

BEFORE THE NEBRASKA COMMISSION ON
JUDICIAL QUALIFICATIONS

In the matter of)	Case No. S-35-100003
J. PATRICK MCARDLE,)	
County Court Judge for the)	PUBLIC REPRIMAND
First Judicial District.)	

The Nebraska Commission on Judicial Qualifications, pursuant to its authority under Article V of the Nebraska Constitution and Neb. Rev. Stat. §§ 24-715, et seq. (Reissue 2008), hereby publicly reprimands Respondent, J. Patrick McArdle.

1. J. Patrick McArdle is and was at all pertinent times a duly-appointed county court judge for the First Judicial District of the State of Nebraska.

2. As relevant to this case, Judge McArdle was presiding judge over the matter of *State of Nebraska v. Stormi L. Craig* in the county court for Saline County, Nebraska. Craig had been charged with driving during revocation and driving without an operator's license. Deputy Saline County Attorney Steven Reisdorff represented the State, while Craig was represented by Joseph Casson.

3. A hearing on a motion to suppress in *State v. Craig* was held on July 7, 2009. Crete Police Officer Eric Mercier, who had ticketed Craig, was scheduled to testify at the hearing. Mercier failed to appear at the hearing. While in McArdle's chambers prior to commencement of the hearing, Reisdorff and Casson informed McArdle of Mercier's absence. Judge McArdle then took the bench and called the case. Reisdorff moved to dismiss as a result of Mercier's failure to appear.

4. On the record Judge McArdle noted that Mercier was subpoenaed and held him in contempt of court. Reisdorff did not seek a warrant on the contempt charge. The case against Craig was then dismissed. Both Reisdorff and Casson have stated that no ex parte communications were held with Judge McArdle regarding dismissal of the case.

5. On September 23, 2009, a personnel hearing regarding Mercier was held before the Civil Service Commission for the City of Crete, Nebraska. Jeffrey Kirkpatrick presided. Jerry Pigsley represented the City, while Mercier was represented by Jane Burke and Douglas Peterson.

6. During that hearing Reisdorff was called by the City to testify in reference to Mercier's failure to appear in the *Craig* matter, as well as with respect to an incident in which Mercier posted potentially inappropriate material on his "Facebook" page. Judge McArdle was the individual who had originally made Reisdorff aware of those postings.

7. During his testimony Reisdorff testified in conformity with the above set of facts: namely that he and Casson met with Judge McArdle in chambers to notify Judge McArdle that Mercier had not appeared. Reisdorff testified that Judge McArdle noted at that time that Mercier had been subpoenaed. Reisdorff then testified that the matter was disposed of on the record. Reisdorff was cross-examined on these issues by Burke.

8. Peterson delivered closing arguments in the personnel case. In those arguments Peterson stated that Reisdorff was very comfortable sitting in Judge McArdle's chambers and

going forward with a contempt charge against Mercier. Both Reisdorff and Pigsley have stated that each believed Peterson had “crossed the line” with this statement, as each believed the statement was not supported by the record.

9. On September 24, 2009, Reisdorff informed Judge McArdle that Peterson had argued in the Civil Service Commission hearing that Reisdorff and Judge McArdle had been in chambers discussing whether to find Mercier in contempt of court.

10. As a result of this notification, Judge McArdle telephoned Peterson on the afternoon of September 24. During that conversation Judge McArdle accused Peterson of publicly disparaging him and of violating a disciplinary rule prohibiting an attorney from knowingly making false accusations about a judge. Judge McArdle requested that Peterson make a public apology, via the local newspaper, the *Crete News*, or face an ethics complaint that Judge McArdle would initiate.

11. Judge McArdle’s conduct as set forth above constitutes a violation of the Nebraska Code of Judicial Conduct, specifically:

§ 5-202. Canon 2. **A Judge shall avoid impropriety and the appearance of impropriety in all of the Judge’s activities.**

(A) A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

(B) A judge shall not allow family, social, political, or other relationships to influence the judge’s judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge shall not testify voluntarily as a character witness.

§ 5-203. Canon 3. **A judge shall perform the duties of judicial office impartially and diligently.**

....

(D)(2) A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Nebraska Rules of Professional Conduct should take appropriate action. A judge having knowledge that a lawyer has committed a violation of the Nebraska Rules of Professional Conduct that raises a substantial question as to the lawyer’s honesty, trustworthiness, or fitness as a lawyer in other respects shall inform the appropriate authority.

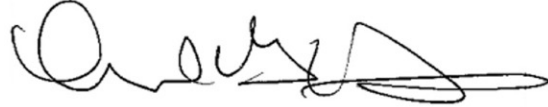
12. Judge McArdle’s conduct is prejudicial to the administration of justice and brings the judicial office into disrepute, pursuant to Neb. Rev. Stat. § 24-722(6).

13. The Commission notes that Judge McArdle was cooperative and complied with the Commission during its investigation. Judge McArdle has waived a hearing in this matter and has agreed that the Commission may consider any communications between himself and Peterson in making its final determination. Judge McArdle has no history of prior discipline. He has acknowledged that his behavior was not acceptable and has apologized for his actions. In addition, Judge McArdle agrees that some type of discipline is appropriate in this case. It is

therefore the determination of the Commission that this conduct does not require discipline more severe than this public reprimand.

Dated this 18th of August, 2010.

COMMISSION ON JUDICIAL QUALIFICATIONS

A handwritten signature in black ink, appearing to read "M. Heavican", written over a horizontal line.

Michael G. Heavican, Chief Justice
Commission Chair