

BEFORE THE JUDICIAL QUALIFICATIONS COMMISSION

STATE OF GEORGIA

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<i>In re: Inquiry Concerning</i>)	Complaint Number. 2021-109
Judge David Cannon, Jr.)	
)	

FORMAL CHARGES

The Judicial Qualifications Commission (“JQC”) Investigative Panel (“IP”) initiated and conducted a Full Investigation regarding allegations of misconduct against Judge David Cannon, Jr. (“Judge Cannon”) of the Superior Court of the Blue Ridge Circuit. Pursuant to JQC Rule 17, the IP concluded that formal charges should be instituted for the purpose of determining whether Judge Cannon has violated the Georgia Code of Judicial Conduct (“Code”), 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 Cannon violated the Code and, if so, the appropriate sanction. The allegations underlying this matter arise from Complaint Number 2021-109 which was initiated by the Investigative Panel of the JQC on March 31, 2021.

I. JURISDICTION

1.

Judge Cannon was admitted to the State Bar of Georgia on June 5, 1995. Judge Cannon was first elected judge of the Superior Court in the Blue Ridge Circuit on July 31, 2012. He was sworn into office in or about January 2013. Since that time, Judge Cannon has served in a judicial capacity as a Superior Court judge in the Blue Ridge Circuit, which encompasses Cherokee County, Georgia. At all times pertinent to these charges Judge Cannon was subject to the Canons and Rules of the Code of Judicial Conduct and the laws of the State of Georgia.

2.

Judge Cannon's office is located at the Cherokee County Courthouse at 90 North Street, Suite 270, Canton, Georgia 30114.

II. FACTS

3.

On March 16, 2021, a shooting spree occurred at three spas in the metropolitan area of Atlanta, Georgia, including Cherokee and Fulton Counties. In total, eight people were killed and one other person was wounded. The suspect, 21-year-old Robert Aaron Long ("Long"), a resident of Cherokee County, was taken into custody later that day.

4.

On March 17, 2021, Long was charged with eight counts of murder and one count of aggravated assault for the shooting at the location in Cherokee County.

5.

During a joint press conference with Fulton and Cherokee County law enforcement and other public officials on March 17, 2021, Captain Jay Baker (“Captain Baker”) of the Cherokee County Sheriff’s Department answered reporters’ questions relative to comments which were allegedly made by Long after he was arrested. Captain Baker paraphrased what the suspect told investigators about his motive. Captain Baker’s comments attracted significant scrutiny by media and members of the public.

6.

Judge Cannon maintains a social media account on Facebook under the name, “David Cannon, Jr., SolicitorDlc.” Judge Cannon uses this Facebook account for both personal and professional posts. The Facebook account identifies David Cannon, Jr. as “Judge of the Superior Court of Cherokee County.” The Facebook account currently has over 1500 confirmed “friends.” Judge Cannon regularly posts on this Facebook account and interacts with those who comment on his posts.

7.

On March 18, 2021, the day after the joint press conference, Judge Cannon posted the following on his Facebook page:

David Cannon Jr 

Here is a transcript of the Press Conference, read it for yourself than [sic] make an informed decision as to what you believe Captain Jay Baker was saying and from who's perspective.

I believe he was summarizing what he was told by the investigators that interviewed the accused from the accused perspective.

And Jay was not saying from Jay's perspective that the accused had a bad day.

Feel free to disagree, but read the transcript first!

The REAL STORY should be about about [sic] how an accused mass killer was apprehended 200 miles away via incredible work of our public safety and law enforcement agencies within hours.

8.

The Facebook post timestamp contains a globe icon which means that the post is accessible to anyone in the general public.

9.

Judge Cannon's March 18, 2021, Facebook post also included a link to a website referenced as rev.com. This website provides transcription services to the public. The rev.com link is dated March 17, 2021 and contains an unofficial "transcript" of a portion of the joint press conference. A video excerpt of the joint press conference is also embedded in the rev.com link and is viewable with the transcript.

10.

Judge Cannon's Facebook post generated comments and "likes/loves" from numerous Facebook viewers. As of the date of this filing, the post has been liked/loved 137 times, and shared 66 times by other Facebook account holders to their accounts. To date, 37 comments have been made to the original post. As of the date of this filing, the post is still active and publicly visible.

11.

Judge Cannon responded to several of the comments made to his original post. One of Judge Cannon's replies was made to a comment by Neil Gardner. The post is as follows:

Neil Gardner

As an outsider, who is both a PR professional and someone who has read the transcript, I feel he shouldn't have said it. Either it was his personal thoughts

or he is summarizing what he was told. Either way, he would have been better served self editing.

Fronting the press is tricky. Better stick to the script or you become news fodder.



David Cannon Jr

Neil Gardner you are not wrong! They had a press release and should have stuck to that. But dozens of live questions ensue all wanting a sound bite.

The story should be about the capture and the victims.

As a judge I don't like them tainting the jury pool about a confession that may or may not be admissible depending on the circumstances. So I'd rather them just say "we caught him".

12.

Judge Cannon also responded to a comment posted by Georgia attorney E. Jay Abt. Judge Cannon disagreed with the attorney's impression of the law enforcement officer's statements made at the news conference and offered a contrary opinion:

E. Jay Abt

Sorry, seems like a lot of echo chamber here. I listened to the press conference, live, and what I heard was an insensitive law enforcement officer, sympathizing with the murderer, and not the victims; which led me to ask why would someone in a position of authority act that way? My impression is that he embarrassed hard working, ethical and responsible members of law enforcement all over the nation who are waking up every day to do public service and fight against bad PR in a modern era, tainted by racial bias. He did not help this cause; he hurt it, a lot.

David Cannon Jr

E. Jay Abt I watched it via internet after the press coverage and that is not what I observed. All I would ask is for you to watch or read it again and see if you have the same impression.

13.

On May 21, 2021, Judge Cannon appeared before the Investigative Panel to make a statement and discuss the Facebook post and his comments following the post.

14.

During his appearance before the IP, Judge Cannon indicated that when he made the March 18 post, he “knew” from speaking with the Clerk on the day of the shooting, March 17, 2021, that the spa shooting case was not assigned to him. Judge Cannon also acknowledged that he knew that of the three judges in the Blue Ridge Circuit, only he and Judge Ellen McElyea would be available to act in any judicial capacity related to the spa shooting case because Superior Court Judge M. Anthony Baker is the brother of Captain Jay Baker. Judge Cannon also acknowledged that it was probable that law enforcement might come to him to sign warrants in the case and that “could potentially be an issue.” Judge Cannon further admitted that he did not consider any of these potential issues before he made the Facebook post.

15.

During his appearance before the Investigative Panel, Judge Cannon also said that he believed that the Sheriff’s Department was being perceived as “a joke” because “no one watched the press conference, or no one read what was said.” Judge Cannon said he was upset by the negative press coverage of Cherokee County, the Sheriff and law enforcement and felt like he needed to respond. Judge Cannon further explained that he took the criticism personally and was “upset” by it. Judge Cannon further elaborated on his reasons for the post and said that he

“knew that [his colleague Superior Court] Judge Baker could not defend his brother and [he] felt obligated to post something.”

16.

Judge Cannon admitted that when he made the post, he knew that “he was pushing the rule.”

**RULES OF THE CODE OF JUDICIAL CONDUCT
IMPLICATED BY JUDGE CANNON’S ACTS**

RULE 1.2 (A)

17.

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

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

RULE 1.2 (B)

18.

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

(B) An independent and honorable judiciary is indispensable to justice in our society. Judges shall participate in establishing, maintaining, and enforcing high standards of conduct, and shall personally observe such standards of conduct so that the independence, integrity, and impartiality of the judiciary may be preserved.

The provisions of this Code should be construed and applied to further that objective.

RULE 1.3

19.

Rule 1.3 of the Georgia Code of Judicial Conduct states that:

Judges shall not lend the prestige of their office to advance the private interests of the judge or others.

RULE 2.10 (A)

20.

Rule 2.10 (A) of the Georgia Code of Judicial Conduct states that:

(A) Judges shall not make, on any pending proceeding or impending matter in any court, any public comment that might reasonably be expected to affect its outcome or impair its fairness or make any non-public comment that might substantially interfere with a fair trial or hearing.

RULE 3.1 (A)

21.

Rule 3.1 (A) of the Georgia Code of Judicial Conduct states that:

(A) Judges shall not engage in extra-judicial activities that detract from the dignity of their office or interfere with the performance of their judicial duties.

RULE 3.1 (C)

22.

Rule 3.1 (C) of the Georgia Code of Judicial Conduct states that:

(C) Judges may engage in extra-judicial activities, provided that doing so will not interfere with proper performance of judicial duties or cast doubt on their capacity to *impartially* decide any issue.

VIOLATIONS OF THE CODE OF JUDICIAL CONDUCT

COUNT ONE

23.

In or about March 2021, Judge Cannon did fail to act in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary in violation of Rule 1.2 (A) of the Code of Judicial Conduct, by improperly posting a link to a press conference of an active investigation of a crime which occurred in his jurisdiction and making numerous comments about statements made by a Cherokee County law enforcement officer concerning Long. In doing so, Judge Cannon publicly supported and opined about the actions of law enforcement in a pending matter over which he had jurisdiction as a Superior Court judge.

COUNT TWO

24.

In or about March 2021, Judge Cannon did fail to establish, maintain, and enforce high standards of conduct, and personally observe such standards of conduct so that the independence, integrity, and impartiality of the judiciary may be preserved in violation of Rule 1.2 (B) of the Code of Judicial Conduct, by improperly posting a link to a press conference of an active investigation of a crime which occurred in his jurisdiction and making numerous comments about statements made by a Cherokee County law enforcement officer concerning Long. In doing so, Judge Cannon publicly supported and opined about the actions of law enforcement in a pending matter over which he had jurisdiction as a Superior Court judge.

COUNT THREE

25.

In or about March 2021, Judge Cannon did lend the prestige of his office to advance the private interests of the judge and others in violation of Rule 1.3 of the Code of Judicial Conduct, by improperly posting a link to a press conference of an active investigation of a crime which occurred in his jurisdiction and making numerous comments about statements made by a Cherokee County law enforcement officer concerning Long. In doing so, Judge Cannon publicly

supported and opined about the actions of law enforcement in a pending matter over which he had jurisdiction as a Superior Court judge.

COUNT FOUR

26.

In or about March 2021, Judge Cannon did lend the prestige of his office to advance the private interests of the judge and others in violation of Rule 1.3 of the Code of Judicial Conduct, by improperly posting a link to a press conference of an active investigation of a crime which occurred in his jurisdiction and making numerous comments about statements made by a Cherokee County law enforcement officer who is the brother of a Blue Ridge Circuit Superior Court judge colleague with whom Judge Cannon serves. In doing so, Judge Cannon publicly supported and opined about the actions of law enforcement in a pending matter over which he had jurisdiction as a Superior Court judge.

COUNT FIVE

27.

In or about March 2021, Judge Cannon did violate Rule 2.10 of the Code of Judicial Conduct, regarding a pending proceeding or impending matter in any court, in this instance the very court on which Judge Cannon serves. The Facebook public post, and the comments Judge Cannon made on the post about law

enforcement, could reasonably be expected to affect the outcome or impair the fairness of a pending investigation and impending matter within his jurisdiction.

COUNT SIX

28.

In or about March 2021, Judge Cannon did violate Rule 3.1 (A) of the Code of Judicial Conduct, by making a public comment on Facebook regarding a pending investigation and impending matter within his jurisdiction. Such extra-judicial activities by Judge Cannon on social media interfered with the performance of his judicial duties in the Blue Ridge Circuit.

COUNT SEVEN

29.

In or about March 2021, Judge Cannon did violate Rule 3.1 (C) of the Code of Judicial Conduct, by making a public comment on Facebook regarding a pending investigation and impending matter within his jurisdiction. Such extra-judicial activities by Judge Cannon on social media cast doubt on Judge Cannon's capacity to impartially decide an issue.

III. 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 Cannon's conduct as alleged above amounts to willful misconduct in office, and is prejudicial to the administration of justice, bringing the office of Superior Court Judge of the Blue Ridge 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 Cannon 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 20th day of July, 2021.

s:\CHARLES P. BORING
Charles P. Boring, Director
Judicial Qualifications Commission
1995 North Park Place SE, Suite 570
Atlanta, GA 30339
Georgia Bar No. 065131
cboring@gajqc.gov

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:

**S. Lester Tate, III
Akin & Tate, PC
11 N Public Square
Cartersville, GA 30120
Lester@akin-tate.com**

This 20th day of July, 2021.

s:\CHARLES P. BORING
Charles P. Boring, Director
Judicial Qualifications Commission
1995 North Park Place SE, Suite 570
Atlanta, GA 30339
Georgia Bar No. 065131
cboring@gajqc.gov