private meeting in his judicial chambers in the Athens-Clarke County Courthouse and had an armed courthouse deputy confiscate Mr. Owens' cell phone before having him enter the chambers for the meeting. Judge Norris initially excluded people accompanying Mr. Owens from joining the meeting, and created the impression

that Mr. Owens was prohibited from leaving his chambers once the meeting began. During the approximately 30-minute meeting, the majority of which consisted of Judge Norris speaking to and at Mr. Owens in a raised voice, Judge Norris demeaned Mr. Owens' professional and educational background, made veiled threats and remarks which caused Mr. Owens to be concerned about adverse career consequences for Mr. Owens' exercise of his constitutional right to free speech, and required Mr. Owens to sit and listen to Judge Norris' comments even though Mr. Owens had requested to leave and to have his attorney present with him.

32.

The allegations contained in paragraphs 3 through 26 are realleged and incorporated herein by reference.

IV. CONCLUSION

Violations of the Georgia Code of Judicial Conduct support discipline when they amount to “willful misconduct in office” or “conduct prejudicial to the administration of justice which brings the judicial office into disrepute.” Ga. Const. of 1983, Art. VI, Sec. VII, Par. VII (a); JQC Rule 6 (A) (1) and (5). Judge Norris’ conduct as alleged above amounts to willful misconduct in office and is prejudicial to the administration of justice, bringing the office of Judge on the Superior Court of the Western Judicial Circuit into disrepute. Therefore, the Director hereby seeks disciplinary action for the above-stated violations of the Georgia Code of Judicial Conduct.

NOTICE OF FORMAL CHARGES

Pursuant to JQC Rules 13, 19, and 20, and by filing these Formal Charges with the Hearing Panel, Judge Norris is hereby notified of alleged misconduct and is required to file a verified answer to these charges with the Clerk of the Supreme Court and serve a copy of the verified answer on the Director. The answer shall be filed within thirty (30) days after service of these charges. Failure to answer the formal charges shall constitute an admission of the factual allegations pursuant to JQC Rule 21 (A).

Respectfully submitted this 31st day of March, 2021.

s:\CHARLES P. BORING
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CERTIFICATE OF SERVICE

Pursuant to Judicial Qualifications Commission Rule 13, the Director certifies that he has this day served the following:

Formal Charges

by placing a true and correct copy of the same in the United States mail in an envelope properly addressed with adequate postage thereon to ensure delivery upon the following, and by forwarding via electronic mail to the below address:

Dennis T. Cathey, Esq. (Counsel for Judge Norris)
Cathey & Strain
649 Irvin Street
P.O. Box 689
Cornelia, Georgia 30531
DCathey@catheyandstrain.com

This 31st day of March, 2021.

s:\CHARLES P. BORING
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