454 P.3d 217 (Mem)
Supreme Court of Colorado.

In the MATTER OF: Judge
Lance P. TIMBREZA

Supreme Court Case No. 19SA260
|
December 2, 2019

Original Proceeding in Judicial Discipline, Colorado Commission on Judicial Discipline, 19 CJD 131

Attorneys and Law Firms

Appearing for the Colorado Commission on Judicial Discipline: William J. Campbell, Executive Director Denver, Colorado

Attorneys for Judge Lance P. Timbreza: David Beller Recht Kornfeld P.C. Denver, Colorado

En Banc

Opinion

PER CURIAM

***218** ¶1 Judge Lance P. Timbreza, you appear before this Court for imposition of discipline based upon violation of the duties of your office as a District Court Judge for the 21st Judicial District. The Colorado Commission on Judicial Discipline ("the Commission") recommends approval of the Stipulation for Public Censure and Suspension ("the Stipulation"), which you and the Commission executed pursuant to Rules 36(c), 36(e), and 37(e) of the Colorado Rules of Judicial Discipline ("RJD"). Consistent with the Stipulation, the Commission recommends that this Court issue a public censure and a twenty-eight-day suspension of your judicial duties without pay. This Court adopts the Commission's recommendation.

¶2 In the Stipulation, you and the Commission agreed to the following facts and conclusions:

1. On Saturday afternoon, June 15, 2019, in Grand Junction, Colorado, Judge Timbreza was arrested and charged with Driving Under the Influence and Careless Driving.

2. According to witnesses and the arresting officer's report, Judge Timbreza consumed several glasses of wine at a vineyard and, after leaving the vineyard, drank more wine at a poolside party.

3. As he drove home from the party, Judge Timbreza crashed his vehicle into roadside trees and bushes while avoiding a collision with another vehicle.

4. On June 17, 2019, Judge Timbreza contacted the Commission by phone to report his arrest and the charges against him.

5. On September 3, 2019, Judge Timbreza pled guilty to Driving While Ability Impaired and was sentenced to one year of probation, alcohol monitoring, a $200 fine, useful public service, and two days of suspended jail time.

6. By driving while his ability was impaired by alcohol, Judge Timbreza failed to maintain the high standards of judicial conduct required of a judge. Judge

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Timbreza's conduct violated Canon Rules 1.1 and 1.2 of the Colorado Code of Judicial Conduct. Canon Rule 1.1 requires a judge to comply with the law, and Canon Rule 1.2 requires that a judge at all times shall act in a manner that promotes public confidence in the judiciary and avoids impropriety and the appearance of impropriety.

7. Judge Timbreza acknowledged that his failure to comply with his obligations under Canon Rules 1.1 and 1.2 and with the laws he was sworn to enforce has had an adverse effect on the public's view of the judiciary, on the morale of fellow judges locally and statewide, and on his own integrity as a judicial officer.

8. After a thorough review of all the circumstances and consideration of disciplinary measures applied in other states, the Commission concluded that this was not a typical Driving Under the Influence case. This case involved significant aggravating factors, including: Judge Timbreza's awareness as a judicial officer of the risks and consequences of driving while his ability was impaired by alcohol; according to his colleague, ignoring advice not to drive home from the party; the near miss collision with another vehicle; and his refusal to take a blood-alcohol test. On the other hand, the Commission acknowledged Judge Timbreza's record of service to the Colorado Bar Association and in various community activities.

¶3 Based on these facts and conclusions, the Commission agreed in the Stipulation to recommend that you be publicly censured and then suspended from your judicial duties without pay for twenty-eight days. And based on the same facts and conclusions, you agreed in the Stipulation to waive your right ***219** to a hearing in formal proceedings and to be publicly censured and then suspended from your judicial duties without pay for twenty-eight days. The Stipulation deferred to this Court's discretion the determination of whether the suspension should be served in a twenty-eight-day period or in two separate fourteen-day periods.

¶4 RJD 37(e), titled "Stipulated Resolution of Formal Proceedings," allows the Commission to file with this Court a "stipulated resolution" as the Commission's recommendation in a disciplinary proceeding. RJD 36, in turn, identifies the sanctions the Commission may recommend. The Commission has authority to recommend "one or more" of the listed sanctions. RJD 36. As relevant here, RJD 36(c) provides that this Court may "[s]uspend the Judge without pay for a specified period," and RJD 36(e) permits this Court to "[r]eprimand or censure the Judge publicly ... by written order." *Accord* Colo. Const. art. VI, § 23(3)(f) ("Following receipt of a recommendation from the commission, the supreme court ... shall order removal, retirement, suspension, censure, reprimand, or discipline, as it finds just and proper ...."). Under RJD 40, after considering the evidence and the law, this Court must "issue a decision." Among other things, the Court may "adopt ... the recommendation of the Commission." RJD 40. If the Commission recommends adoption of a stipulated resolution, "the Court shall order it to become effective and issue any sanction

provided in the stipulated resolution, unless the Court determines that its terms do not comply with Rule 37(e) or are not supported by the record of proceedings." *Id*.

¶5 Upon consideration of the law, the evidence, the record of the proceedings, the Stipulation, and the Commission's recommendation, and being sufficiently advised in the premises, this Court concludes that the terms of the Stipulation comply with RJD 37(e) and are supported by the record of the proceedings. Therefore, this Court orders the Stipulation to become effective and issues the agreed-upon sanctions.

¶6 This Court hereby publicly censures you, Judge Lance P. Timbreza, for failing to maintain the high standards of judicial conduct required of a judge; for violating Canon Rule 1.1, which requires a judge to comply with the law; and for violating Canon Rule 1.2, which requires that a judge at all times shall act in a manner that promotes public confidence in the judiciary and avoids impropriety and the appearance of impropriety. Further, this Court hereby suspends you, Judge Lance P. Timbreza, from your judicial duties without pay for twenty-eight days, such suspension to be served by January 31, 2020, in one period of twenty-eight days.[1]

All Citations

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Footnotes

1 Pursuant to RJD 6.5(a) and RJD 37(e), the Stipulation, the Commission's recommendation, and the record of proceedings became public when the Commission filed its recommendation with this Court.

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