

Order

Michigan Supreme Court
Lansing, Michigan

March 7, 2014

147235 & (4)

Robert P. Young, Jr.,
Chief Justice

Michael F. Cavanagh
Stephen J. Markman
Mary Beth Kelly
Brian K. Zahra
Bridget M. McCormack
David F. Viviano,
Justices

In re:

The Honorable Sheila Ann Gibson
Judge, 3rd Circuit Court
Detroit, Michigan

SC: 147235

On order of the Court, the Judicial Tenure Commission having filed a Decision and Recommendation on the basis of an agreement between the Examiner and the respondent judge, we REJECT the recommendation on the ground that the proposed discipline is insufficient in light of the facts presented to the Court. See *In re Brown*, 461 Mich 1291, 1292-1293 (2000), in particular its admonitions that, “everything else being equal,” misconduct constituting part of a pattern or practice is more serious than an isolated instance of misconduct; misconduct on the bench (including, in our judgment, misconduct centered on the failure to take the bench) is more serious than the same misconduct off the bench; misconduct that is deliberate is more serious than misconduct that is spontaneous; and misconduct prejudicial to the actual administration of justice is more serious than conduct that is not.

Despite the Commission’s own acknowledgment that respondent’s conduct was “repeated and sustained,” the Commission limited its investigation to a one-week period. By so doing, the Commission may have given substantially less consideration than was warranted to the burdens and inconveniences imposed by respondent upon parties, witnesses, attorneys, employers and employees, court staff, and members of the public. As the Commission concluded, “[t]he stipulated facts demonstrate that Respondent did not confer the necessary regard for the value of time of all of the other people involved in the justice system,” as she “returned to her *earlier pattern* of not coming to the courthouse in a punctual manner, leaving litigants, lawyers, and witnesses waiting for her to make her appearance.” In further investigating this matter—the Commission asserts that “presumably there were other instances” of respondent’s misconduct—this Court urges the Commission to examine whether the one-week period under investigation

sufficiently reflects respondent's ongoing misconduct. We further urge the Commission *not* to "refrain from [deciding] whether similar examples of tardiness or absence, or repeated instances of the same behavior over a longer period or in the future, warrant a greater sanction."

We REMAND this matter to the Judicial Tenure Commission for further proceedings. The Commission shall present either a new decision and recommendation or a status report to this Court within 42 days of the date of this order.

We retain jurisdiction.

CAVANAGH, J. (*dissenting*).

After reviewing the recommendation of the Judicial Tenure Commission, the settlement agreement, the standards set forth in *In re Brown*, 461 Mich 1291, 1292-1293 (2000), and the commission's findings and conclusions, I would accept the recommendation of the commission and order that the Honorable Sheila Ann Gibson be publicly censured.

KELLY, J., not participating.



h0304

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 7, 2014

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Clerk