

**In the
Supreme Court of Indiana**

IN THE MATTER OF)
)
THE HONORABLE)
)
TOMMY D. PHILLIPS, II) Case No. 38S00-1609-JD-00517
)
DUNKIRK CITY COURT)

NOTICE OF THE INSTITUTION OF FORMAL PROCEEDINGS

AND

STATEMENT OF CHARGES

The Indiana Commission on Judicial Qualifications, having found probable cause to warrant formal charges of judicial misconduct, now notifies Respondent, the Honorable Tommy D. Phillips, II, of the filing of these Charges. These Charges are brought under Admission and Discipline Rule 25 and before the Indiana Supreme Court, which, pursuant to Article 7, § 4 of the Constitution of Indiana, has original jurisdiction over the discipline, suspension, and removal of all judges and judicial officers of this State. The Commission charges that Respondent, while a City Court Judge, engaged in judicial misconduct as specifically charged below. Pursuant to Admission and Discipline Rule 25 VIII F, Respondent may file a written Answer to these Charges within twenty days of service.

BACKGROUND

1. Respondent has served as the Judge of Dunkirk City Court since October 3, 2000.
Respondent is not an attorney.
2. On September 29, 2016, a special prosecutor filed an Information for one count of Battery Against a Public Safety Official, a Class 6 felony, against Respondent under case no. 38D01-1609-F6-000165 in Jay Superior Court.
3. On September 29, 2016, the Indiana Commission on Judicial Qualifications (“Commission”) filed with the Indiana Supreme Court a Notice of Criminal Charges and Request for Suspension.
4. On September 30, 2016, the Indiana Supreme Court suspended Respondent with pay, effective that same date, due to the filing of a felony against Respondent.

FACTS GIVING RISE TO MISCONDUCT CHARGE

1. On Tuesday, August 16, 2016, Respondent went to the Dunkirk Police Department to meet with City of Dunkirk Mayor Gene Ritter (“Mayor Ritter”) and Dunkirk Chief of Police Dane Mumbower (“Chief Mumbower”) at approximately 5:30 p.m. to discuss several issues of conflict between the police department and the city court.
2. At some point early in the meeting, Respondent began having a heated verbal exchange with Chief Mumbower, and Chief Mumbower attempted to leave the meeting.
3. Chief Mumbower and Respondent continued to have a heated verbal exchange, and then Respondent shoved Chief Mumbower in the chest, knocking him back into the wall.

4. Mayor Ritter calmed both men down and asked Chief Mumbower to stay to discuss the relevant issues of concern which prompted the meeting. The three men then met until approximately 7:38 p.m.
5. A few days later, the Jay County Sheriff's Office investigated the incident, which ultimately led to the filing of the criminal charge Battery Against a Public Official, a Class 6 felony, against Respondent on September 29, 2016.
6. On March 13, 2017, Respondent appeared before the Honorable Max C. Ludy, Jr. in Jay Superior Court. At that hearing, Respondent entered a plea of guilty to Battery Against a Public Safety Official, a Level 6 felony, pursuant to a plea agreement in which Respondent would receive misdemeanor treatment for the conviction at the time of sentencing.
 - a. Pursuant to the plea agreement, Judge Ludy entered judgment of conviction against Respondent for Battery Against a Public Safety Official as a misdemeanor and sentenced Respondent to 365 days in the Jay County Jail with all of the time suspended.
 - b. Judge Ludy then placed Respondent on probation for one year, requiring Respondent to complete 100 hours of community service to the U.S. Department of Veterans Affairs, Marion Campus, in Marion, Indiana as a condition of probation.
 - c. Judge Ludy further ordered Respondent to have no contact with Chief Mumbower while Respondent is on probation.

CHARGE

The Commission incorporates the facts set out in ¶¶ 1-6 into the Charge below.

Count 1

The Commission charges that, on August 16, 2016, Respondent shoved Chief Mumbower in an aggressive manner during a meeting, which resulted in Respondent's arrest and subsequent conviction for Battery Against a Public Official. By engaging in this conduct, Respondent violated Rule 1.1 of the Code of Judicial Conduct, which requires a judge to respect and comply with the law, and Rule 1.2 of the Code of Judicial Conduct, which requires a judge to avoid impropriety and to act at all times in a manner that promotes public confidence in the integrity of the judiciary.

WHEREFORE, the Commission respectfully requests that, upon the filing of Respondent's Answer, the Indiana Supreme Court appoint three Masters to conduct a public hearing on the charge that Respondent committed judicial misconduct as alleged, and further prays that the Supreme Court find that Respondent committed misconduct and that it imposes upon him the appropriate sanction.

Respectfully submitted,

April 5, 2017
DATE

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CERTIFICATE OF SERVICE

I certify that a copy of this "Notice of the Institution of Formal Proceedings and Statement of Charges" was sent by first class United States mail, postage pre-paid, to Respondent's lawyer, Mr. Kelly N. Bryan, Esq., Bryan & Bryan, 318 N. Walnut Street, Muncie, Indiana 47305 on this 5 day of April 2017.

April 5, 2017
DATE

Adrienne L. Meiring
Adrienne L. Meiring
Counsel