

Supreme Court of Kentucky

2022-SC-0454-OA

JAMES T. JAMESON

PETITIONER

V.

IN SUPREME COURT

JUDICIAL CONDUCT COMMISSION

RESPONDENT

ORDER

By rule, SCR¹ 4.020, the Judicial Conduct Commission has authority to temporarily suspend a judge after notice and hearing. However, the Commission's vote for suspension requires the "affirmative vote of at least 4 members[.]" SCR 4.120. Following the Commission's 3-2 vote to temporarily suspend him, Circuit Judge James T. Jameson filed an original action for a writ of prohibition to set aside the Commission's Order of Temporary Suspension.² Because we agree that the standards for the issuance of such a writ have been met, we issue a writ of prohibition vacating the Commission's Order of Temporary Suspension.

¹ Kentucky Rules of Supreme Court.

² In addition to filing an original action for a writ of prohibition, Judge Jameson also filed an interlocutory appeal of the Commission's Order of Temporary Suspension. *Jameson v. Jud. Conduct Comm'n*, 2022-SC-0370-RR. By separate order entered October 28, 2022, we granted the Commission's motion to dismiss that appeal as improperly taken from an interlocutory order. See SCR 4.290(2) (providing for "notice of appeal of the Commission's final order[]").

I. Facts and Procedural Background.

Judge Jameson is a Circuit Court Judge for Kentucky's 42nd Judicial Circuit consisting of Calloway and Marshall counties. On June 13, 2022, the Commission initiated formal proceedings against Judge Jameson, including four charges alleging violations of the Kentucky Code of Judicial Conduct. SCR 4.300. Pending final adjudication of these charges, the Commission sought to temporarily suspend Judge Jameson from his duties pursuant to SCR 4.020(1)(a)(ii) and set a hearing for August 12, 2022. The Commission heard approximately eight hours of testimony and voted, 3-2, to suspend Jameson with pay pending final adjudication of the charges. The Commission entered its Order of Temporary Suspension on August 15.

Judge Jameson subsequently filed a CR³ 59.05 motion to vacate the temporary suspension order. The Commission denied the motion, treating it as a motion to reconsider under CR 54.02(1). Following the Commission's denial, Judge Jameson filed his petition for writ of prohibition requesting that the order of temporary suspension be vacated. By Order entered on October 28, we ordered this matter advanced, CR 76.22, and directed the Commission file a response to the writ petition "no later than Monday, October 31, 2022, at 10:00 a.m., Eastern Time."

³ Kentucky Rules of Civil Procedure.

II. Standard of Review.

Petitions for writ of prohibition proceed on one of two tracks, depending on whether the inferior tribunal is acting (i) outside its jurisdiction or (ii) erroneously within its jurisdiction. *Allstate Prop. & Cas. Ins. Co. v. Kleinfeld*, 568 S.W.3d 327, 332 (Ky. 2019) (citing *Commonwealth v. Peters*, 353 S.W.3d 592, 595 (Ky. 2011)). In this matter, the Commission clearly has jurisdiction, so Judge Jameson’s writ falls under the second category.

Within the second category, a tribunal acting erroneously within its jurisdiction, the petitioner must demonstrate two threshold requirements: “no adequate remedy by appeal or otherwise; and . . . great and irreparable harm.” *Peters*, 353 S.W.3d at 595 (citing *Hoskins v. Maricle*, 150 S.W.3d 1, 18 (Ky. 2004)). Additionally, we noted in *Kleinfeld* that

[u]nder the certain-special-cases exception, the writ can be granted ‘in the absence of a showing of specific great and irreparable injury . . . provided a substantial miscarriage of justice will result if the lower court is proceeding erroneously, *and* correction of the error is necessary and appropriate in the interest of orderly judicial administration.’

568 S.W.3d at 332 (quoting *Peters*, 353 S.W.3d at 595).

But the certain-special-cases exception still requires a showing of a lack of an adequate remedy by appeal when the alleged error is that the court is erroneously acting within its jurisdiction. *Indep. Ord. of Foresters v. Chauvin*, 175 S.W.3d 610, 617 (Ky. 2005) (citing *Bender v. Eaton*, 343 S.W.2d 799, 801 (Ky. 1961)). The issuance “of a writ is an extraordinary remedy that is disfavored by our jurisprudence. We are, therefore, ‘cautious and conservative

both in entertaining petitions for and in granting such relief.” *Caldwell v. Chauvin*, 464 S.W.3d 139, 144-45 (Ky. 2015) (quoting *Bender*, 343 S.W.2d at 800) (internal footnote omitted).

III. Analysis.

In this matter, SCR 4.120 clearly and unambiguously states that “the affirmative vote of at least 4 members shall be required for the suspension, removal or retirement of a judge for good cause.” *See, e.g., Gentry v. Judicial Conduct Comm’n*, 612 S.W.3d 832, 841 (Ky. 2020). Here, only three members of the Commission voted to temporarily suspend Jameson from his Office as Circuit Court Judge. Since the order of suspension was interlocutory in nature, and the damage wrought by the temporary suspension is ongoing and cannot be rectified on appeal, Judge Jameson does not have an adequate remedy outside of this writ petition. Judge Jameson satisfies the second prong of the certain-special-cases exception because a substantial miscarriage of justice would result without this Court’s intervention, and the error’s correction is necessary for the orderly administration of justice. The Commission has temporarily suspended a duly elected public official from his position without meeting the requisite vote required to take such action under our rules. Correcting this error is necessary for the orderly administration of justice in its plainest sense: it ensures that the Commission, an agency constitutionally created to administer justice regarding the judiciary in the

Commonwealth,⁴ follows the prescribed procedures to impose disciplinary action. Therefore, we grant Jameson's petition for writ of prohibition.

We reject the Commission's argument that somehow SCR 4.020 operates separately from SCR 4.120. If that were true, the Commission could operate and take action without a quorum, and, taken to an extreme, one member of the Commission could temporarily suspend a judge.

Finally, we are aware that the Commission held its final hearing with respect to the allegations against Judge Jameson from October 17-20, and that the Commission's findings of fact, conclusions of law and order are pending. In that regard, we express no opinion as to the allegations against Judge Jameson. This Order is merely to ensure that the Commission abides by our rules in the disciplinary process.

ORDER

The writ of prohibition is granted and the Judicial Conduct Commission's Order of Temporary Suspension, entered August 15, 2022, suspending Judge James Jameson from the performance of judicial duties and acting in his official capacity is hereby vacated and set aside.

Minton, C.J.; Conley, Hughes, Lambert, Keller, VanMeter, JJ., sitting.
All concur. Nickell, J., not sitting.

Entered: October 31, 2022.


CHIEF JUSTICE

⁴ Ky. Const. § 121