

**In the
Supreme Court of Indiana**

IN THE MATTER OF)	
)	
THE HONORABLE)	
)	
J. STEVEN COX)	Cause No: 25S-JD-80
)	
JUDGE OF)	
)	
FRANKLIN CIRCUIT COURT)	

NOTICE OF THE INSTITUTION OF FORMAL PROCEEDINGS

AND

STATEMENT OF CHARGES

The Indiana Commission on Judicial Qualifications (“Commission”), having found probable cause to warrant formal charges of judicial misconduct, now notifies Respondent, the Honorable J. Steven Cox (“Respondent”) 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 Judge of Franklin Circuit Court, engaged in judicial misconduct as specifically charged below. Pursuant to Admission and Discipline Rule 25VIII (F), Respondent may file a written Answer to these Charges within twenty (20) days of service.

BACKGROUND

1. Respondent was admitted to the Indiana Bar on June 15, 1990.
2. From January 1, 1995 through December 31, 2024, Respondent served as the Judge of Franklin Circuit Court.
3. At all times pertinent to these Charges, Respondent presided over a general jurisdiction docket that included criminal and civil cases. Respondent's criminal docket included felony cases ranging from Murder to Level 4 felonies ("major felony cases").

FACTS GIVING RISE TO MISCONDUCT CHARGES

State v. Guilfoyle

4. From December 2022 to February 7, 2024, Respondent presided over *State v. Guilfoyle*, cause no.24C01-2212-F1-000879.
5. On December 27, 2022, the Franklin County Prosecutor filed two counts of Attempt Murder, Level 1 felonies, and one count of Neglect of a Dependent, a Level 6 felony against Defendant Gregory C. Guilfoyle ("Guilfoyle") in Franklin Circuit Court 1 under case no. 24C01-2212-F1-000879.
6. The factual allegations for the criminal charges against Defendant Guilfoyle occurred on December 23, 2022. At that time, Guilfoyle sustained injuries in an exchange of gunfire with law enforcement officers.
7. Guilfoyle remained in the hospital from December 23, 2022 to January 17, 2023.
8. There was a dispute between the parties about where Guilfoyle should be detained while awaiting resolution of his case due to the severity of Guilfoyle's injuries and

his need for ongoing medical treatment.

9. Upon motion from Defendant Guilfoyle's counsel, Respondent released Guilfoyle on his own recognizance with a condition of pretrial release that he be placed on home detention at Guilfoyle's parents' house. Respondent further ordered the Franklin County Probation Department to make weekly home visits and to report to Respondent the physical progress of Guilfoyle.

Ex Parte Visit to Guilfoyle Residence

10. On January 23, 2023, Guilfoyle's counsel filed a motion requesting that Guilfoyle be transported to medical facilities while on home detention.

11. Respondent granted the motion on January 24, 2023 and ordered that Guilfoyle was authorized to travel to any necessary medical facility while on home detention, provided that Guilfoyle or Guilfoyle's family received prior authorization from the probation department.

12. On January 26, 2023, the Chief Probation Officer filed a report about a January 25, 2023 visit with Guilfoyle at Guilfoyle's parent's home. In the report, the Chief Probation Officer provided information obtained from Guilfoyle and Guilfoyle's father regarding Guilfoyle's physical abilities and medical condition at the time.

13. On January 26, 2023, the Chief Probation Officer, accompanied by Respondent, went back to the Guilfoyle residence for another home visit.

- a. Respondent and the Chief Probation Officer were present in the Guilfoyle home for approximately twenty minutes.
- b. During the home visit, Respondent spoke to Guilfoyle and Guilfoyle's mother and father, and there was a discussion in Respondent's presence about

Guilfoyle's physical and mental health and the trial court's concerns and objectives.

- c. Respondent did not notify the prosecutor's office or defense counsel prior to the visit of his intention to personally conduct an on-site visit at the Guilfoyle home.
- d. Although the Chief Probation Officer made an internal report of the January 26, 2023 home visit, the report was not filed in the electronic case docket nor was the report immediately made available to the prosecutor or defense counsel.
- e. No official report from the Franklin County Probation Department about the January 26, 2023 home visit has ever been filed in the electronic case docket for case no. 24C01-2212-F1-000879.

14. On January 26, 2023, Respondent issued an Order that directed the in-home detention providers to transport Guilfoyle, at the provider's expense, to a medical facility for evaluation to establish a baseline for his current medical and mental condition.

15. In the January 26, 2023 Order, Respondent wrote, in relevant part, the following:

Comes Now the Court pursuant to A Report To The Court filed January 26, 2023, by the Franklin County Probation Department in the above-referenced cause, and subsequent e-mail to the Franklin County Probation Department from in-home placement, and subsequent In-person inspection of the in-home detention residence by the Court, and being Duly Advised in the Premises Now Finds as follows:

- 1. That the Defendant herein has been supervised by this Court on In-Home Detention as term of Bond and that during such supervision his medical condition is alleged to have deteriorated and is in need of emergency care; and

2. That upon inspection by the Court, the Court was unable to determine the extent of the allegation, if any, and therefore, authorized the Defendant's transport to medical facility wherein he could be evaluated and baseline established for his current medical and mental condition, as well as, future course of treatment, if any, for that assessment. . . .

16. Respondent did not specify in the January 26, 2023 Order the specific observations that Respondent made during the home visit nor the specific discussions he had or overheard with Guilfoyle and/or Guilfoyle's parents.

17. Respondent did not specify in the January 26, 2023 Order whether he made any efforts to contact the Franklin County Prosecutor or Guilfoyle's defense counsel before personally making the home visit to the Guilfoyle home.

18. Respondent did not set a subsequent hearing after issuing the Order to provide the parties with an opportunity to respond to any information Respondent learned during the ex parte home visit on January 26, 2023.

19. Because of the ambiguous wording of Respondent's January 26, 2023 Order, the Franklin County Prosecutor and Guilfoyle's defense counsel were not actually aware that Respondent had participated in the January 26, 2023 home visit until weeks later.

Rulings After the Ex Parte Investigation

20. On January 11, 2023 and again on February 3, 2023, Guilfoyle's defense counsel filed motions requesting a psychiatric evaluation for purposes of determining Guilfoyle's competence to stand trial.

21. On February 15, 2023, Respondent held a hearing on the request for a psychiatric evaluation and took the request under advisement.

22. On March 29, 2023, an initial hearing was set on *State v. Guilfoyle*.¹ Due to Guilfoyle's health, he could not be transported to the court for the hearing, so the hearing was instead used to discuss the psychiatric evaluation request.

23. On March 29, 2023, Respondent denied Guilfoyle's motion for psychiatric evaluation.

24. In explaining his reasoning for denying Guilfoyle's request, Respondent relied upon his personal observations of Guilfoyle made during previous interactions. In the Order, Respondent wrote:

[T]he last and only time the court has had any direct interaction with the defendant was when there was an emergency request that he be moved to, or be allowed to move to an emergency care facility because of concerns of infection. Of course, the court isn't either equipped or schooled or certified in evaluation of a person's mental condition. But I will note for the record that on that date, when the court went to personally observe the accounts that were being given to the court about why emergency care was necessary, the defendant on that date was able to understand and answer the court's questions with regard to his physical situation. And at least on that date, was not having this exhibiting the same kind of characteristics that have been reported by his caregivers and family with regard to his mental state, at other times.

25. The interaction that Respondent was referring to in ¶24 was during the January 26, 2023 home visit in which Respondent accompanied the Chief Probation Officer to evaluate Guilfoyle's home environment and medical condition.

26. On April 20, 2023, Guilfoyle's counsel filed a "Supplement to Motion for Psychiatric Evaluation, Renewed Motion for Psychiatric Evaluation, and Notice of Intent to Interpose the Defense of Insanity."

¹ Although Respondent made a determination on December 27, 2022 that probable cause existed to support the criminal charges, there was some difficulty having Defendant Guilfoyle appear to conduct an initial hearing due to Guilfoyle's medical condition and treatment needs.

27. On April 21, 2023, Respondent denied this motion, indicating in the Order that:

Based on the Court's observation of the Defendant during his pretrial release in the supervising home as well as his appearance remotely for his Initial Hearing held April 5, 2023, the Court FINDS that there are no reasonable grounds to believe that the Defendant has an insufficient present ability to consult with his lawyer with a reasonable degree of rational understanding or has no present ability to formulate a rational as well as functional understanding of the proceedings against him.

28. On May 1, 2023, Guilfoyle's counsel filed a "Renewed Motion for Competency and Insanity Evaluations Pursuant to Original Action Rule 2."

29. On May 3, 2023, Respondent denied Guilfoyle's renewed motion for a competency evaluation based on his previous reasoning and personal observations and set the request for an insanity evaluation for hearing on June 7, 2023.

30. On May 18, 2023, Guilfoyle's counsel filed a motion to certify for interlocutory appeal Respondent's order denying the request for a competency evaluation.

31. Respondent reaffirmed his previous ruling denying the request for a competency evaluation and denied the motion for interlocutory appeal on June 8, 2023. On the same date, Respondent granted Guilfoyle's request for the appointment of two doctors to conduct an insanity evaluation.

Policy on Written Plea Agreements

32. From July 2022 through December 2024, Respondent implemented a *de facto* policy of rejecting plea agreements with set terms and only permitting pleas before the trial court with open sentencing terms.

33. Respondent employed this policy without considering the specific circumstances of each case, including the charges and facts alleged or the criminal history of the defendants.

34. In August 2022, Respondent made statements during an appearance before the Franklin County Council to discuss the Court's 2023 budget that reflected his change in policy regarding plea agreements in Franklin Circuit Court 1. During that budget meeting, Respondent made the following remarks:

- a. "Our caseload is way off of what it used to be" Respondent then indicated that Circuit Court 1 only had twelve major felony cases in 2021.
- b. Respondent explained his belief that the court should only use negotiated plea agreements to avoid a backlog of cases in a court.
- c. Respondent then told the Council, "I don't deal with plea agreements anymore" and to expect more trials and dismissals in 2023.

35. Respondent's actions after the County Council meeting were consistent with his remarks at the meeting. From the Summer of 2022 to December 31, 2024, Respondent did not accept any written plea agreements.

36. In *State v. Philpot*, cause number 24C01-2005-F3-000323, the defendant was charged with Dealing in a Schedule IV Controlled Substance, a Level 4 felony; Possession of Methamphetamine, a Level 6 felony; Possession of a Narcotic Drug, a Level 6 felony; and Operating a Motor Vehicle While Intoxicated, a Class A misdemeanor.

- a. The State and defendant filed a written plea agreement on April 28, 2022 in which the defendant would plead to the Level 6 felony offense, the OVWI charge, and an amended count of Maintaining a Common Nuisance as a Level

6 felony in exchange for a fixed sentence regarding custody and term of probation

- b. Respondent rejected the plea agreement on June 1, 2022.
- c. After Respondent's rejection of the written plea agreement, the State dismissed the case and refiled the matter as a Level 6 felony. This change in the severity of the charge resulted in the case being filed into a different courtroom, and the parties were then able to resolve the matter via a written plea agreement.

37. In *State v. Aaron Hopping*, cause number 24C01-2102-F4-000082, the defendant was charged with Possession of Methamphetamine, a Level 4 felony; and Possession of a Narcotic Drug, a Level 6 felony.

- a. The State and defendant filed a written plea agreement on June 1, 2022 in which the defendant would plead to an amended count of Possession of Methamphetamine as a Level 5 felony and to the Possession of a Narcotic Drug as a Level 6 felony in exchange for a fixed term sentence regarding custody and term of probation.
- b. Respondent rejected the plea agreement the same day it was filed.
- c. After Respondent's rejection of the written plea agreement, the State dismissed the case and refiled the matter as a Level 5 felony. This change in the severity of the charge resulted in the case being filed into a different courtroom. The parties were able to resolve the matter with a written plea agreement to the same terms as the plea rejected by Respondent.
- d. As a result of Respondent's rejection of the plea agreement, the defendant had to spend additional time in jail while the case was processed to the new court.

38. In *State v. Trevor Ruble*, cause number 24C01-2107-F2-000668, the defendant was charged with Dealing in Methamphetamine, a Level 2 felony; and Possession of Methamphetamine, a Level 4 felony.

- a. The State and defendant filed a written plea agreement on May 27, 2022 in which the defendant would plead to an amended count 2 of Possession of Methamphetamine as a Level 6 felony in exchange for a fixed term sentence of executed time and an agreement to testify in the trial of another defendant.
- b. Respondent rejected the plea agreement on June 10, 2022.
- c. The State dismissed the case and refiled the matter as a Level 6 felony. This change in the severity of the charge resulted in the case being filed into a different courtroom. The parties resolved the matter with an open plea to the court.

39. In *State v. Jesse Meckley*, cause number 24C01-2009-F1-000852, the defendant was charge with Child Molest, a Level 1 felony; Child Molest, a Level 1 felony; Child Molest, a Level 1 felony; Sexual Misconduct with a Minor, a Level 4 felony; Sexual Misconduct with a Minor, a Level 4 felony; Sexual Misconduct with a Minor, a Level 4 felony; Rape, a Level 3 felony; Sexual Battery, a Level 6 felony; and Sexual Misconduct with a Minor, a Level 4 felony.

- a. The State and defendant filed a written plea agreement on June 3, 2022 in which the defendant would plead to Child Molest as a Level 1 felony, Sexual Misconduct with a Minor as a Level 4 felony, and Sexual Misconduct with a Minor as a Level 4 felony, in exchange for a fixed term sentence regarding custody and term of probation.

- b. Respondent rejected the plea agreement on July 14, 2022.
- c. On August 4, 2022, the defendant pleaded guilty with sentence open to the court to Child Molest as a Level 1 felony, Sexual Misconduct with a Minor as a Level 4 felony, and Sexual Misconduct with a Minor a Level 4 felony The State dismissed the remaining counts.
- d. On September 1, 2022, Respondent sentenced the defendant to the exact terms set in the rejected plea agreement.

40. In *State v. Thompson Richardson*, cause number 24C01-2111-F4-001021, the defendant was charged with Burglary, a Level 4 felony; Theft of a Firearm, a Level 6 felony; and Theft, a Level 6 Felony.

- a. The State and defendant filed a written plea agreement on July 13, 2022 in which the defendant would plead to all the counts as charged in exchange for a fixed term sentence regarding custody and term of probation.
- b. Respondent rejected the plea agreement on July 15, 2022.
- c. On October 5, 2022, the defendant pleaded guilty to the court on all counts as charged with sentence left open to the court.
- d. On November 29, 2022, Respondent sentenced the defendant to the exact terms set in the rejected plea agreement.

41. After Respondent's rejection of the series of plea agreements, as described in ¶¶ 36-40, the Franklin County Prosecutor's Office stopped filing written plea agreements, given Respondent's policy.

42. During a deposition taken on December 18, 2024 in this investigation of this matter, Respondent acknowledged that “when I told all of the attorneys that I wasn’t going to fool with written plea agreements anymore, they stopped filing them.”

43. In the November 26, 2024 Response to the Commission’s Amended Notice of Investigation, Respondent asserted the following justification for having a routine practice of rejecting plea agreements:

As a judge, I utilize negotiated pleas as a means of managing an extremely overburdened docket... I do not favor considering negotiated pleas under the circumstances as they exist today for three basic reasons: First. There is no possible way for the court’s docket to be backlogged with eighteen (18) pending cases, which was the number when I stopped considering negotiated pleas... Second. When a felony plea agreement is filed, a presentence must be ordered. If the agreement is rejected, the resource is wasted... Third. When a negotiated plea agreement is accepted ALL parties become bound by its terms and not even the court has the legal ability to deviate from the terms as accepted. Pleas made open to the court are modifiable.

APPLICABLE JUDICIAL CONDUCT RULES

44. Rule 1.2 of the Indiana Code of Judicial Conduct provides that “A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.”

45. Rule 2.2 of the Indiana Code of Judicial Conduct provides, in relevant part, that “A judge shall uphold and apply the law and shall perform all duties of judicial office fairly and impartially. . . .”

46. Rule 2.6 of the Indiana Code of Judicial Conduct provides that “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.”

47. Rule 2.9(A) of the Indiana Code of Judicial Conduct provides that “A judge shall not initiate, permit, or consider ex parte communications or consider other communications made to the judge the presence of the parties or their lawyers concerning a pending or impending matter.”

48. Under Rule 2.9(A)(1), of the Indiana Code of Judicial Conduct, an exception to the general rule against ex parte communication exists if the “ex parte communication [is] for scheduling, administrative, or emergency purposes, which does not address substantive matters.” For the exception to apply, the judge must “reasonably believe[] that no party will gain a procedural, substantive, or tactical advantage as a result of the ex parte communication”; and the judge must make “provision promptly to notify all other parties of the substance of the ex parte communication, and give[] the parties an opportunity to respond.”

49. Rule 2.9(C) of the Indiana Code of Judicial Conduct provides that “A judge shall not investigate facts in a matter independently, and shall consider only the evidence presented and any facts that may properly be judicially noticed.”

CHARGES

The Commission incorporates the facts set out in ¶¶ 1-43 into the Charges below.

Count 1

By participating in a home visit of Defendant Guilfoyle and communicating with Guilfoyle and his parents on January 26, 2023, when the prosecutor and Guilfoyle’s counsel were not present, Respondent violated Rules 1.2, 2.2, 2.6 and 2.9(A) and (C) of the Code of Judicial Conduct.

Count 2

By relying on information obtained during an ex parte home visit to Defendant Guilfoyle's home on January 26, 2023 when ruling on motions for a psychiatric evaluation of defendant's competence to stand trial, Respondent violated Rules 1.2, 2.2, and 2.9(A) and (C) of the Code of Judicial Conduct.

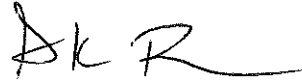
Count 3

By maintaining a policy or practice from July 2022 through December 2024 of rejecting all negotiated written plea agreements, Respondent breached his duty to determine each case on its own merits, thereby violating Rules 1.2 and 2.2 of the Code of Judicial Conduct

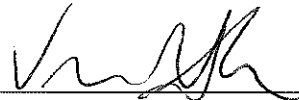
WHEREFORE, the Commission respectfully requests that, upon the filing of Respondent's Answer, the Indiana Supreme Court appoint three Masters to conduct a public hearing on the charges that Respondent committed judicial misconduct as alleged, and further prays that the Supreme Court find that Respondent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

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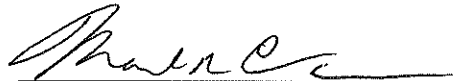
Respectfully submitted,



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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 certified mail, postage pre-paid and electronically, to Respondent Gibson Circuit Court, 101 N. Main Street, Princeton, IN 47670 and via electronic mail.

4/3/25
DATE

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