

IN THE SUPREME COURT OF ARKANSAS

In Re: Fred D. Davis, III

Circuit Court Judge, Judicial District 11 West

(Judicial Discipline and Disability Commission Complaint #04227)

PETITION AND REQUEST FOR EXPEDITED CONSIDERATION

Now comes the Judicial Discipline and Disability Commission and files a Petition with the Arkansas Supreme Court recommending that Circuit Court Judge Fred D. Davis, III be temporarily suspended, with pay, while waiting for the outcome of any disciplinary determination resulting from the criminal charges against him set forth in the attached certified citation (Defendant's Profile) pending in the Hot Springs/Garland County District Court (Enclosure 1) and police report (Enclosure 2). This Petition is filed pursuant to Rule 10A of the Procedural Rules of the Judicial Discipline and Disability Commission. The Judicial Discipline and Disability Commission respectfully requests the Supreme Court grant this matter expeditious consideration.

FACTS

1. Fred D. Davis has served continuously as circuit court judge in the 11th Judicial District West since January 1, 1989.
2. On Thursday, June 10, 2004 Judge Davis was arrested at 9:00 p.m. in Garland County and charged with three different misdemeanors:
 - a. Driving While Intoxicated
 - b. Failure to Register Vehicle

c. Unlawful Use of Dealer Tag

The Judicial Discipline and Disability Commission obtained a copy of these charges on Monday, June 14, 2004.

3. A State Trooper observed Judge Davis weaving back and forth in his lane of traffic while driving a 2002 Chevrolet Avalanche. He was pulled over due to the weaving of his truck and the expired tags. The vehicle displayed a car dealership tag which expired in December 2003. Judge Davis stated he purchased the truck on October 30, 2002. He also stated that he knew the tag was expired, but that he could not afford the sales tax, as he was having to pay tuition for his kids in college. He also stated he was using the dealer tag to get around paying the sales tax on the vehicle.

4. The arresting trooper smelled intoxicants on Judge Davis' breath and observed that his eyes were bloodshot and his speech mumbled. Two field sobriety tests were administered. The first reading first was .13 and the second was .12. A Breathalyzer test (B.A.C.) result was .098. Judge Davis was transported to the Garland County Jail and booked on the three misdemeanor counts.

5. On Friday, June 18, 2004 Judge Davis was notified by mail that the Judicial Discipline and Disability Commission would meet on Wednesday, June 23, 2004 at 10:00 a.m. by telephone conference call. The purpose of the meeting would be to consider whether a recommendation would be made to the Supreme Court that Judge Davis should be suspended from office.

6. Judge Davis called the Commission staff requesting that he be permitted to participate in the meeting five minutes before the Judicial Discipline and Disability Commission's scheduled conference call meeting to consider the filing of this Petition. Judge Davis also stated to Commission staff that the local prosecuting attorney and members of the local bar do not

believe that the charges pending against him would adversely affect his ability to perform his judicial duties. Judge Davis' request to participate in the conference call meeting was denied.

7. At 10:00 a.m. Wednesday, June 23, 2004 the Judicial Discipline and Disability Commission conducted a telephone conference call meeting with eight members present. The members were told of Judge Davis' earlier call to the Commission staff, and that he objected to not being allowed to participate in the conference call. The members were also told that Judge Davis reported that the prosecuting attorney and members of the local bar do not believe that the charges pending against him would adversely affect his ability to perform his judicial duties. A Commission member then informed the members that his office had received a call from Judge Davis as the meeting was about to begin. Judge Davis had objected to not being allowed to participate in the conference call and wanted the Commission to know that the prosecuting attorney and members of the local bar do not believe that the charges pending against him would adversely affect his ability to perform his judicial duties.

8. After discussion and consideration the Commission, by unanimous vote, decided that the pending charges against Judge Davis adversely affect the judge's ability to perform his judicial duties and the Commission would petition the Supreme Court with the recommendation that Judge Davis be suspended, with pay, pending the outcome of any disciplinary determination of the matters under consideration.

FINDINGS AND RECOMMENDATION

1. On June 23, 2004 in closed session the Judicial Discipline and Disability Commission found that there was a filing of three misdemeanor charges against Circuit Court Judge Fred D. Davis, III. These charges included, Driving While Intoxicated, Failure to Register Vehicle and Unlawful Use of Dealer Tag.

2. The Judicial Discipline and Disability Commission found that these charges adversely affect the ability of Judge Davis to perform the duties of his office.
3. The Judicial Discipline and Disability Commission recommends to the Arkansas Supreme Court that Circuit Court Judge Fred D. Davis, III be temporarily suspended, with pay, pending the outcome of any disciplinary determination pursuant to Commission Procedural Rule 10A.
4. The Judicial Discipline and Disability Commission respectfully requests the Supreme Court grant this matter expeditious consideration and suspend with pay Circuit Court Judge Fred D. Davis, III pending the outcome of any disciplinary determination resulting from the matters under consideration.

Judicial Discipline and Disability Commission

By: _____

James A. Badami, Executive Director

Bar Number 93099

Judicial Discipline and Disability Commission

323 Center Street, Suite 1060

Little Rock, AR 72201

501-682-1050

I, James A. Badami, hereby certify that on the 23rd of June, 2004 I mailed a true and correct copy of the above and forgoing petition with proper postage thereon fully prepaid to: Judge Fred D. Davis, III, PO Box 9140, Pine Bluff, AR 71611. A copy was also sent on June 23,2004 to him by fax at 870-541-5337.