

BEFORE THE JUDICIAL QUALIFICATIONS COMMISSION
STATE OF GEORGIA

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)
In re: Inquiry Concerning) Complaint No. 2021-073
Judge Cary Hays III)
)

FORMAL CHARGES

The Judicial Qualifications Commission (“JQC”) Investigative Panel (“IP”) initiated and conducted a Full Investigation regarding allegations of misconduct against Judge Cary Hays III (“Judge Hays”), Chief Magistrate Judge of Crawford County. Pursuant to JQC Rule 17, the IP concluded that formal charges should be instituted for the purpose of determining whether Judge Hays 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 Hays has violated of the Code of Judicial Conduct and, if so, the appropriate sanction. The allegations underlying this matter (Complaint No. 2021-073) were originally charged in Case No. S21Z1039, and the

Director will be requesting that the Formal Charges in Case No. S21Z1039 be dismissed as the Director will proceed on this Formal Charging document.

I. JURISDICTION

1.

Judge Hays was sworn-in as a judge on the Crawford County Magistrate Court on January 2, 2017 and serves as the Chief Magistrate Judge. At all times pertinent to these Charges, Judge Hays 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.

II. FACTS

2.

On December 18, 2020, Judge Hays presided over a first appearance hearing for an inmate in Crawford County. The hearing took place in a conference room at a building that houses the Crawford County Sheriff's Office and the Crawford County Jail, located at 21 Hortman Mill Road in Knoxville, Georgia. The conference room and hallway in which the actions in question took place are secure areas.

3.

At the conclusion of the hearing, the inmate became unhappy with Judge Hays' decision regarding bond and began cursing at Judge Hays. This continued as the inmate was being led out of the conference room by a Crawford County Sheriff's Office law enforcement officer. As the inmate was being led out of the conference room, Judge Hays verbally engaged the inmate. The inmate then, while exiting the conference room and walking into a hallway, turned and cursed at Judge Hays again.

4.

Judge Hays left the conference room, proceeded into the hallway, and quickly approached the inmate who was handcuffed, shackled at the feet, and accompanied by the law enforcement officer. Judge Hays then, while verbally engaged with the inmate, grabbed the inmate and pushed him into and up against a wall in the hallway. At no time before Judge Hays assaulted the inmate did the inmate physically threaten Judge Hays, attempt to escape or flee from custody, or threaten anyone whatsoever.

5.

After he grabbed and pushed the inmate against the hallway wall, Judge Hays released the inmate and continued to engage in a verbal confrontation with the inmate.

6.

The GBI opened an investigation into the actions of Judge Hays on or about February 18, 2021. The criminal investigation into Judge Hays' actions is open and ongoing.

7.

On February 23, 2021, the JQC Director became aware of the incident after JQC Investigator Lance Alford was contacted by the GBI and made aware of their investigation into Judge Hays' actions. Investigator Alford spent the next two weeks speaking with witnesses, gathering witness statements, and speaking with Judge Hays. Judge Hays admitted to leaving the conference room, entering the hallway, and grabbing and pushing the inmate into a wall. Judge Hays further admitted that the inmate had not physically threatened Judge Hays and had not attempted to escape or flee from custody before he accosted the inmate.

8.

Investigator Alford also obtained video evidence of the incident, which shows Judge Hays' actions as described above.

III. VIOLATIONS OF THE CODE OF JUDICIAL CONDUCT

COUNT ONE

Rule 1.1 VIOLATION

9.

Rule 1.1 of the Georgia Code of Judicial Conducts states:

Judges shall respect and comply with the law.

10.

On December 18, 2020, Judge Hays failed to respect and comply with the law, to wit: Judge Hays physically assaulted an inmate while the inmate was handcuffed, shackled at the feet, and accompanied by a law enforcement officer. During the incident, Judge Hays engaged in a verbal altercation with the inmate, grabbed the inmate, and pushed the inmate into and up against a wall in the hallway outside of a Crawford County Sheriff's Office and jail conference room. Judge Hays committed these acts immediately after presiding over the inmate's first appearance hearing that was held in the conference room. Judge Hays'

actions violated Georgia law, specifically O.C.G.A. §§ 16-5-23(a)(1) (Simple Battery).

COUNT TWO

RULE 1.2 (A) VIOLATION

11.

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.

12.

On December 18, 2020, Judge Hays failed to act in a manner that promotes public confidence in the integrity of the judiciary, to wit: Judge Hays physically assaulted an inmate while the inmate was handcuffed, shackled at the feet, and accompanied by a law enforcement officer. During the incident, Judge Hays engaged in a verbal altercation with the inmate, grabbed the inmate, and pushed the inmate into and up against a wall in the hallway outside a Crawford County Sheriff's Office and jail conference room. Judge Hays committed these acts immediately after presiding over the inmate's first appearance hearing that was held in the conference room.

COUNT THREE

RULE 2.8 (B) VIOLATION

13.

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.

14.

On December 18, 2020, Judge Hays failed to act in a patient, dignified and courteous manner toward a litigant, to wit: Judge Hays physically assaulted an inmate while the inmate was handcuffed, shackled at the feet, and accompanied by a law enforcement officer. During the incident, Judge Hays engaged in a verbal altercation with the inmate, grabbed the inmate, and pushed the inmate into and up against a wall in the hallway outside a Crawford County Sheriff's Office and jail conference room. Judge Hays committed these acts immediately after presiding over the inmate's first appearance hearing that was held in the conference room.

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 Hays’ conduct as alleged above amounts to willful misconduct in office and is prejudicial to the administration of justice, bringing the office of Chief Judge of the Magistrate Court of Crawford County 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 Hays 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 21st day of June, 2021.

s:\CHARLES P. BORING
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Judicial Qualifications Commission
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Atlanta, GA 30339
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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:

Judge Cary F. Hays, III
100 GA Hwy 42 South
Knoxville, GA 31050
judgehays@crawfordcountyga.org

This 21st day of June, 2021.

s:\CHARLES P. BORING
Charles P. Boring, Director
Judicial Qualifications Commission
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Atlanta, GA 30339
Georgia Bar No. 065131
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