

MISSISSIPPI COMMISSION ON JUDICIAL PERFORMANCE

2014 ANNUAL REPORT

COMMISSION MEMBERS

JUDGE H. DAVID CLARK, II, CHAIRMAN
JUDGE LEE J. HOWARD, VICE-CHAIRMAN
JUDGE WILLIAM E. ANDREWS, III
JUDGE JIMMY MORTON
JEFFERY M. ADCOCK
RICK J. COULTER
CAMILLE H. EVANS, ESQ.

ALTERNATE MEMBERS

JUSTICE JAMES L. ROBERTS, JR.
JUDGE VICKI R. BARNES
JUDGE ROBIN A. MIDCALF
JUDGE EDWIN WOODS, JR.
ANN MITCHELL (JANUARY-JULY)
COL. (RET.) SYLVANUS JOHNSON (AUGUST-DECEMBER)
CORNELIA GAYDEN
ROY CAMPBELL, III, ESQ.

EXECUTIVE DIRECTOR

DARLENE D. BALLARD

COMMISSION OFFICES

660 North Street
Suite 104
Jackson, Mississippi, 39202
Telephone: 601-359-1273
Facsimile: 601-354-6277
Website: judicialperformance.ms.gov
E-Mail: mailbox@judperf.state.ms.us

OUR MISSION

The Mississippi Commission on Judicial Performance was created in 1979 by the Mississippi Legislature and the voters of the State of Mississippi by constitutional amendment. The Commission enforces standards of judicial conduct, inquires into judicial disability and conduct, protects the public from judicial misconduct and disabled judges, and protects the judiciary from unfounded allegations. Our purpose is to be rehabilitative and educational as well as disciplinary.

SUMMARY OF COMPLAINTS

In calendar year 2014, the Commission received 395 new complaints against Mississippi judges. **During that same period formal proceedings were initiated on 15 complaints.** The number of complaints requiring investigations increased as a result of the rise in complaints received. Also, as in years past, several hundred additional calls and inquiries were received concerning the judicial system, interpretation of the Code of Judicial Conduct, and how to file a complaint. The Commission employs a staff of five including an Executive Director, 2 staff attorneys, an investigator and an office manager.

SOURCE OF COMPLAINTS

	<u>1980- 2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>
Litigants	5800	237	221	195	329
Citizens	847	12	17	36	47
Attorneys	291	13	5	11	5
Law Enforcement	185	4	3	6	1
MCJP	142	3	4	1	5
Public Officials	127	0	0	3	3
Judges	34	1	1	1	2
Other	14	0	3	0	3
Total	<u>7440</u>	<u>270</u>	<u>254</u>	<u>253</u>	<u>395</u>

TYPES OF JUDGES RECEIVING COMPLAINTS

	<u>1980- 2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>
Justice Court Judges	3127	81	104	91	98
Circuit Court Judges	1498	61	49	59	106
Chancellors	1382	50	48	47	97

Municipal Court Judges	715	37	29	29	39
County Court Judges	359	21	11	11	30
Supreme Court Judges	189	9	0	4	5
Court of Appeals	17	1	3	0	0
Administrative Judges	5	1	1	1	1
Family Masters	24	0	1	0	1
Senior Status/Spec. Judge	19	1	3	2	9
Youth Court Judge/Referee	52	6	4	8	6
Workers Compensation	15	0	1	1	0
Other	38	2	0	0	3
Total	<u>7440</u>	<u>270</u>	<u>254</u>	<u>253</u>	<u>395</u>

DISPOSITION OF COMPLAINTS RECEIVED BY COMMISSION

	<u>1980- 2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>
Matter of Appellate Review	2835	65	74	82	122
Unfounded /Without Merit	3372	185	164	143	164
Lack of Jurisdiction	80	0	0	0	2
Cautionary Letter	507	11	12	14	11
Dismissed	82	0	0	0	0
Memo of Understanding	87	0	2	0	1
Private Admonishment	167	3	0	4	0
Public Reprimand	42	2	0	0	0
Public & Fine	72	1	1	0	0
Public & Suspension	44	0	0	0	0
Public, Suspension & Fine	6	2	0	0	0
Judge Resigned/Retired	66	0	0	0	0
Inactive Status	41	0	0	0	0
Removed from Office	39	1	0	0	0
Pending at Supreme Court	0	0	1	4	0
Pending at Commission	0	0	0	6	95
Total	<u>7440</u>	<u>270</u>	<u>254</u>	<u>253</u>	<u>395</u>

DISCIPLINARY RECOMMENDATIONS

In 2014 the Commission received 395 complaints and dismissed 288 at the initial stage as shown above. In addition, the Commission is charged with educating and rehabilitating judges and in accordance with that mission issued 11 cautionary letters and entered into 1 memorandum of understanding. The Commission has 95 cases pending before the Commission all of which are either new complaints, complaints currently under investigation, or formal complaints awaiting hearings.

Also during 2014 the Commission filed three recommendations for discipline with the Mississippi Supreme Court. These cases are now matters of public record and are reported here without violating the constitutional requirement of confidentiality.

(1) *Sup Ct. No. 2014-JP-00005 (Inquiry Concerning a Judge No. 2013-082)*

The Commission recommended the interim suspension of a Chancellor due to irregularities in the handling of conservatorship funds. The Supreme Court ordered the interim suspension on February 18, 2014. The Commission recently recommended to the Court that the judge be removed from office and assessed all costs of the Commission proceedings following his conviction of attempting to corruptly influence a witness subpoenaed to appear before a Federal Grand Jury and attempting to impede the provision of documents by the witness to the Federal Grand Jury with the intent to influence the outcome of the proceeding in violation of Section 1512(c)(2), Title 18, United States Code.

(2) *Sup Ct. No. 2014-JP-01184 (Inquiry Concerning a Judge No. 2012-215)*

The Commission recommended that a Chancellor be publicly reprimanded and assessed costs. The judge incarcerated a litigant for contempt for non-payment of a judgment that was properly appealed to the Supreme Court with supersedeas bond.

(3) *Sup Ct. No. 2014-JP-01309 (Inquiries Concerning a Judge Nos. 2013-104/131/166)*

The Commission recommended that a Justice Court Judge be removed from office and assessed costs for the following:

- a) Lending the prestige of his office to advance the private interests of others;
- b) Denying a private attorney the right to represent their client;
- c) Keeping drug court participants in the drug court program for a period exceeding two years in violation of Mississippi Code Annotated §99-15-26(2)(a)(v);
- d) Abusing his power of contempt by incarcerating drug court participants for long periods of time without affording them due process;
- e) Accepting and enrolling participants from other court systems that did not have a drug court, in contravention of Mississippi Code Annotated §9-23-15. The judge continued this practice even after requesting and receiving an opinion from the Mississippi Attorney General's office that advised him such was not permitted.

DECISIONS RENDERED BY THE SUPREME COURT

- (1)** ***Miss. Comm'n on Judicial Performance v. Darby, 143 So.3d 564 (Miss. 2014)***
The Court ordered the removal of Judge Darby as well as a \$1,000.00 fine and assessed costs of the proceedings. The Court found that Judge Darby had exceeded her authority by ordering the incarceration of multiple individuals without first affording them due process and that the judge lacked the judicial temperament to serve in a judicial capacity.