

**COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION**

**IN RE THE MATTER OF:**

**GREGORY T. POPOVICH, DISTRICT COURT JUDGE  
17<sup>TH</sup> JUDICIAL DISTRICT**

**FORMAL PROCEEDINGS DOCKET ENTRIES**

Date of Document

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**COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION**

**IN RE THE MATTER OF:**

**GREGORY T. POPOVICH, DISTRICT COURT JUDGE  
17<sup>TH</sup> JUDICIAL CIRCUIT**

**NOTICE OF FORMAL PROCEEDINGS AND CHARGES**

Notice is hereby given of the initiation of formal proceedings under Rule 4.180 of Rules of the Supreme Court. At the times set out in this Notice, you were District Court Judge for Kentucky's 17th Judicial Circuit located in Campbell County. The charges are as follows.

These charges are based on your conduct in Campbell District Court on August 5, 2014 in the case of *Commonwealth v. Jessica L. Schatzman*, Case No. 14-T-3132. On this date, the parties were present for a hearing on the Defendant's motion to suppress evidence obtained during a traffic stop. Rather than rule on the motion, you accused an Assistant County Attorney, who was not the prosecutor of record in the case, of improperly assisting the Defense Counsel. You stated in open court that your grounds for this accusation were based, in part, on ex-parte hearsay statements made to you by attorneys who were not involved in the case at social gatherings outside of court. When Defense Counsel denied receiving any improper assistance you accused him of lying in front of his client.

You further made derogatory statements about an Assistant County Attorney calling him the "Alleged" Chief Assistant County Attorney, accusing him of intentionally failing to file briefs in two Court of Appeals cases, and stating that he never practiced law and only works on computers. The Assistant County Attorney to whom you were referring was your opponent in the subsequent November General Election.

Finally, you refused to rule on the pending motion to suppress and ordered the County Attorney to provide correspondence explaining what authority the Chief Assistant County Attorney

held over other prosecutors in his office. A video recording of the hearing in question is attached as Exhibit A.

In regard to the above matters, you violated SCR 4.020(1)(b)(i) in that your actions constituted misconduct in office and violated SCR 4.300, the Code of Judicial Conduct, Canons 1, 2A, 2D, 3A and 3B(2), (4), (7) and (8) which read in pertinent part as follows:

**CANON 1: A JUDGE SHALL UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY**

An independent and honorable judiciary is indispensable to justice in our society. A judge should actively participate in establishing, maintaining and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective.

**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.

D. A judge shall not allow family, social, political or other relationships to impair the judge's objectivity. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others...

**CANON 3: A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY AND DILIGENTLY**

- A. Judicial Duties in General. The judicial duties of a judge take precedence over all the judge's other activities. The judge's judicial duties include all the duties of the judge's office prescribed by law. In the performance of these duties, the following standards apply.
- B. Adjudicative Responsibilities.
- (2) A judge shall be faithful to the law and maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor or fear of criticism.
  - (4) A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers, and other with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, and of staff, court officials and others subject to the judge's direction and control.

- (7) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law. With regard to a pending or impending proceeding, a judge shall not initiate, permit, or consider ex parte communications with attorneys and shall not initiate, encourage or consider ex parte communications with parties...
- (8) A judge shall dispose of all judicial matters promptly, efficiently and fairly.

In particular, by the above conduct you engaged in misconduct in office and failed to observe high standards of conduct in violation of Canon 1; you failed to respect and comply with the law and to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary in violation of Canon 2A; you allowed political interests to impair your objectivity and lent the prestige of your office to advance your personal interests in violation of Canon 2D; you allowed outside interests and activities to take precedence over your judicial duties in violation of Canon 3A and B(2); you were not patient, dignified and courteous to the Defense Counsel and an Assistant County Attorney in violation of Canon 3B(4); you considered ex parte communication with attorneys in violation of Canon 3B(7); and failed to dispose of a matter promptly, efficiently, and fairly in violation of Canon 3B(8).

The jurisdiction of the Judicial Conduct Commission in this matter is under SCR 4.020(1)(b)(i) and (v), and (1)(c) which read in pertinent part as follows:

- (1) Commission shall have authority:
  - (b) To impose the sanctions separately or collectively of (1) admonition, private reprimand, public reprimand or censure; (2) suspension without pay or removal or retirement from judicial office, upon any judge of the Court of Justice or lawyer while a candidate for judicial office, who after notice and hearing the Commission finds guilty of any one or more of the following:
    - (i) Misconduct in office.
    - (v) Violation of the code of Judicial Conduct, Rule 4.300.
  - (c) After notice and hearing to remove a judge whom it finds to lack the constitutional statutory qualifications for the judgeship in question.

For your information, the Commission wishes to call your attention to the following Supreme Court Rule:

**RULE 4.180 FORMAL PROCEEDINGS**

If the Commission concludes that formal proceedings should be initiated, it shall notify the judge. He may file an answer within 15 days after service of the notice. Upon the filing of his answer, or the expiration of time for so filing, the Commission shall set a time and place for the hearing and shall give reasonable notice thereof to the judge.

Please mail your answer to: Ms. Jimmy Shaffer, Executive Secretary, Kentucky Judicial Conduct Commission, P.O. Box 4266, Frankfort, Kentucky 40604-4266.

February 19, 2015

  
J. DAVID BOSWELL, CHAIR

I hereby certify that copy hereof was served on Gregory T. Popovich, Campbell District Court Judge, by mailing same to his attorney, Hon. Stephen P. Ryan, 7104 Hillcircle Court, Louisville, KY 40214 this 19<sup>th</sup> day of February, 2015.

  
JIMMY SHAFFER, EXECUTIVE SECRETARY

**COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION  
NO. 2014-201**

**IN RE: THE MATTER OF JCC Case Number 2014-173**

**GREGORY T. POPOVICH, DISTRICT COURT JUDGE**

**RESPONSE TO FORMAL PROCEEDINGS AND CHARGES**

COMES the Respondent, Gregory T. Popovich, District Court Judge, Campbell County, by Counsel, Stephen P. Ryan, in response to the charges states as follows:

- 1) That on August 5, 2014, Judge Popovich was trying to determine if some unethical activity had taken place or if under the authority of the chief prosecutor the case had to be dismissed. While the conduct was brought to his attention through hearsay it was not ex parte contact since it was not related to facts in the case before him nor was the conversation with any party or representative of any party in said case.
- 2) He did not accuse Mr. Summe of lying. He was trying to determine if Mr. Summe in fact made the statement about Mr. Blau's assistance to Mr. Fortner, the actual prosecutor in the case, in front of others and if so, whether his comments to Mr. Fortner were true.
- 3) Judge Popovich did not accuse the prosecutor of intentionally not filing a brief in two appealed cases unless Mr. Blau was exercising some authority, as chief prosecutor, overruling the trial prosecutors' intent to file the appellant documents.
- 4) Judge Popovich never made the statement on August 5, 2014 that Mr. Blau never practiced law and only worked on computers nor was that statement made to his supporters.
- 5) Judge Popovich further assured himself, as evidenced by the video that no one was in the courtroom other than the parties and their representatives with the specific intent of

preventing the matter from becoming public. The complainant could have only gained knowledge of the hearing from Mr. Summe or through Mr. Blau via Mr. Summe.

Judge Popovich has served faithfully as a Judge for 21 years and looks forward to defending these allegations.

Respectfully submitted,



STEPHEN P. RYAN  
Counsel for Respondent  
7104 Hillcircle Court  
Louisville, KY 40214  
502-551-1083  
[Stephen\\_Ryan@rocketmail.com](mailto:Stephen_Ryan@rocketmail.com)

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was e-mailed to: Ms. Jimmy Shaffer, Executive Secretary, Judicial Conduct Commission, and to Ms. Rachel Noles, this 10<sup>th</sup> day of March, 2015



STEPHEN P. RYAN

**COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION**

**IN RE THE MATTER OF:**

**GREGORY T. POPOVICH, DISTRICT COURT JUDGE  
17TH JUDICIAL CIRCUIT**

**NOTICE OF TIME AND PLACE FOR HEARING**

NOTICE is hereby given that the hearing in these formal proceedings will be held commencing May 28, 2015, at 9:30 a.m. in Courtroom 6A, in the Kenton County Courthouse, 230 Madison Avenue, Covington, Kentucky, 41011.

**CERTIFICATE OF SERVICE**

Copy hereof was mailed this 23<sup>rd</sup> day of March, 2015, to Hon. Gregory T. Popovich, District Judge, 17<sup>th</sup> Judicial Circuit, by mailing same to his attorney, Stephen P. Ryan, 7104 Hillcircle Court, Louisville, Kentucky, 40214; and Luke Morgan, McBrayer, McGinnis, Leslie & Kirkland, PLLC, 201 East Main Street, Suite 900, Lexington, Kentucky, 40507.

  
JIMMY A. SHAFFER  
EXECUTIVE SECRETARY

**COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION**

**IN RE THE MATTER OF:**

**GREGORY T. POPOVICH, DISTRICT COURT JUDGE  
17TH JUDICIAL CIRCUIT**

**NOTICE OF CHANGE OF TIME FOR HEARING**

NOTICE is hereby given that the hearing in these formal proceedings will be held commencing May 28, 2015, at 9:00 a.m. in Courtroom 6A, in the Kenton County Courthouse, 230 Madison Avenue, Covington, Kentucky, 41011.

**CERTIFICATE OF SERVICE**

Copy hereof was mailed this 28<sup>th</sup> day of April, 2015, to Hon. Gregory T. Popovich, District Judge, 17<sup>th</sup> Judicial Circuit, by mailing same to his attorneys, Stephen P. Ryan, 7104 Hillcircle Court, Louisville, Kentucky, 40214 and Mark G. Arnzen, Arnzen, Storm & Turner, P.S.C., 600 Greenup Street, Covington, Kentucky 41011; and Luke Morgan, McBrayer, McGinnis, Leslie & Kirkland, PLLC, 201 East Main Street, Suite 900, Lexington, Kentucky, 40507.

  
JIMMY A. SHAFFER  
EXECUTIVE SECRETARY