

In re Catherine R. Connors

ORDER OF REMAND

On October 11, 2024, the Committee on Judicial Conduct filed with the Executive Clerk of the Supreme Judicial Court a report (“the Connors Report”) regarding Catherine R. Connors, an Associate Justice of the Supreme Judicial Court, pursuant to paragraph 9 of the Order Establishing Committee on Judicial Conduct and Rule 3 of the Committee’s Rules.

Paragraph 9 states in pertinent part:

If after the completion of the Committee's investigation and hearing, if any, the Committee determines . . . B) that in fact the person has violated the Code as applicable and that the violation is of a serious nature so as to warrant formal disciplinary action, the Committee shall file a report of its findings with the Supreme Judicial Court together with a statement of the alleged charges, a recommendation as to action by the Court, the transcript of any hearing, and any exhibits considered by the Committee.

Rule 3 states:

A report to the Supreme Judicial Court shall include a statement of the alleged charges, a statement of the Committee's findings of fact and conclusions of law, and a recommendation of action by the Court. A copy of such report shall be provided to the judge. The report shall be accompanied by the complete record of the matter before the Committee including the transcript of any hearing and any exhibits considered by the Committee. Any further

proceedings shall be before the Court and shall be open to the public.

Together, these provisions establish that the Committee is authorized to make a report to the Court only if the Committee is recommending that formal discipline be imposed against a judge. They also indicate that a judicial ethics complaint is not properly before the Court unless and until the Committee recommends that the Court take “formal disciplinary action” against the judge. The Connors Report contains no recommendation regarding the disciplinary action, if any, the Committee is recommending to the Court.¹ Further, despite the requirements of Rule 3, it is not clear that the Connors Report contains “a statement of the Committee's findings of fact and conclusions of law.” Although the Report contains numerous factual assertions and legal conclusions, it does not indicate that those factual and legal assertions have been issued by the Committee.²

¹ Paragraph 9 of the Order does not require the Committee to issue a report to the Court in every case in which the Committee determines that a judge has committed a violation of the Code of Judicial Conduct. For the Committee to issue such a report, the Committee must determine “that the violation is of a serious nature so as to warrant formal disciplinary action . . .” In other situations, the Committee is authorized to counsel or caution the judge. *See* M. Comm. Jud. Cond. R.1(B)(iii). All of these determinations are for the Committee to make in any particular proceeding, and we express no view about the merits of any such determinations in this matter because, as we explain in the text, this matter presently is not properly before us.

² For example, the Connors Report asserts that “Attorney Cox set forth numerous facts that he asserts could lead to Justice Connors[’s] impartiality being reasonably questioned” and then recites some of those facts, but does not indicate whether the Committee adopted them as its own findings.

For these reasons, the Connors Report on its face does not comply with Rule 3 in essential respects. Because the Court may act on a judicial ethics complaint only if the Committee submits a report that includes a recommendation of specific formal disciplinary action and otherwise fulfils the requirement of Rule 3, as a ministerial order we remand this matter to the Committee to enable the Committee to decide whether to recommend specific disciplinary action in this instance and, if so, to submit a report that fully satisfies the requirements of Committee Rule 3.

We emphasize that in remanding this matter to the Committee, we are not directly or indirectly adjudicating, addressing, or otherwise reaching the merits of the matter because the matter is not properly before us.³ Also for that reason, in remanding, we do not retain jurisdiction over the Connors Report and therefore do not impose any limitation on the Committee's proceedings after remand.

IT IS ORDERED: This matter is hereby remanded to the Committee on Judicial Conduct for further proceedings. The Court does not retain jurisdiction.

Dated: 14 November, 2024

³ We note that although the existing Rules of the Committee on Judicial Conduct appear to call for the Supreme Judicial Court to adjudicate all judicial discipline matters reported by the Committee, including matters involving members of the Court itself, many other states have adopted alternatives that do not put members of the state supreme court in the position of having to adjudicate ethics complaints against immediate colleagues. We do not rule out exploration of such alternatives.

For the Court,⁴



ANDREW M. HORTON
RICK E. LAWRENCE
WAYNE R. DOUGLAS
Associate Justices

JEFFREY L. HJELM
THOMAS E. HUMPHREY
Active Retired Justices

⁴ The Chief Justice and Justice Mead are recused in this matter.