



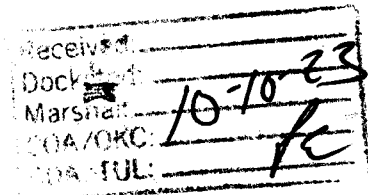
ORIGINAL

**IN THE COURT ON THE JUDICIARY OF THE STATE OF OKLAHOMA
TRIAL DIVISION**

STATE OF OKLAHOMA, ex rel.)
M. JOHN KANE IV, CHIEF JUSTICE)
OF THE SUPREME COURT OF THE STATE)
OF OKLAHOMA,)
)
Petitioner,)
)
vs.)
)
TRACI SODERSTROM,)
)
Respondent.)

FILED
COURT ON JUDICIARY
TRIAL DIVISION
OCT 10 2023
JOHN D. HADDEN
CLERK

No. CJTD-2023-2



PETITION

The State of Oklahoma, on relation of M. John Kane IV, Chief Justice of the Supreme Court of the State of Oklahoma, alleges the following:

I. Authority

1. This Petition is filed pursuant to Oklahoma Constitution, Art. 7-A, §4(a) and Rule 9, 5 O.S.2011, Ch. 1, App. 7. The allegations are based on information forwarded to the Supreme Court by the Council on Judicial Complaints.

II. Respondent's Judicial Office

2. The Respondent, Traci Soderstrom, is now and has been a District Judge in Lincoln County, in the Twenty-Third Judicial District of Oklahoma, which includes Lincoln and Pottawatomie Counties, exercising judicial power under the provisions of the Constitution and Statutes of the State of Oklahoma at all times material to the allegations contained in this Petition. She was elected to the seat in November of 2022 and took the bench on January 9, 2023.

III. Violations

3. The Respondent, Traci Soderstrom, as a duly elected and acting District Judge of the Twenty-Third Judicial District, exercising judicial power under the provisions of the Constitution and Statutes of the State of Oklahoma, engaged in conduct prohibited by Art. 7-A, § 1(b) of the Oklahoma Constitution, and 20 O.S.2011, §1404(C).

4. The grounds upon which removal from office is sought include the following activities prohibited by Art. 7-A, § 1(b) of the Oklahoma Constitution:

- (1) Gross neglect of duty;
- (2) Gross partiality in office;
- (3) Oppression in office; and
- (4) Other grounds specified by the Legislature.

5. The other grounds specified by the Legislature in 20 O.S.2011, § 1404, and subsection C provide that violation by a judicial officer of the Code of Judicial Conduct may constitute grounds for the removal by the Court on the Judiciary of a judicial officer from office, with or without disqualification to hold a judicial office in the future. The Council on Judicial Complaints found Respondent engaged in conduct in violation of Canons 1, 2, and 3, of the Code of Judicial Conduct, 5 O.S.2011, Ch. 1, App. 4.

Respondent's conduct violated the following Canons and Rules:

a. **CANON 1.** A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

Rule 1.1 provides that a "judge shall comply with the law, including the Code of Judicial Conduct."

Rule 1.2 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 avoid impropriety and the appearance of impropriety."

b. **CANON 2.** A judge shall perform the duties of judicial office impartially, competently, and diligently.

Rule 2.2 provides, "A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially."

Rule 2.3 provides, "(A) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice. (B) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so."

Rule 2.5 provides, "(A) A judge shall perform judicial and administrative duties competently and diligently. (B) A judge shall cooperate with other judges and court officials in the administration of court business."

Rule 2.7 provides, "A judge shall hear and decide matters assigned to the judge, except when disqualification is required by Rule 2.11 or other law. Administrative reassignment for the purpose of judicial efficiency is not prohibited."

Rule 2.8 provides, "(A) A judge shall require order and decorum in proceedings before the court. (B) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity; and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge's direction and control."

Rule 2.9 provides, "(A) A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending or impending matter, except as follows: (1) When circumstances require it, ex parte communication for scheduling, administrative, or emergency purposes, which does not address substantive matters, is permitted, provided: (a) the judge reasonably believes that no party will gain a procedural, substantive, or tactical advantage as a result of the ex parte communication; and (b) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication, and gives the parties an opportunity to respond. (2) A judge may obtain the written advice of a disinterested expert on the law applicable to a proceeding before the judge, if the judge gives advance notice to the parties of the person to be consulted and the subject matter of the advice to be solicited, and affords the parties a reasonable opportunity to object and respond to the notice and to the advice received. (3) A judge may consult with court staff and court officials whose functions are to aid the judge in carrying out the judge's adjudicative responsibilities, or with other judges, provided the judge makes reasonable efforts to avoid receiving factual information that is not part of

the record, and does not abrogate the responsibility personally to decide the matter. (4) With the consent of all parties, the judge and court personnel may have ex parte communication with those involved in a specialized court team. Any party may expressly waive the right to receive that information. (5) A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to settle matters pending before the judge. (6) A judge may initiate, permit, or consider any ex parte communication when expressly authorized by law to do so. (B) If a judge inadvertently receives an unauthorized ex parte communication bearing upon the substance of a matter, the judge shall make provision promptly to notify the parties of the substance of the communication and provide the parties with an opportunity to respond. (C) 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. While a judge shall not independently investigate facts in a case, and shall consider only the evidence presented, a judge may seek information of a general nature that does not bear on a disputed evidentiary fact or influence the judge's opinion of the substantive merits a specific case. (D) A judge shall make reasonable efforts, including providing appropriate supervision, to ensure that this Rule is not violated by court staff, court officials, and others subject to the judge's direction and control."

Rule 2.10 provides, "(A) A judge shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court, or make any nonpublic statement that might substantially interfere with a fair trial or hearing. (B) A judge shall not, in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office. (C) A judge shall require court staff, court officials, and others subject to the judge's direction and control to refrain from making statements that the judge would be prohibited from making by paragraphs (A) and (B). (D) Notwithstanding the restrictions in paragraph (A), a judge may make public statements in the course of official duties, may explain court procedures, and may comment on any proceeding in which the judge is a litigant in a personal capacity. (E) Subject to the requirements of paragraph (A), a judge may respond directly or through a third party to allegations in the media or elsewhere concerning the judge's conduct in a matter."

Rule 2.11 provides, "(A) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to the following circumstances: (1) The judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of facts that are in dispute in the proceeding. (2) The judge knows that the judge, the judge's spouse, a member of the judge's household, or a person within the third degree of relationship to any

of them, or the spouse of such a person is: (a) a party to the proceeding, or an officer, director, general partner, managing member, or trustee of a party; (b) acting as a lawyer in the proceeding; (c) a person who has more than a de minimis interest that could be substantially affected by the proceeding; or (d) likely to be a material witness in the proceeding. (3) The judge knows that he or she, individually or as a fiduciary, or the judge's spouse, parent, or child, or any member of the judge's household, has an economic interest in the subject matter in controversy or is a party to the proceeding. (4) The judge knows or learns by means of a timely motion that a party, a party's lawyer, or the law firm of a party's lawyer has within the previous four (4) years made aggregate contributions to the judge's campaign in an amount that a reasonable person would believe could affect the fairness of the judge's consideration of a case involving the party, the party's lawyer or the law firm of the party's lawyer. The judge should consider what the public perception would be as to such contributions affecting the judge's ability to be fair to the parties. Contributions within the limits allowed by the Oklahoma Ethics Commission will not normally require disqualification unless other factors are present. (5) The judge, while a judge or a judicial candidate, has made a public statement, other than in a court proceeding, judicial decision, or opinion, that commits or appears to commit the judge to reach a particular result or rule in a particular way in the proceeding or controversy. (6) The judge: (a) served as a lawyer in the matter in controversy, or was associated with a lawyer who participated substantially as a lawyer in the matter during such association; (b) served in governmental employment, and in such capacity participated personally and substantially as a lawyer or public official concerning the proceeding, or has publicly expressed in such capacity an opinion concerning the merits of the particular matter in controversy; (c) was a material witness concerning the matter; or (d) previously presided as a judge over the matter in another court or in any adjudicatory capacity. (B) A judge shall keep informed about the judge's personal and fiduciary economic interests, and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse and members of the judge's household. (C) A judge subject to disqualification under this Rule, other than for bias or prejudice under paragraph (A)(1), may disclose on the record the basis of the judge's disqualification and may ask the parties and their lawyers to consider, outside the presence of the judge and court personnel, whether to waive disqualification. If, following the disclosure, the parties and lawyers agree, without participation by the judge or court personnel, that the judge should not be disqualified, the judge may participate in the proceeding. The agreement shall be incorporated into the record of the proceeding."

Rule 2.12 provides, "(A) A judge shall require court staff, court officials, and others subject to the judge's direction and control to act in a manner consistent with the judge's obligations under this Code. (B) A judge with supervisory authority for the performance of other judges shall take reasonable measures to ensure that those judges properly discharge their

judicial responsibilities, including the prompt disposition of matters before them.”

Rule 2.16(A) provides, “A judge shall cooperate and be candid and honest with judicial and lawyer disciplinary agencies. (B) A judge shall not retaliate, directly or indirectly, against a person known or suspected to have assisted or cooperated with an investigation of a judge or a lawyer.”

c. **CANON 3.** A judge shall conduct the judge's personal and extrajudicial activities to minimize the risk of conflict with the obligations of judicial office.

Rule 3.1 provides, “A judge may engage in extrajudicial activities, except as prohibited by law or this Code. However, when engaging in extrajudicial activities, a judge shall not: (A) participate in activities that will interfere with the proper performance of the judge's judicial duties; (B) participate in activities that will lead to frequent disqualification of the judge; (C) participate in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality; (D) engage in conduct that would appear to a reasonable person to be coercive; or (E) make use of court premises, staff, stationery, equipment, or other resources, except for incidental use for activities that concern the law, the legal system, or the administration of justice, or unless such additional use is permitted by law.” This Rule is also subject to the exceptions provided for in Rule 4.1A(10) and 4.1C.COMMENT.

Rule 3.7 provides, “(A) Subject to the requirements of Rule 3.1, a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including but not limited to the following activities: (1) assisting such an organization or entity in planning related to fund-raising, and participating in the management and investment of the organization's or entity's funds; (2) soliciting contributions for such an organization or entity, but only from members of the judge's family, members of the judge's household or from judges over whom the judge does not exercise supervisory or appellate authority; (3) soliciting membership for such an organization or entity, even though the membership dues or fees generated may be used to support the objectives of the organization or entity, but only if the organization or entity is concerned with the law, the legal system, or the administration of justice; (4) appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting his or her title to be used in connection with an event of such an organization or entity, but if the event serves a fund-raising purpose, the judge may participate only if the event concerns the law, the legal system, or the administration of justice; (5) making recommendations to such a public or private fund-granting organization or entity in connection with its programs and activities, but only if the organization or entity is concerned with the law, the legal system, or

the administration of justice; and (6) serving as an officer, director, trustee, or nonlegal advisor of such an organization or entity, unless it is likely that the organization or entity: (a) will be engaged in proceedings that would ordinarily come before the judge; or (b) will frequently be engaged in adversary proceedings in the court of which the judge is a member, or in any court subject to the appellate jurisdiction of the court of which the judge is a member. (B) A judge may encourage lawyers to provide pro bono legal services. (C) Subject to the requirements of Rule 3.1 and Rule 3.7(A) and (B), a judge may: (1) Provide leadership in: (a) Identifying and addressing issues involving providing equal access to the justice system; (b) Developing public education programs; (c) Engaging in community outreach activities to promote the fair administration of justice; and (d) Convening, participating or assisting in advisory committees and community collaborations devoted to the improvement of the law, the legal system, the provision of services and/or the administration of justice. (2) A judge may endorse projects and programs directly related to the law, the legal system, the provision of services and/or the administration of justice. (3) A judge may participate in programs concerning the law or which promote the administration of justice.”

6. The Respondent’s conduct giving rise to these charges, based on the report from the Council on Judicial Complaints, is set forth below.

IV. Gross Partiality in Office, Gross Neglect of Duty, Oppression in Office, Lack of Temperament for Judicial Office, Impropriety, Failure to Supervise

Violations of Art. 7-A, § 1(b) of the Oklahoma Constitution,
Canons 1 and 2 and Rules 1.2, 2.2, 2.3, 2.8, 2.10, 2.11, and 2.12
of the Code of Judicial Conduct

7. While presiding over a murder trial beginning on June 7, 2023, (“murder trial”) the Respondent exchanged over 500 text messages with her Bailiff Angela Miller in which they mocked the physical appearance of attorneys, jurors and witnesses and used offensive language to deride the State’s attorneys.

8. The Respondent and her Bailiff called murder trial witnesses liars, admired the looks of a police officer who was testifying, disparaged the local defense bar, expressed bias in favor of the defendant and displayed gross partiality against the State.

9. Respondent and her Bailiff texted back and forth with each other continuously during the active portions of the murder trial. Respondent placed her personal cell phone toward the front of her lap outside the view of others in the courtroom.

10. Respondent was scrolling Facebook, accessing various phone applications, and texting for extended periods of time during the murder trial.

11. The Bailiff, sitting in a witness box or at a small desk near the Respondent, sent and received text messages during the murder trial as well. On a separate occasion, the Respondent and Bailiff discussed by text which jury instructions would best fit their desired outcome.

12. After publicity regarding the Respondent's excessive phone use during trial, the Respondent had the security camera moved where she could not be observed. When the camera was subsequently returned to its original location, a black box was inserted to block out the bottom half of the viewing area so the Respondent could not be seen. The blocking was eventually removed.

13. The pattern of conduct demonstrates Respondent's gross neglect of duty, gross partiality, and oppression in violation of Art. 7-A, § 1(b) of the Oklahoma Constitution. The conduct further demonstrates Respondent's lack of temperament to serve as a judge, undermining public confidence in the independence, integrity, impartiality and competence of the judiciary in violation of Art. 7-A, § 1(b) of the Oklahoma Constitution and Canons 1 and 2, along with the implementing Rules of the Code of Judicial Conduct. The Respondent's actions giving rise to these charges appear more fully set forth in the following specific allegations.

The Martzall Case

14. The facts giving rise to the murder trial are that in May 2018, Khristian Martzall and Judith Danker were charged in Lincoln County District Court with Murder in the First Degree for the death of their child. Danker entered a plea to Judge Ashwood in 2019 on an amended charge of Enabling Child Abuse for which she was sentenced to imprisonment for 25 years. Martzall was held in jail without bond until his jury trial began on June 7, 2023.

15. The State was represented by District Attorney Adam Panter and Assistant District Attorney Ryan Stephenson. The defendant, Khristian Marzall, was represented by Velia Lopez and Gregg Graves, Capital Trial Counsel for Oklahoma Indigent Defense.

16. Four weeks prior to trial, the State filed a Notice of Endorsement of Personal Witnesses to include Dr. Ryan Brown, M.D. as a witness. The defendant filed a *Daubert* Motion. The Respondent did not hear the motion at a motion hearing on May 30, 2023, and took the motion under advisement following the jury trial call docket.

17. An Assistant District Attorney asked that the court rule specifically on the motion prior to the jurors being sworn, and alerted the Court that the timing of the ruling would determine whether the State could appeal an unfavorable decision.

18. On June 7, the Court took up outstanding issues before voir dire, but then brought in the jury and stated she would take up any remaining issues later. The ADA again asked that the evidentiary matters be settled before the jury was sworn and the defense attorney agreed, saying they liked for the motions to be argued and solved so they know what they can ask and what can be said. Respondent said they would maybe take it up that afternoon when they got to the point of swearing in a panel.

19. While the District Attorney was addressing jurors during voir dire, Respondent texted that he was "sweating thru his coat: to which the Bailiff responded, "Yes. It's gross. He's gross and a horrible speaker."

20. Regarding the Assistant District Attorney, the Respondent commented that "They are going to hate him," referring to the jury as "they." The Bailiff responded, "Absolutely. He's an arrogant asshole." The Bailiff then made a crass and demeaning reference to the prosecuting attorneys' genitals, to which the Respondent replied with a "Ha Ha" icon.

21. The DA made a reference to a BLT sandwich and the Bailiff remarked that the defense attorney "threw his blt analogy back at him." The Respondent replied "Trash," with various emojis to reference trash and a BLT.

22. At no time during these exchanges did Respondent admonish her Bailiff not to discuss the attorneys appearing before the Court in such an inappropriate way. Instead, the Respondent joined in on the commentary by again referencing the DA's appearance and stating, "Why does he have baby hands? . . . They are so weird looking." The Bailiff replied, "I was told they were tiny lol."

23. Conversely, when the defense attorney addressed the jury during voir dire, the Respondent remarked, "She's awesome." The Bailiff responded, "Yep" and "She's so smart."

24. Following voir dire, the judge sought to swear in the jurors and the State objected, again requesting a ruling on Dr. Brown's ability to testify and noting the State would lose its right to an appeal, and double jeopardy would attach, once the jurors were

sworn in. The ADA said he thought all parties agree the matters would be taken up before the jury was sworn in.

25. The Respondent overruled the State objection and swore in the jury.

26. The *Daubert* hearing was held two days after the jury was sworn and the Respondent sustained the *Daubert* motion, and Dr. Brown was not allowed to testify.

27. During opening argument the Respondent continued to praise the defense attorney by texting her Bailiff, "Can I clap for her?"

28. Referencing the DA's Office, the Respondent noted, "They are not used to going up against competent attorneys," implicitly dismissing the capabilities of the State's attorneys and the defense bar.

29. When the DA began to question witnesses, the Bailiff texted "He's horrible" to which the Respondent replied, "True." The Bailiff replied, "Suckssss."

30. While a video was played to a witness on the stand, the Respondent remarked to the Bailiff, "This shit is boring."

31. While an interview was played, the Bailiff mistakenly thought it was a video the State had previously lost. Respondent texted, "They didn't lose this one but they should have." The Bailiff replied, "it doesn't help the state at all," to which Respondent affirmed by texting, "Nope."

32. Later, the Respondent texted "State just couldn't accept that a mom could kill their kid so they went after the next person available," evidencing her opinion about the defendant's innocence.

33. The Respondent later texted "this is dumb" during the State's direct examination of a witness, and her Bailiff replied, "I just hope the jury doesn't buy his shit." The Respondent commented, "He looks constipated," and "is that the oh shit look?"

34. The judge and Bailiff refer to the co-defendant, who was to appear as a witness, as a liar at least three times while she is on the stand. The Respondent spent the majority of the co-defendant's testimony on her phone texting comments like, "Can I please scream liar liar?"

35. When a police officer took the stand the Respondent texted, "He's pretty. I could look at him all day" to which the Bailiff replied, "Same lol."

36. The Respondent and Bailiff also discuss whether one of the jurors is wearing a wig, with the Respondent texting, "That's a wig Look at that hair line." And later, she texted "definitely wearing a wig," to which the Bailiff responded, "OMG, LOL."

37. They wondered if another witness had teeth, and the Respondent texted, "No. Star witness right there."

38. Regarding another witness, the Respondent questioned, "Is she blinking uncontrollably."

39. Later, the Respondent offered her opinion to the Bailiff that, "Dna excluded Marzall on the bed, no way they get guilty on murder."

40. During the trial, the Respondent approached Sergeant Kelly Coleman, Captain Chad Pavlicek, and Detective Larry Stover in the hallway and stated that the co-defendant was not believable, she did not think the defendant would be found guilty of murder, and he would only be sentenced to credit for time served. She granted the defendant's request for an additional jury instruction for Manslaughter II, which carries a sentence of

two to four years. She took the State's request for a Murder II instruction, which is an 85% crime with a punishment of ten years to life in prison, under advisement.

41. When discussing jury instructions with her Bailiff (who was traveling at the time) by text, the Respondent notified her that "We are giving an alternative instruction of 2nd degree manslaughter." The Bailiff responded, "But no just enabling child abuse?? He didn't kill that kid." The Respondent answered, "No, man 2 fits . . . Can't just do enabling because there is a dead person." The Bailiff responded, "So basically mom taking the plea deal screwed him over." The Respondent reassured the Bailiff, "no, man 2 is 2-4 years, enabling is 255 to life, I'd rather give the man 2 instruction." The Bailiff responded, "Ahhh. And he's already served that." The Respondent replied, "Yep."

42. Later that day, the Respondent denied the State's request for the Murder II jury instruction on the basis the request was made without sufficient evidence or notice.

43. The State then requested an Enabling Child Abuse instruction instead, and the defense objected because there was a dead body, arguing there was case law to support the objection. The defense ultimately withdrew the objection because the case law mentioned did not support their position, and the Respondent then allowed the Enabling Child Abuse instruction.

44. The jury found the defendant guilty of manslaughter in the 2nd degree and sentence him to time served, a sentence only a judge can impose. Respondent accepted the verdict and imposed a sentence of four years, giving credit for time served resulting in no additional jail time.

45. After trial, a sheriff's deputy advised the District Attorney's office that the Respondent was seen using her phone throughout the trial. The District Attorney then

concluded that the Respondent frequently sustained objections for facts not in evidence during his closing argument because the Judge had not, in fact, heard whether the facts or reasonable inferences therefrom were in evidence because she was not paying attention.

46. After becoming aware that a fifty-one-minute video snippet of the trial had been publicized showing Respondent's excessive amount of time on her phone, the camera was moved forward, at the Respondent's request, to exclude her desk from view. The move left a gaping hole in the ceiling. The camera was later moved back to its original location but a black box was inserted to block out the bottom half of the viewing area so the Judge's desk could not be seen. The County Commissioners then voted to remove any obstructions from the camera's viewing area, reasoning that Respondent was not the only judge using that courtroom, and the other judge, Judge Mueller, did not have a problem with the original placement.

47. While on vacation, Judge Mueller received a phone call from a courthouse employee who told her the Respondent said she either "can't be trusted" and/or "better watch [her] back" in light of the County Commissioner's decision.

48. When the Respondent testified before the Council on Judicial Complaints about these matters, she stated that she was "texting about things that were - - probably could have waited" instead of recognizing that these types of communications should never be made at all.

49. The Respondent also attempted to mislead the Council regarding the timing of her text messages by stating that most of the time she was texting between "when a witness would come on or off or when there was a pause." However, the timing of the

messages aligned with the time on the video and shows that that the texting did not occur during breaks. When asked if she recognized it was inappropriate at the time, she explained “[i]t was like, oh, that’s funny. Move on.”

50. The totality of the text messages give the appearance Respondent believed the defendant was innocent and that she wanted a particular outcome in the case. That appearance and various decisions she made during the case, such as refusing to rule on the *Daubert* motion and denying the State’s request for a Murder II instruction after privately expressing her personal preference for a particular jury instruction, give the appearance that the Respondent may have taken actions in furtherance of that desired outcome.

51. The Respondent exhibited an absence of objectivity and Respondent’s communications with the Bailiff and others reflect a judge who wholly abandoned her neutral role. Respondent’s public conduct referenced herein brought disrepute upon her office and diminished public confidence in the judiciary.

V. Lack of Temperament for Judicial Office, Harassment, Bias, Failure to Supervise, Lack of Candor with Disciplinary Authorities

Violations of Rules 1.2, 2.3, 2.12, and 2.16
of the Code of Judicial Conduct

52. In late January, the Respondent told a courthouse employee she was going to have men photographed in the hot pink chairs in her chambers and her Bailiff was going to hang the photographs on her wall. Respondent specifically declared it would “be funny.”

53. Thereafter the Council on Judicial Complaints received an allegation that the male attorneys were being asked to pose for pictures in the pink chairs and the pictures were being displayed in the Respondent’s outer chambers. There were no pictures of

women in the chairs. Some of the men reported feeling uncomfortable, but they did not feel like they could refuse.

54. Assistant District Attorney Rachel Thompson told both the Respondent and Bailiff Angela Miller that the wall of male pictures was sexist. Prior to this comment, the Bailiff asked defense attorney Shelley Levisay if she wanted to take a picture in the chairs for the sole purpose of making it seem like they were not being sexist, and Levisay declined. After the ADA's comment, the Respondent did not ask the Bailiff to remove the pictures and commented to her Bailiff, "you're going to get me in trouble with these pink chairs."

55. After receiving the Council's inquiry, Respondent denied that any attorneys were being forced to have their pictures taken and stated that "there were photographs of both male and female attorneys hanging in my Bailiff's office that she took. Those photographs are provided." The photographs provided were pictures of two female attorneys, Kellie Howell and Jerri Neighbors, which were taken with the Bailiff's cell phone on April 13, 2023, in the afternoon after Respondent received the complaint, and falsely submitted to the Council as though the pictures existed all along.

56. The Bailiff stated, "[t]he judge got the complaint. I called her office, said that Traci needed her – needed them. And I took the pictures without the judge knowing, trying to protect the judge because the pink chairs were my fault."

57. The two female attorneys came with another attorney at the firm, Hannah Bullock, and all three testified the Bailiff called around lunch time and said, "the Judge needs you," but gave no additional information. When they arrived, Respondent was on the bench and while waiting for the judge, the Bailiff offered to take their picture.

58. When the Respondent entered her chambers and told them about the complaint which read, “[i]t is alleged that you’ve required male, but not female, attorneys to pose for photographs in pink chairs located in your chambers,” none of the women mentioned they just had their pictures taken in the pink chairs.

59. The Respondent alleges she didn’t know the pictures were taken that day. The Respondent testified when she turned over the pictures of the female attorneys in the pink chairs to her attorney, she thought they were the pictures that were already hanging. Respondent testified she later learned on “Wednesday of last week” (July 19, 2023) that they were not. Respondent testified she asked the Bailiff about the pictures and the Bailiff told her she did not take the pictures before Respondent got the complaint. Respondent testified July 19, 2023 was the first time she learned that the photographs of the female attorneys were taken after the complaint was received.

60. Bullock testified Respondent knew about the female attorneys being photographed after the complaint was received long before “Wednesday of last week.” Bullock testified the women had multiple conversations about the complaints, pink chair, and pictures, including a conversation in early May at a girls’ dinner or in late June at a conference when Kellie specifically told Respondent about being photographed.

61. Respondent, at best, knew that the May 18, 2023 response and evidence provided to the Council was false in late June 2023, and at worst, she knew in early May, and at the time they were submitted, that the pictures were fabricated.

62. Despite testifying to the Council that the false statements and evidence she submitted were attributable to her Bailiff, the Respondent has not terminated her Bailiff

as an employee for not only allegedly lying to her, but also allegedly causing her to submit false evidence to an investigative body.

63. The respondent's conduct shows a lack of temperament to serve as a judge. The conduct demonstrates impropriety, bias based on gender, failure to properly supervise court staff, and failure to cooperate with, and to be honest and candid with judicial disciplinary agencies.

VI. Decorum and Manifestations of Bias

Violations of Rules 1.2, 2.2, 2.3, 2.8, and 2.16 of the Code of Judicial Conduct

64. On February 14, 2023, the State of Oklahoma sought to increase the bond for defendant Jason Womack, CF-2021-159, because additional counts of Lewd Acts with a Child were added at his preliminary hearing and he was also charged in another county with Lewd Acts with a Child and was arrested in Kansas. The defendant's girlfriend, Ms. Argo, was present during the hearing to testify, but was never called.

65. While waiting for a deputy to arrive to remand Womack to jail, Respondent addressed the girlfriend without prompting by saying, "Ms. Argo, I don't know how long that you and Mr. Womack have been dating, but you might want to reconsider your life choices in this case." Ms. Argo responded, "I've read the preliminary hearing, Your Honor," and Respondent snapped back, "I'm sorry?" The defense attorney had to step in and tell Respondent he had advised the witness to remain silent.

66. On February 28, 2023, the State of Oklahoma through ADAs Rachel Thompson and Adam Kallsnick were scheduled to appear before Respondent in *State v. Kempf*, CF-23-36. The agreement between the State and the defendant was to dismiss the original charge of Lewd or Indecent Acts to a Child Under 16 in exchange for a new

charge of three counts of Child Abuse with the defendant sentenced to one week in the county jail and a five year suspended sentence. The original charge, CF-21-162, was filed by the prior administration of the Lincoln County District Attorney's Office and the prior administration agreed to offer the defendant only a suspended sentence on reduced charges. Prior to the hearing, the District Attorney's Office spoke with the victims in the case and discussed the plea agreement from the prior administration versus this new plea agreement and advised of the victims' right to appear at the hearing.

67. On the day of the hearing, the victims failed to appear but the State noted one victim submitted a victim's impact statement and that the victims had been made aware of the agreement and history with the prior administration. Defense attorney Matt Peters stated on the record he concurred with the State's restatement of their communications and notices to both the defendant and the victims. After accepting the plea agreement, Respondent stated, "[i]f I could force the district attorney to take this case to trial, I would not be giving you such a light sentence."

68. On April 17, 2023, and again on May 18, 2023, Respondent directed an email to the local defense bar, district attorney's office, and other court officials stating, "[t]he following is required for matters that will be entering a plea...the minimum required community service hours is 100 hours."

69. Following the Court's acceptance of the plea in *State v. Kempf*, one of the victims published a Facebook post stating her disagreement with the plea and judge's sentence. The Judge's Bailiff provided a copy of the Facebook post to the Respondent.

70. Respondent then told an employee in the courthouse that the State lied to her, this was the second time they've lied to her, and it's "two strikes and you're out."

71. Although the plea agreement did not include community service, she further advised the defendant that she “require[s] a minimum of 100 hours of community service” with all plea agreements and was adding that to his sentence to be completed within six months.

72. During a conversation with Respondent in her chambers, District Attorney Panter asked her about the *Kempf* case. She stated, “your district attorney lied to me and we’ll discuss that on the record.” A hearing was held on the record on April 25, 2023, but defense counsel was not given notice of the hearing even though the defendant was given a suspended sentence and any revocation would be heard by Respondent.

73. On the record, Respondent accused the District Attorney’s Office of lying to her because the victim posted on Facebook that she did not agree to the plea deal. Respondent then stated she was filing a bar complaint against Ms. Thompson for the Oklahoma Bar Association to investigate the issue. To date, Respondent has not filed a bar complaint with the Oklahoma Bar Association against Ms. Thompson or any other member of the Lincoln County District Attorney’s Office.

74. Persons commenting on the original Facebook post were not complimentary of the Judge’s role in the sentence in the *Kempf* case suggesting she should not have accepted it or that it was her idea. Respondent’s Bailiff provided the comments to the Facebook post to the Respondent at her request.

75. Respondent attempted to mislead the Council in testifying to the contrary. Respondent testified that the Bailiff did not provide her the comments after the Facebook post, that she had not seen the comments, and that she did not ask the Bailiff to provide them to her.

76. On March 21, 2023, Assistant District Attorneys Rachel Thompson and Kelly Trimble appeared before Respondent alongside defense attorney Shannon McMurray in *State v. Candice Conley*, CF-2020-01 for the defendant to enter an agreed plea of Not Guilty by Reason of Mental Illness on various felony charges related to a fatal auto accident. The victim's family was present in the courtroom and asked ADA Kelly Trimble to read a victim's impact statement to the court. Respondent signed a Journal Entry finding the defendant not guilty by reason of mental illness which provided the defendant would present to the Oklahoma Forensic Center for an examination to determine whether the defendant is presently mentally ill and a danger to public peace or safety. The Journal Entry further ordered the parties to appear back within forty-five days for a hearing to ascertain whether there was a need for continued supervision based on the underlying examination. Multiple witnesses in the courtroom that day affirm it was obvious the parties were present for a plea and sentencing.

77. On March 27, 2023, Respondent entered an *Order* vacating the March 21, 2023, *Journal Entry* because it "contains inaccurate statements and findings."

78. Respondent indicated to others following the hearing that the State lied to her in their presentation of the case because she did not understand when signing the *Journal Entry* that the defendant would not be punished. She thought she was sending the defendant to the Forensic Center to determine whether she could stand trial.

79. Respondent instituted a policy that all plea paperwork must be completed with a copy delivered to her chambers no later than Friday before the Tuesday disposition docket. The Lincoln County OIDS attorney, Charles Thompson, mentioned to Respondent that it was a hardship for him to prepare and deliver out-of-custody plea

paperwork on the Friday before the Tuesday disposition docket. Respondent responded to Mr. Thompson, "It's not you I'm worried about. It's the DAs. They have given me reason in the past to not trust them."

80. Melissa "Missy" Johnson is employed by Oklahoma Court Services as a coordinator based in Lincoln County. Respondent has stated to other people in the courthouse she does not believe anything Missy Johnson says.

81. Respondent further testified to the Council she has made unkind comments about Ms. Johnson to Bailiff Angela Miller and she has concerns about Missy Johnson's credibility.

82. Respondent has sought advice from other judges in the courthouse on how to get Missy Johnson removed from her courtroom because she "want[s] her gone."

83. On August 22, 2023, Respondent screamed and pointed her finger at Missy Johnson in front of her supervisor, Tiffany Caram, because Missy Johnson assisted the court clerk in entering a court minute at Judge Mueller's request for a case assigned to Judge Mueller. Judge Mueller revoked a defendant's pre-trial release bond because the defendant violated terms of her pre-trial release. Subsequent to the defendant being remanded back into custody, Respondent contacted the Court Clerk demanding to know who authorized the revocation.

84. Missy Johnson took her supervisor with her to Respondent's chambers where Respondent screamed and pointed her finger at her. Missy explained that Judge Mueller ordered the revocation and she had a text message from Judge Mueller indicating the same. Respondent calmed down, but said something to the effect of, "it's not that I don't trust you, but you must come and see me to get warrants signed or issued."

85. On February 21, 2023, *State v. Parrick*, CF-22-153, was set before Respondent for an agreed plea on a motion to revoke for violation of a victim's protective order. Respondent contacted defense counsel, Zach Privott, asking that he and ADA Adam Kallsnick appear prior to the plea hearing to discuss with her the issues in the case.

86. At the meeting, Respondent told the attorneys that she could not accept the plea because she reviewed the underlying VPO and did not believe it was still in effect even though it had been ordered to remain in effect in a companion domestic matter.

87. When asked about whether she was advocating for one side or engaging in an independent investigation when she obtained information about the VPO, she testified that she could not rely on the defense counsel to have researched that on behalf of their client because defense counsel was Zach Privott, who Respondent had explained to the Council she believes is incompetent.

88. When asked if she just did not trust that his defense counsel had checked it out, Respondent replied that she did not. Respondent was asked if, when Respondent has made a comment like that, could Mr. Privott ever appear before her since she questions his abilities, and it could be perceived that she was trying to help the defendant because she did not think his counsel was competent. Respondent said that was not her primary thought. Her primary thought was whether she was going to find the defendant guilty knowingly – if there was a factual basis for that.

89. Respondent testified she was “concerned about what Mr. Privott had done, his compet – yes. I guess, yes. That was some of the conversation.” When asked if she would agree to some extent that she was trying to make up for some of his deficits Respondent said “Yes.”

90. During the *State v. Martzall* trial, Respondent mocked the State in a text message to her Bailiff stating, “they are not used to going up against competent attorneys.” When asked who the attorneys were appearing opposite the State who were not competent, Respondent responded, “[t]here are a number of attorneys that appear in my courtroom that are not to the level that I practiced at, not as prepared as I was when I got to trial, not having exhibits and those types of things . . . my personal opinion is they’re sloppy or they’re lazy . . . as an example, our OIDS attorney very rarely if ever files any kind of motion on any issue...” and “one attorney in particular who I have great fondness for that is very rarely prepared... Zach Privott.”

91. Respondent’s derogatory statements about and conduct toward the Lincoln County District Attorney and his staff have risen to a level such that her impartiality would reasonably be questioned in any case on which they appeared before her. Her conduct in this regard, to include telling multiple courthouse staff the Assistant District Attorneys have lied to her on multiple occasions and thereafter threatening to file bar complaints against them based on ex parte communications she received, joking about the size of attorneys’ penises during a trial, implying the State lied about missing evidence, and calling them a variety of names constitutes not only a violation of Rules 1.2, 2.3, and 2.8 of the Code of Judicial Conduct, but also constitute gross partiality as that term is used in Article 7A, Section 1(b) of the Oklahoma Constitution.

92. Likewise, Respondent’s derogatory statements about Oklahoma Court Services Coordinator, Missy Johnson, that she is a liar and “wants her gone” and that the Lincoln County OIDS attorney, Charles Thompson, and defense attorney Zach Privott are incompetent are statements of gross partiality.

VII. Gross Partiality, Oppression

Violations of Art. 7-A, § 1(b) of the Oklahoma Constitution,
Rules 1.2, 2.2, 2.3, 2.10, 2.11, 2.12, and 2.1
of the Code of Judicial Conduct

The Steven Roberts Case

93. On January 24, 2023, defense attorney Adam Banner appeared before Respondent for the District Court arraignment in *State v. Steven Roberts*, CF-2021-231B. Mr. Roberts was charged with murder and his trial was originally set for the June 5, 2023, jury term. At the arraignment, Respondent advised Mr. Banner she was going to continue the trial to the October jury term because there was another in-custody murder case first up for the June 5, 2023, jury term. At his client's insistence, Mr. Banner advised Respondent his client wanted to be second up and remain on the June 5, 2023, jury term. Respondent rolled her eyes at him and changed her tone and demeanor with him thereafter.

94. On March 24, 2023, defense attorney Adam Banner appeared before Respondent for motion hearings in *State v. Steven Roberts*, CF-2021-231B. Steven Roberts was charged with First Degree Murder for the shooting death of a rival motorcycle "club" member. A variety of motions were docketed to be heard that day including the defendant's *Stand Your Ground* motion, defendant's *Motion for Bond*, and *State's Notice of Intent to Use Gang Evidence* and defendant's *Objection* thereto, the outcome of which would determine whether the motorcycle group could be referenced as a "gang" during the trial. The defendant's wife testified during the hearing on the *Stand Your Ground* motion and was apparently blinking a lot.

95. During the testimony, Respondent made eye contact with her Bailiff and began blinking fast at her, mocking the witness that was sitting between them.

96. Later in the hearing when addressing the motion for bond, Respondent stated to the defendant, "I don't know that I can place you in the custody of your wife quite simply because I find some of her testimony to be incredible."

97. Following the hearing, Respondent laughed to another courthouse staff member about having caught her Bailiff's attention during the hearing to blink at her and explained that the witness probably starts blinking when she's lying.

98. Approximately two and a half months later, during the Martzall trial, Respondent and the Bailiff exchanged text messages about whether the mother, co-defendant in the Martzall trial, was blinking as much as the wife in the Roberts trial.

99. Following redirect examination of the defendant's wife, Respondent inquired of the witness herself. Respondent asked seventeen questions which concluded with her asking the State to hold up a piece of paper with a number drawn on it and for the witness to read the number from the stand. At issue was whether the witness could clearly see the information about which she testified.

100. Many of the defendant's friends, family, and supporters were present in the courtroom that day. Following counsels' arguments on the bond motion and a discussion on the conditions of the defendant's bond, Respondent stated:

But he's also in a biker gang that apparently likes to do some really ridiculous things that grownups shouldn't really be doing. So that's a strike against him... But he's a member of a gang, and that's a negative... I find the notion of motorcycle gangs and danger to the community in this kind of day and age to be ludicrous, and I'm talking to anyone in the audience that may be in one of these gangs. Be adults. This is ridiculous... Who in here is a member of the Outlaw motorcycle gang? I have a very good memory. And

if you come to court and testify and testimony comes out that you are a member of the outlaw motorcycle gang or the Pagan motorcycle gang and you have sat in my courtroom and didn't raise your hand, we're going to have a big problem.... I'm remembering your faces.

In her May 19, 2023, written response to the Council, Respondent argued that she did not call any "individual" ridiculous or ludicrous because she said, "*this* is ridiculous" and "I find the *notion*...to be ludicrous."

101. The hearing on the State's Notice to Introduce Gang Evidence and the defendant's Objection was continued to April 10, 2023. Later that same day, Respondent published on Facebook to a group called "Girl Attorney – OK", "Note to future self, calling motorcycle gangs stupid and juvenile to a room full of gang members may get you on a hit list ...". And later responded to her own post "One of these days I'll learn to be judicial..."

102. Defense attorney Adam Banner was made aware of the Facebook post by both the prosecutors for the District Attorney's Office, Rachel Thompson and Kelly Trimble, and female attorneys or interns from his law firm, at least one of which who was also a member of the Girl Attorney – OK Facebook Group. It appeared to Mr. Banner that despite not yet holding the hearing on whether the motorcycle organization or club could be termed a "gang" or whether his client could be referred to a "gang member," given that she referred to the group as a "gang" in her post, Respondent had already made her decision. Moreover, it appeared to Mr. Banner based on the statement that Respondent believed that his client and his associates would kill another human being without legal justification.

103. On Monday, March 27th, Adam Banner contacted the Judge's chambers to schedule an in-camera meeting to request that Respondent disqualify from the Steven Roberts case pursuant to Rule 15 of the District Courts. Respondent was out of the office

and the Bailiff demanded to know why Banner would be seeking the Judge's disqualification before agreeing to call her to schedule a date for the in-camera request.

104. After speaking with Respondent, the Bailiff called Adam Banner and said, "Judge wants names... she wants to know where you got that information from...was it Rachel?" Referring to Assistant District Attorney Rachel Thompson. Adam Banner confirmed that Rachel Thompson was one person that provided the information to him, but not the only person. The Bailiff stated, "she wants all the names."

105. After disconnecting the call with Banner to call the Judge back with the names, the Bailiff called Banner a second time to inform him the in-camera request would be taken up on April 10, 2023, at 9:00 a.m., that he should bring a written motion on the Rule 15 request, and that all previous orders in the case were stayed. Banner clarified that under Rule 15, future proceedings are stayed to which the Bailiff replied, "No. All of her orders... including the bond are stayed." Banner also concluded Respondent had pre-determined she would not grant the in-camera request based on her statement to the Bailiff that he should bring a written motion with him on April 10th.

106. Shortly after Mr. Banner contacted Respondent's chambers and she learned her post on the Girl Attorney – OK Facebook Group had been shared with him, Respondent published a subsequent post that she was removing herself from the group because "Someone shared one of my posts outside this group... Apparently this is not a safe place for judge to be human."

107. Prior to the in-camera request on April 10, 2023, Mr. Banner advised ADA Rachel Thompson that he thought it was important to get the in-camera proceeding on the record. When the Bailiff let Banner and Thompson know that the Judge was ready

for them, Thompson said to the Bailiff “okay, we want a court reporter.” The Bailiff went to talk to the judge and then told them, “Judge will not allow a court reporter in her chambers.” Banner and Thompson both again said “we want a court reporter.” Banner and Thompson then hear a “loud bellow from chambers, no.”

108. After both counsel entered chambers, Respondent advised that she previously called a judge who told her she’s not required to put this on the record. Banner responded, “you might not be required to put it on the record but when we request that it goes on the record that means you’re required to put it on the record.” After she again refused, Banner told the Judge he wanted to go in the courtroom to make a record about the Judge not allowing him to make a record. Respondent “rolled her eyes and says, are you serious?” When he affirmed, “she rolls her eyes again and says, okay. Go in my courtroom.”

109. In her written response dated May 19, 2023, Respondent acknowledges that **both** parties were requesting a court reporter for the in chambers request and both parties requested to make a record in the courtroom about the Judge not allowing a record for the in chambers proceeding. Witness testimony and transcripts also make clear that both parties requested a court reporter and the judge was aware that both parties requested one.

110. During her testimony before the Council on Judicial Complaints on July 24, 2023, Respondent was asked if she believed only one party was requesting a court reporter or both parties. Respondent answered as follows:

A: One. At the time that I originally said no, Ms. Thompson was standing at my door – not at my door but at my Bailiff’s in the hallway and she’s not yelling at me angrily but she’s away from me. She’s like, we want a record.

And I'm like, you want a record? No, not in my – not in my – not in my chambers, not in my chambers.

Q: So you sought advice from other judges before you were aware that both sides – because at one point you did become aware that both sides wanted a court reporter, isn't that accurate? Am I remembering that correctly?

A: Not until I went into – not until I went into the courtroom and made the record of me not allowing the record.

111. When the parties moved into the courtroom to make a record about the Respondent not allowing the record and again with both sides requesting a court reporter, Respondent said she would not allow a court reporter for the in-camera request unless and until either side could give her statutory authority requiring her to do so. Respondent then gaveled out and slammed the door to her chambers.

112. During the fifteen-minute break, both parties found Title 20, Section 106.4 of the Oklahoma Statutes, which requires a court reporter transcribe a judicial proceeding upon request by any party. Thereafter, but without any conversation with counsel, the Bailiff entered the courtroom and advised Respondent decided to allow them to have a record.

113. In written response to the Council, Respondent stated that she inquired of "Judge Balkman...if [she] was required to allow the attorneys to have a court reporter during the in chambers hearing. He advised that no, he would not do it on the record and to keep it short." And then later under oath at the hearing before the Council on Judicial Complaints on July 24, 2023, Respondent again testified that Judge Balkman told her, "That's not how that worked..." and "that's not allowed." Judge Balkman admits that Respondent contacted him about this issue but denies giving that advice and further

testified he would not give that advice because he does not believe it is in accordance with the law.

114. Respondent also inquired of Judge Kirk how to handle the request to make a record of the in-camera proceeding. Judge Kirk advised to allow a court reporter and to be consistent between the in camera and the courtroom requests. Before hearing the in-camera request, Respondent told Judge Kirk she was going to deny the request.

115. Respondent was provided a copy of the Criminal Bench Book at the 2022 Judicial College. Section 37.1 of the Criminal Bench Book provides a checklist for many issues related to court reporters and specifically recites 20 O.S. § 106.4 which provides that “[r]efusal of court to permit or to require statements to be taken down and transcribed by court reporter is denial of due process.”

116. In response to Banner’s arguments regarding Respondent’s perceived and actual displays of bias, Respondent argued, “I’m human. I’m entitled to have an opinion of the things that go on in the world. Every judge on the bench is entitled to an opinion about the things that go on in the world.” Respondent then went on to deny the in-camera request because she did not believe the statements she made on Facebook met the standard set forth in Rule 15 for disqualification, including whether her impartiality might reasonably be questioned. Banner then filed his formal motion seeking Respondent’s disqualification and a hearing was held on the record. The motion was denied.

117. Respondent testified that she recognized her statements on Facebook about motorcycle gangs and hit lists were inappropriate before the in-camera hearing yet still made the parties go through with a hearing and refused to disqualify. Specifically, she testified:

"I agree today and I agreed on March 27th when Mr. Roberts' attorney, Mr. Banner, called my office to say he was requesting that I recused. Yes, it's – today I agree it's an inappropriate statement and I agreed back then, too... I didn't recuse at that point in time because I felt, again, in court and Mr. Banner had stated to me at all times I was appropriate to him and his client. And I – I didn't feel like I was biased against Mr. Roberts."

Banner specifically addressed both actual bias and the appearance of bias with Respondent during his request.

118. On appeal and without a hearing, Judge Turner, Presiding Judge for the North-Central or Eighth Judicial Administrative District issued an *Order Disqualifying Judge*. In her written response to the Council, Respondent stated "Judge Turner advised me he was granting the Motion to Recuse because I had discussed a case pending before me, not because I had shown bias toward the Defendant." Judge Turner recounted that he did not state he found no bias and it's the appearance, not real bias, that counts.

119. In two other pending cases, on May 30, 2023 counsel for defendants in *State of Oklahoma v. Jeffrey Battey*, CF-2021-174, and *State of Oklahoma v. Ray Allen*, CF-2021-176, approached Respondent in camera seeking her recusal in these cases as both involved defendants who associate with motorcycle clubs or gangs and the defendants felt Respondent's comments on the Girl Attorney - OK Facebook Group did not give the appearance of a fair and impartial judge in cases involving motorcycle clubs.

120. On July 24, 2023, Respondent testified to the Council that the parties had not yet made an in camera request and the parties didn't "really know all the specifics." Specifically, she testified:

When they came in at this point in time, I wasn't – I wasn't – I didn't know anything about their case. I didn't know that it involved motorcycle gangs or clubs. I didn't know anything about their case because it had been up on immunity. I hadn't reviewed it which is what I told them. I don't know anything about your case, I Don't know anything about your – what they're

charged with, what the facts are of the case or anything about that. So let's hold the phone and what I'm going to ask you to do, because I know you're not going to be on this jury term, let's put a pin in this and come back so in the event that you need to go forward with the additional steps, we have plenty of time because I know I'm not going to be able to get you a hearing on a request right now because I have these other cases that are set for this jury term that I need to get dealt with. And we were just there for a status. . . . I set it for another date And I said, that . . .you know, talk to Judge Turner, review transcripts. Because both of them came in and said, we don't really know about all of the things. We don't have a motion filed or anything. We just heard. And so, I said, well, let's put a pin in this. We can take this up at another date when I know I'm going to have time... And so we haven't yet had the in camera request other than that very, very quick, Judge we don't really know all the specifics. We are going to ask you to recuse and so we haven't gone through that process yet.

121. However, four other people in the room recounted that the details of the defendants' association in the motorcycle clubs was explained to her and their concern that the Facebook post presented an issue with respect to her ability to be fair and impartial in their case. All four further recounted that Respondent denied the request to recuse during the in-camera request because she stated she did not know their clients and had not made any specific comments about those clients so there was nothing to suggest she could not be fair and impartial in their cases.

122. Respondent's denial of the request is further evidenced by the defendants filing *Motions to Recuse* on July 13, 2023 and July 14, 2023. After conferencing with Judge Turner at the Judicial Conference in mid-July, Respondent, filed a *Recusal* in both cases on August 2, 2023.

123. Respondent received specific training on both social media usage and disqualifications and recusals at the Judicial College in December 2022 prior to taking the bench.

VIII. Prohibited Extrajudicial Activities

Violation of Rules 1.2, 2.2, 2.8, 3.1, and 3.7 of the Code of Judicial Conduct

124. Since taking the bench in January 2023, Respondent has published various posts on Facebook in direct contravention of the advice presented to her at the 2022 Judicial College. On January 24, 2023, Respondent published to Facebook a “Blooper of the day: defendant on Motion to revoke: I test positive for marijuana but I have my card. Clueless judge: Is that even allowed? DA and defense counsel in unison: No, it is not. My Bailiff: laughing hysterically. I need to read the marijuana laws.”

125. Only 47 days before publishing this post, Respondent had received training at the 2022 Judicial College about issues with judges using social media and admonished to refrain from this type of activity.

126. On March 7, 2023, Respondent published to Facebook that she “[f]illed in for another judge and did my first domestic docket today. Finally a subject I completely understand and can’t possibly screw up! Not sure if everybody would agree but I think I passed...” The Council interpreted this to mean she agreed or believed she had “screwed up” other cases.

127. On March 15, 2023, male attorney Bill McDoniel, appeared before Respondent on a Motion for Default Judgment on behalf of Tinker Federal Credit Union against the unknown successors of a deceased debtor in CJ-2022-141. Respondent denied the motion on the basis that notice and service by publication was improper without prior approval from the Court pursuant to 12 O.S. § 2004. The attorney noted that he’d been doing this for 41 years and had never done it that way. That same day, Respondent posted on the Girl Attorney – OK Facebook group, “[w]hat not to say to the

judge... I've been doing this for 41 years and have never done it that way... Definitely not a good idea... especially when you've been doing it WRONG.”

128. At least 53 people reacted to the post, either liking or laughing at it. Female attorney Jane Jarnigan Robertson commented that it was “sorta fun watching from the bleachers” to which Respondent replied, “you would've thought he would've taken a hint from the case in front of him.” When asked, the male attorney was unaware Respondent was recounting that day's events on Facebook or making fun of his argument on a public forum with female attorneys and that other attorneys have been made aware of the post.

129. And from her official District Judge Facebook account, Respondent re-published an advertisement seeking financial sponsors for the Sixth Annual Chandler Bell Cow Boil and also published a picture and statement seeking financial support for the local Girl Scouts. Respondent's Facebook posts or re-posts soliciting funds for charitable organizations are violative of Rules 3.1 and 3.7 of Canon 3 of the Code of Judicial Conduct. Although involvement in the community is a noble effort, soliciting funds is a particularly problematic endeavor with very strict limitations about which Respondent was specifically warned at the 2022 Judicial College.

IX. Responsibility to Decide

Violations of Rules 1.2 and 2.7 of the Code of Judicial Conduct

130. Respondent issued a new policy that all felony probable cause affidavits for warrants and arrests must be brought to her. Respondent told her Bailiff to let the District Attorney's Office know this is the rule and Respondent herself told Associate District Judge Sheila Kirk that all felony probable cause affidavits must be brought to her. Although Judge Canavan in Pottawatomie can hear cases in Lincoln County, he is not

assigned a docket in Lincoln County. Respondent is otherwise the only District Judge assigned to hear the felony criminal docket which will create conflicts if the same Judge both issues the probable cause affidavit and hears the proceedings following the preliminary hearing.

131. In late January, the Lincoln County District Attorney's Office presented a probable cause affidavit for four felony counts of lewd acts on a child. Respondent asked First Assistant Adam Kallsnick to discuss the charges with her because she did not believe the charges were appropriate. Respondent indicated to Mr. Kallsnick the charges were too harsh because the defendant was a juvenile when the charges were committed and he's now an adult and being charged as an adult. Mr. Kallsnick provided case law to Respondent on the issue.

132. Respondent discussed the charges with Judge Mueller who advised her she need only be concerned with whether probable cause exists because the other issues will be handled at the time of a plea or preliminary hearing. Respondent indicated to Judge Mueller she felt the young adult was remorseful and has turned his life around. Respondent refused to either sign or return the probable cause affidavit to the state for over six months. When the State inquired about it, she would say she was going to confer with other judges about the issues.

133. At the summer Judicial Conference, Respondent conferred with Judge Brad Benson who had been assigned as her Mentor at Judicial College about the issue. Judge Benson gave the same advice as Judge Mueller, that she only need to be concerned with probable cause. Respondent signed the charges in late July 2023.

X. Misapplication of 6th Amendment and State Statute

Violations of Rules 1.2, 2.2, and 2.5 of the Code of Judicial Conduct

134. On January 10, 2023, defendant Brandon McCraw appeared before Respondent on a Motion to Revoke in CF-2019-34. This was Respondent's second day on the bench. The defendant previously appeared before Judge Ashwood who advised him to complete an OIDS application and return with the completed form at his next setting on January 10, 2023. On the issue of hiring an attorney, Respondent stated:

It's generally the policy of the Court that if you can afford to get out on bond, that you can afford to hire an attorney... and I'm very hesitant to tax the taxpayers of this county in this judicial district with your representation costs, because you are out on bond. You have a vehicle that you do not drive, because you can only drive one... what I'm going to do is I'm going to order you to sell that vehicle to try to hire an attorney...and I'm going to set you again on January 24th to reappear. This is the third time... You have to reappear with an attorney. Do you understand that? At that time, if you do not have an attorney, then we are going to revoke your bond and put you back into jail so that you can qualify for indigent defense. Do you understand that?

135. In her written response, Respondent noted that she was advised at the 2022 Judicial College to "be creative" when dealing with defendants and their ability to pay for criminal proceedings. The reference to "be creative" at the 2022 Judicial College was from Judge Hetherington relative to Rule 8 hearings and ability to pay for defendants whose fines and fees have been adjudicated, not defendants attempting to exercise their Sixth Amendment right to court appointed counsel. She further suggested that next time she will "suggest" the defendant sell an asset to hire an attorney, but not order it.

136. On January 17, 2023, defendant Stephanie Cullum appeared before Respondent on a felony disposition docket in CF-2021-31A. The defendant appeared without an attorney because her lawyer was arrested and detained in the Lincoln County

Jail. Although her attorney, Debra Campbell, was not scheduled for the docket that day, Respondent had her brought from the jail to the full courtroom for the docket on which her client was appearing. After satisfying her concern of whether the attorney maintained any client funds that could be returned to the defendant, Respondent stated to the defendant:

You are out on bond, and so you do not qualify for an indigent defense attorney at this point in time. If you wish to qualify for indigent defense, show back up on January 31st and 9:30, and you will be placed back in custody where you qualify for indigent defense. Do you understand?

The defendant returned on February 21, 2023, again without an attorney and Respondent stated that it was not her practice to give someone that is out on bond a state-appointed attorney. Respondent said, "If you are out, you are capable of working and hiring an attorney." Respondent added that if she was out on bond, then she was capable of coming up with money to get out of jail.

137. On January 17, 2023, defendant Palagonia appeared before Respondent and was in custody but also without an attorney because he was previously represented by Attorney Debra Campbell. Respondent re-appointed the OIDS attorney who was present in the courtroom and then stated to the defendant:

Mr. Palagonia, if you bond out, you are ordered back here on January 1st – 31st at 9:30 a.m. Mr. Thompson is appointed as your attorney at this time. If you bond out, you will not qualify for an indigent defense attorney. Do you understand that?

138. Recognizing this was Respondent's first month on the bench, the Council on Judicial Complaints sought a response from Respondent about what it perceived to be violations of the defendants' 6th Amendment Rights and violation of Oklahoma Statute when the Court's determinations appointing OIDS relied solely on whether the defendant was in custody or out on bond. The Council anticipated Respondent would recognize the

explicit requirements of making determinations on applications for court-appointed counsel based on the citations provided by the Council and, more specifically, that 22 O.S. § 1355(D) and caselaw are clear that posting bond cannot be the *sole* factor in making this determination. Instead, Respondent, through counsel, responded that “[t]he practice of not appointing court appointed counsel to a litigant out on bond is not uncommon in many counties and courtrooms in this State. Respondent’s actions are no different than many other judges in this State.”

139. During the Criminal Bench Book presentation at the 2022 Judicial College, Judge Edwards and Judge Lewis discussed the difficulties in getting defendants to hire counsel and to move cases forward, but Judge Edwards made clear, “obviously if they think they qualified certainly there are instances when out of custody defendants qualify for OIDS and those should be properly considered.”

XI. Independent Investigations of Facts and Ex Parte Communications

Oppression and Violation of Rules 1.2, 2.2, 2.9, and 2.10 of the Code of Judicial Conduct

140. On February 8, 2023, Respondent presided over her first criminal jury trial in *State v. Angela Gordon*, CF-22-70 which included two felony charges for Lewd Acts with a Child and one felony charge of Enabling Child Abuse. Following the State’s presentation of witnesses, the defendant entered a blind plea. After the Court accepted the defendant’s plea, the defendant was escorted back to the county jail and her court-appointed counsel left the courtroom.

141. Without opposing counsel or the defendant present, the State and Respondent continued to converse with the jury. Respondent explained to the jury that the defendant entered a blind plea and what that means. After asking the jury whether

they have any questions, Respondent inquired, "obviously we didn't hear the defense side of it, but show of hands: who was leaning towards guilty?" At this point, sentencing had not occurred and would be heard by Respondent at a later date.

142. After one juror did not raise his hand, Respondent inquired, "Mr. Coulson you didn't raise your hand," after which Bailiff Angela Miller chimes in "I told you. He was the one I was concerned about." Respondent went on to advise the jurors, "So, I will tell you there is a videotape where she made statements consistent with the testimony of the daughter," to which a juror responds, "that's what I was waiting on."

143. Following her ex parte conversation with the jury but prior to sentencing, Respondent told Judge Mueller it was not a good idea for the defendant to blind plea to her and that she was "going to throw the book at her...I'll look at everything but it's not going to go well for her."

144. At sentencing on April 11, 2023, Respondent suggested to the defendant that exercising her constitutional right to a trial was an enhancing factor in the Judge's determination in sentencing her wherein she stated:

We started the jury trial back in February and completed a day of testimony of a couple of witnesses. And then on the second day you decided to enter a blind plea. And you have pled guilty to the charges of lewd acts to a child under 12 years of age, two counts, and enabling child sex abuse, as stated in the amended information filed on February 26, 2023.

You required a preliminary hearing, which required your daughter to testify in open court in both your presence and that of John Bonner, her other perpetrator.

You required a jury trial, which then required her daughter - - your daughter to testify in open court in your presence again, in the presence of 12 strangers and multiple individuals in the courtroom.

And then after her testimony for the second time, you decided to enter a plea of guilty. You had a right to preliminary hearing; you had a right to a jury trial. You also had an obligation to protect your child.

You required those two hearings, knowing that you had already confessed to the allegations not once but twice...

145. Respondent sentenced the defendant to 30 years on the two counts of Lewd Acts with a Child and 40 years for the one count of Enabling Child Abuse with the 3rd count to run consecutive to the 1st and 2nd counts. After learning the Court communicated with the jurors following the plea, the defendant's attorney filed a Motion to Withdraw the Guilty Plea. The Motion was denied.

XII. Respondent's In-Person Testimony

Violations of Rules 1.2, 2.8, and 2.16 of the Code of Judicial Conduct

146. Respondent appeared at a hearing before the Council on Judicial Complaints on July 24, 2023. Within the first six minutes of her testimony, Respondent used the f*** word three times. In all three instances, Respondent was recounting a factual event or her strong feelings when she learned the Council on Judicial Complaints had subpoenaed her personal cell phone. During her testimony to the Council on Judicial Complaints, Respondent exhibited a pattern of offering misleading or false statements or arguments.

XIII. Witnesses

147. Following are the names and address of the witnesses for the prosecution of this cause:

1. Heather Anderson, Esq.
Assistant Attorney General
Oklahoma Attorney General's Office

15 West 6TH Street, Suite 100
Tulsa, OK 74119

2. Hon. Thad Balkman
Cleveland County District Judge
Cleveland County Courthouse
200 S. Peters
Norman, OK 73069
3. Adam Banner, Esq.
Oklahoma Legal Group
1900 NW Expressway, Suite 603
Oklahoma City, Oklahoma
4. Hon. Brad Benson
Tillman County Associate District Judge
Tillman County Courthouse
PO Box 97
Frederick, OK
5. Hannah Bullock, Esq.
Neighbors & Howell, P.C.
601 S. Sunnyslane Road
Del City, OK 73115
6. Hon. John Canavan
Pottawatomie Co. District Judge
Pottawatomie Co. Courthouse
325 N. Broadway
Shawnee, OK 74801
7. Tiffany Caram
Oklahoma Court Services for Pottawatomie County
322 N. Broadway
Shawnee, OK 74801
8. Julie Curry
Oklahoma Court Services for Pottawatomie County
322 N. Broadway
Shawnee, OK 74801
9. Kelley Coleman
Lincoln County Detective
Lincoln County Sheriff's Office
811 Manvel Ave., Suite 14
Chandler, OK 74834
10. Charles Dougherty
Lincoln County Sheriff
Lincoln County Sheriff's Office

811 Manvel Ave., Suite 14
Chandler, OK 74834

11. Hon. Leah Edwards
Garvin County District Judge
Garvin County Courthouse
201 West Grant Avenue
Pauls Valley, OK 73075
12. Lorraine Farabow, Esq.
Deputy General Counsel
Oklahoma Bar Association
1901 N. Lincoln Blvd.
Oklahoma City, OK 7310
13. Gary Geissman
Nash, Cohenour, & Geissman, P.C.
4101 Perimeter Center Drive #200
Oklahoma City, OK 73112
14. J. Mitchell "Mitch" Gregory, Jr.
Attorney at Law
1509 Vandivort Place
Edmond, OK 73034
15. James J. "Jim" Hodgens
301 West Main Street
Stroud, OK 74079
16. Kellie Howell, Esq.
Neighbors & Howell, P.C.
601 S. Sunnyslane Road
Del City, OK 73115
17. Melissa Johnson
Oklahoma Court Services for Lincoln County
111 N. Sandy Lane, Suite E
Chandler, OK 74834
18. Adam Kallsnick, Esq.
First Assistant District Attorney
Lincoln & Pottawatomie Counties
400 N. Broadway Avenue
Shawnee, OK 74801
19. Cindy Kirby
Lincoln County Court Clerk
811 Manvel Avenue
Chandler, OK 74834

20. Hon. Sheila Kirk
Lincoln County Associate District Judge
Lincoln County Courthouse
811 Manvel Avenue
Chandler, OK 74834
21. Larry Lenora, Esq.
Lenora & Upton
116 West 8th Street
Chandler, OK 74834
22. McKenzie McMahon
Assistant Attorney General
Oklahoma Attorney General's Office
313 N.E. 21st Street
Oklahoma City, OK 73105
23. Angela Miller
Bailiff to Judge Traci Soderstrom
Lincoln County Courthouse
811 Manvel Avenue
Chandler, OK
24. Hon. Emily Mueller
Pottawatomie County Special Judge
Pottawatomie County Courthouse
325 N. Broadway
Shawnee, OK 74801
25. Jerri Neighbors, Esq.
Neighbors & Howell, P.C.
601 S. Sunnyside Road
Del City, OK 73115
26. David Nelson
P.O. Box 467
Perkins, Oklahoma 74059
27. Beverly Nelson-Fields
P.O. Box 467
Perkins, Oklahoma 74059
28. Adam Panter, Esq.
District Attorney
Lincoln & Pottawatomie Counties
400 N. Broadway Avenue
Shawnee, OK 74801

29. Zachary Privott, Esq.
Privott Law Firm
808 Manvel Avenue, Suite C
Chandler, OK 74834
30. Allen Smallwood, Esq.
Attorney at Law
1310 S. Denver Avenue
Tulsa, OK 74119
31. Hon. Traci Soderstrom
Lincoln & Pottawatomie Counties District Judge
Lincoln County Courthouse
811 Manvel Avenue
Chandler, OK 74834
32. Robert Robles, Esq.
Law Offices of Robert R. Robles
200 N. Classen Blvd., Suite 1100
Oklahoma City, OK 7310
33. Ryan Stephenson, Esq.
Assistant District Attorney
Lincoln & Pottawatomie Counties
400 N. Broadway Avenue
Shawnee, OK 74801
34. Larry Stover
Lincoln County Detective
Lincoln County Sheriff's Office
811 Manvel Avenue, Suite 14
Chandler, OK 74834
35. Charles Thompson, Esq.
Thompson Law Firm
104 West 8th Street
Chandler, OK 74834
36. Rachel Thompson, Esq.
Assistant District Attorney
Lincoln County District Attorney's Office
811 Manvel Avenue, Suite 5
Chandler, OK 74834
37. Hon. Lee Turner
Kay County District Judge
Kay County Courthouse
PO Box 251
Newkirk, OK 74647

38. Patricia Wible, CSR
Lincoln County Courthouse
811 Manvel Avenue
Chandler, OK 74834

XIV. Immediate Temporary Suspension

148. Petitioner alleges that the circumstances giving rise to the foregoing facts against Respondent are in grave danger of continuing. There is no evidence the Respondent will voluntarily cease and desist in the performance of those matters which gave rise to the filing of this petition. There is an existing emergency justifying the Trial Division of the Court on the Judiciary of the State of Oklahoma in temporarily suspending Respondent from office pending the determination of the proceedings in this action. Great and irreparable harm and injury will occur if Respondent is allowed to continue in the capacity of a District Judge of the 23rd Judicial District of the State of Oklahoma.

149. Petitioner respectfully requests that the Presiding Judge of the Court on the Judiciary issue an order to the Respondent to appear at a date, time and place certain to show cause why he should not be suspended from the exercise of his office pending further proceedings in this cause, and that upon such hearing the Respondent be suspended from such office pending the proceedings in this action.

XV. Relief Requested


150. The Petitioner alleges that the above-enumerated acts by the Respondent warrant discipline by the Court on the Judiciary as authorized by the statutes and the Constitution of the State of Oklahoma. The Petitioner respectfully requests that the Court on the Judiciary enter an Order removing Judge Traci Soderstrom from office as District Judge in and for Lincoln and Pottawatomie Counties, Oklahoma, and the 23rd Judicial

District of the State of Oklahoma, with disqualification to hold any judicial office in the State of Oklahoma.

151. This matter is referred to the Trial Division of the Court on the Judiciary of the State of Oklahoma.

Done this 10th day of October, 2023.

RESPECTFULLY SUBMITTED,




M. John Kane IV, Chief Justice
Supreme Court of Oklahoma

STATE OF OKLAHOMA)
)
COUNTY OF OKLAHOMA)

ss:

M. John Kane IV, of lawful age, being first duly sworn upon oath says:

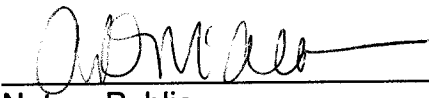
1. That he is the Chief Justice of the Supreme Court of the State of Oklahoma.
2. That he has read the above and foregoing Petition and knows the contents thereof.
3. That he has caused the facts therein set forth to be investigated and that he believes said facts are true.



M. John Kane, IV

Subscribed and sworn to before me this 10th day of October, 2023.





Notary Public