

**STATE OF VERMONT  
JUDICIAL CONDUCT BOARD**

FILED  
MAY 28, 2019  
STATE OF VERMONT  
JUDICIAL CONDUCT BOARD

In re: Hon. Roy C. Vance

Docket No.: 18.019

**FORMAL COMPLAINT**

This Formal Complaint is filed pursuant to Rule 7(4) of the Rules of Supreme Court for Disciplinary Control of Judges and arises out of the Complaint filed with the Judicial Conduct Board (“JCB”) on or about May 3, 2018 by Vermont Legal Aid and the Vermont chapter of the American Civil Liberties Union (“ACLU”). Based on the investigation of that Complaint, the JCB found probable cause that Judge Roy C. Vance has violated Canons 2(A), 3(B)(2), and 3(B)(8) of the Vermont Code of Judicial Conduct and directed the filing of a Formal Complaint.

**NOTICE**

**Judge Vance, represented by an attorney of his choice, had the right to file a written answer within twenty-one (21) days of service of this Complaint and to cross-examine witnesses and produce evidence on his behalf.**

Consistent with Mr. Vance’s cooperation with the JCB, he agrees that the JCB could satisfy its burden at a hearing and could make a finding adverse to him. Therefore, in the interest of Mr. Vance’s desire to fully and finally resolve the matter presently before the JCB, he has determined that he shall agree to the filing of the instant Complaint and the imposition of the discipline set forth herein.

Mr. Vance enters no further admission here, but to resolve this matter without further time, expense, and uncertainty, he has concluded that this agreement is acceptable and in the best interest of the parties. Accordingly, Mr. Vance waives his rights to file a written answer to the Complaint and to cross-examine witnesses and produce evidence on his behalf.

Mr. Vance's agreement to the filing of this Complaint is conditioned upon its acceptance by the JCB and the JCB's imposition of the discipline set forth herein. If the JCB rejects any part of this agreement, the entire agreement shall be considered void and of no further force or effect. Mr. Vance agrees that if the JCB does not accept this agreement in its current form, he shall not assert in any subsequent proceeding any claim of prejudice from any such prior consideration. If the JCB rejects any part of this agreement, none of its terms shall bind Respondent or constitute an admission of any of the facts of the alleged misconduct, it shall not be used against Mr. Vance in any way, and it shall be without prejudice to any future disciplinary proceeding and the JCB's final determination of any charge against Mr. Vance.

### **FACTS**

1. Roy C. Vance was the duly elected Assistant Judge for Caledonia County, Vermont from 1987 until January 31, 2019.
2. Beginning in 1992, Mr. Vance, in his capacity as Assistant Judge, began serving as an acting judge in the small claims court division of the Superior Court under 12 V.S.A. § 5540a (allowing Assistant Judges in certain counties to sit in small claims court).
3. On May 3, 2018, Vermont Legal Aid and the ACLU filed a letter of complaint with Chief Superior Court Judge Brian Grearson, who forwarded the letter to the JCB.
4. As summarized and supplemented in a July 13, 2018 letter, the salient allegations against Judge Vance may be set forth as follows:
  - a. He issued arrest warrants for judgment debtors without due process, financial disclosure hearings, or contempt hearings;
  - b. He set "purge amounts" on the arrest warrants without a finding of an individual's ability to pay; and
  - c. He continued financial disclosure hearings on a rolling, on-going basis even after sufficient evidence to demonstrate a judgment debtor's present inability to pay.

5. Under the Code of Judicial Conduct, an assistant judge must abide by all of the standards in Canons 2 and 3 (except Canon 3B(9)).

6. The allegations against Mr. Vance implicate the following Sections of the Vermont Code of Judicial Conduct:

a. Canon 2A:

A judge should respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

b. Canon 3B(2):

A judge should be faithful to the law and maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor or fear of criticism.

c. Canon 3B(8):

A judge shall dispose of all judicial matters promptly, efficiently and fairly.

**ALLEGATION 1: ISSUANCE OF ARREST WARRANTS FOR  
JUDGMENT DEBTORS WITHOUT DUE PROCESS, FINANCIAL  
DISCLOSURE HEARINGS, OR CONTEMPT HEARINGS**

7. As part of his small claims court practice, Mr. Vance issued arrest warrants without a contempt hearing or equivalent due process if a judgment debtor did not appear at a financial disclosure hearing.

8. Such a process deprives judgment debtors of due process and subjects them to arrest at the home or workplace without notice that such contempt was being sought or considered by the Court and without hearing or process to determine if the debtor was in contempt.

9. This practice violated 12 V.S.A. § 5537 and V.R.S.C.P. 7 and 8; and Article 40 of the Vermont Constitution.

10. This practice also violated Canons 2A and 3B(2).

**ALLEGATION 2: JUDGE VANCE SET "PURGE AMOUNTS" ON THE ARREST WARRANTS WITH A FINDING OF AN INDIVIDUAL'S ABILITY TO PAY**

11. In drafting the arrest warrants, Mr. Vance had a practice of establishing "bail" or a "purge amount" that usually represented some fraction of the amount due.
12. These "purge amounts" were regularly paid into the court clerk's office, who then forwarded these payments to the judgment creditor.
13. These purge amounts were assigned and often paid without a contempt hearing or financial disclosure hearing.
14. It is unclear whether the debtors were able to pay these purge amounts with non-exempt income.
15. This practice violated 12 V.S.A. §§ 3521 and 5537, V.R.S.C.P 7 and 8, and Article 40 of the Vermont Constitution.
16. This practice also violated Canons 2A and 3B(2).

**ALLEGATION 3: JUDGE VANCE CONTINUED FINANCIAL DISCLOSURE HEARINGS ON A ROLLING, ON-GOING BASIS DESPITE EVIDENCE THAT DEMONSTRATED A JUDGMENT DEBTOR'S PRESENT INABILITY TO PAY**

17. Mr. Vance regularly continued financial disclosure hearings for periods of several months to a year.
18. In at least one case, the continuances extended over the course of eight years.
19. The practice of regularly continuing financial disclosure hearings is inconsistent with V.R.S.C.P. 7, which puts a three-month limit on re-filing financial disclosures after a finding of no present ability to pay.
20. The continuing nature of the financial disclosure hearing subjected debtors to unreasonable on-going hearings, arrest warrants, and "purge amount" penalties for non-appearance.
21. This practice violated Canon 3B(8).

### **MITIGATING FACTS**

22. Mr. Vance has admitted to the gravamen of the three allegations and has from the beginning recognized the gravity of the allegations, admitted his mistakes, and expressed genuine remorse for any harm done.

23. Mr. Vance has not attempted to cover-up, lessen, or argue with the issues. He has cooperated fully in the investigation.

24. When Judge Grearson informed Mr. Vance of the allegations, Mr. Vance voluntarily removed himself from hearing any further Small Claims Court cases.

25. Judge Grearson stated that he did not make this recommendation to Mr. Vance, but that Mr. Vance offered it and insisted upon it.

26. There is no evidence that Judge Vance knew he was acting improperly.

27. Both Legal Aid and the ACLU admit that there was a good chance that Mr. Vance was simply unaware that his procedures did not comply with Vermont law and constitutional process.

28. The evidence indicates that there was a breakdown in oversight of the Small Claims Court in Caledonia County, and a systemic failure to communicate. On three occasions, litigants challenged the judge's civil arrest warrants by appealing to the Superior Court, Civil Division. In each instance, the Civil Division vacated or quashed the warrant. However, Mr. Vance never received formal or informal notice of the appellate decisions and remained unaware that the court had found due process violations.

29. There was no formal mechanism in place to inform Mr. Vance of the reversals or dismissals that the Superior Court issued against his arrest warrants when they were appealed.

30. Mr. Vance's actions were facilitated by a Sheriff and court staff through miscommunication or lack of communication taking Mr. Vance's directives more literally than he intended, conducting arrests and collecting purge payments in lieu of financial disclosures.<sup>1</sup>

31. Mr. Vance voluntarily and without promise of any resolution submitted his notice of resignation as Assistant Judge to the Governor, which became effective January 31, 2019.

**Based on the foregoing, Mr. Vance consents to the JCB:**

- a. Issuing a public reprimand to Mr. Vance for violating Canons 2A, 3B(2), and 3B(8) of the Code of Judicial Conduct;
- b. Acknowledging that Mr. Vance voluntarily submitted his notice of resignation as Assistant Judge to the Governor, which became effective January 31, 2019; and
- c. Ordering that Mr. Vance shall not seek, accept, or hold judicial office again in the State of Vermont.

DATED: May 28<sup>th</sup>, 2019

DATED: May 28<sup>th</sup>, 2019

**ROY C. VANCE**

**JUDICIAL CONDUCT BOARD**

By: 

By: 

Christopher D. Ekman, Esq.  
Heilmann, Ekman, Cooley & Gagnon,  
P.O. Box 216  
231 So. Union Street  
Burlington, Vermont 05402-0216055  
**Attorneys for Respondent,  
Roy C. Vance**

Daniel P. Richardson, Esq.  
Tarrant, Gillies & Richardson  
PO Box 1440  
44 East State Street  
Montpelier, Vermont 05601-1440  
**Special Counsel to the  
Judicial Conduct Board**

<sup>1</sup> While some of this rests on Mr. Vance, Special Counsel concluded as part of his investigation that this is also part of a larger system that needs consideration for reform and greater oversight. The small claims court system is a patchwork of acting judges that include assistant judges, lawyers serving on a volunteer basis with widely different commitment rates, probate judges, hearing officers, and superior court judges. There is no centralized oversight of these judges and administration often falls to court staff at the various county courts.