

IN THE SUPREME COURT FOR THE STATE OF ALASKA

In re **ANGELA M. GREENE,**)
)
Judge of the Superior Court,)
Second Judicial District at)
Utqiagvik, Alaska,)

Supreme Court No. _____
Alaska Commission on Judicial Conduct
Accusation No. 2017-008

FINDINGS AND RECOMMENDATION

Introduction

The Alaska Commission on Judicial Conduct filed a complaint against Superior Court Judge Angela M. Greene concerning her physical ability to serve as a judge. At the formal hearing, the Commission considered written independent medical evaluative reports ordered by the Commission. Judge Greene was represented by counsel at the hearing. The Commission's executive director presented the written materials. After considering the medical reports and the statement of counsel, the Commission agreed on a vote of _____ that there is clear and convincing evidence that Judge Greene suffers from a disability that seriously

interferes with the performance of judicial duties and that is or may become permanent under AS 22.30.011.

Findings of Fact

- (1) On May 1, 2017 Chief Justice Stowers wrote to the Commission requesting that the Commission initiate proceedings that would lead to her medical retirement. The request was based on medical ailments Judge Greene suffered that resulted in medical administrative leave in mid-October 2016 and continued through the date of the request for medical retirement.
- (2) Since the judge's treating physician determined at the time that Judge Greene may be able to return to her position following a course of treatment, the Commission concluded that probable cause did not exist to find that Judge Greene suffered from a disability that is or may become permanent.
- (3) Judge Greene returned to judicial service on July 8, 2017 after receiving the prescribed course of treatment and continued with ongoing treatment.

(4) On December 11, 2017 Judge Greene was a pedestrian struck by a vehicle. The record is unclear as to the effect of this accident on her already compromised health.

(5) In early January 2018 it became apparent that Judge Greene was continuing to suffer from a disability that seriously interferes with the performance of her judicial duties and she was relieved of her duties by Chief Justice Stowers on January 9, 2018.

(6) The Commission considered Chief Justice Stowers request and a letter by Judge Greene's treating physician dated February 19, 2018 at its regular meeting on March 9, 2018 and set a probable cause meeting for Tuesday, March 13, 2018.

(7) At its March 13, 2018 teleconferenced meeting, the Commission found probable cause based on Chief Justice Stowers' letter to the Commission dated January 22, 2018, related materials, the letter from Judge Greene's treating physician dated February 19, 2018, additional medical records provided by the treating physician who authored the February 19th letter, and an additional letter and medical records provided by Judge Greene's treating neurologist dated

March 8, 2018. A formal hearing to determine medical disability was set for Friday, April 27th, 2018 at 1:00 p.m. by teleconference. Subsequently, the hearing was rescheduled for May 18, 2018.

(8) The attached questions and position description were provided to Judge Greene's treating physicians with a request for answers in the form of affidavit on March 28, 2018. The affidavits by the treating physicians were deemed inconclusive by Commission staff. Medical records were then subpoenaed on May 1, 2018.

(9) On receipt of the requested medical records, on June 18, 2018, Commission staff forwarded the records along with the treating physicians' affidavits to Managed Medical Review Organization for an independent evaluation. Final peer review reports from independent physicians in two specialty areas were received in response on July 9, 2018.

(10) A formal hearing was held on July 13, 2018 to consider this matter and the recommendation by Executive Director Marla Greenstein that Judge Greene be found to have a physical disability as defined under the statute based on the peer review report of Dr. PC. While the peer review

report of Dr. JJ did not find objective data to find disability in that specialty area, Dr. PC found that Judge Greene could not perform the requirements of the position due to physical disability in that specialty area.

(11) The hearing was continued to August 17, 2018 to allow for additional questions to be presented to Dr. PC. Those questions were answered in the form of an Addendum to the initial peer review and was dated August 3, 2018.

Recommendation

AS 22.30.011 (a)(2) requires this Commission to inquire into an allegation that a judge suffers from a disability that seriously interferes with the performance of judicial duties and that is or may become permanent. AS 22.30.070 (c) provides on recommendation of the commission the supreme court may (1) retire a judge for disability that seriously interferes with the performance of duties and that is or may become permanent.

Because the Commission has no independent expertise to evaluate disability under the statute, the Commission requested an independent medical evaluation in addition to testimony from the judge's treating physicians. While one of the specialists did not find any reason for

ACJC #2017-008 Findings and Recommendation Page 5 of 6

disability within their field, the other specialist's report supports the recommendation of disability retirement. Due to the confidential nature of personal medical information, those medical evaluations are provided to the court as confidential documents.

Dated this _____ day of August, 2018.

Amy Gurton Mead

Chairperson

Alaska Commission on Judicial Conduct