

Deal calls for Resnick reprimand

BY JIM PROVANCE
BLADE COLUMBUS BUREAU

COLUMBUS Ohio Supreme Court Justice Alice Robie Resnick has agreed to a public reprimand for a judicial conduct violation following her drunken-driving arrest in a deal worked out with a special investigator who said he is convinced she is contrite

Justice Resnick, the only Democrat holding statewide office, admitted in a filing Monday in the Dayton-based 2nd District Court of Appeals that she violated the Code of Judicial Conduct when she drove her state vehicle while intoxicated on Jan. 31.

The formal complaint was filed with the 2nd District, on which Ohio Court of Appeals Chief Justice Mike Fain sits. He said yesterday no decisions have been made as to how the case will proceed.

I sent the other 12 members of the panel a copy of everything with cover letter, he said. I indicated I would be contacting them sometime next week to try to figure out what to do next.

If the recommendation for a reprimand is accepted, an extremely rare 13-judge panel of appeals court judges could sit in the place of the Supreme Court and issue the reprimand. It is unlikely Justice Resnick would personally appear.

The panel has the option of rejecting the recommendation and holding a hearing.

Dayton attorney Jeffrey McQuiston, appointed special investigator by Judge Fain, talked with Justice Resnick once by phone but never met with her. In addition to interviewing police and reviewing police videos of events leading up to Justice Resnick's arrest, he worked with her Toledo attorney, David Zoll, and a man Mr. Zoll characterized as an adviser, former U.S. District Court Judge Richard McQuade.

The only reason I would meet with her personally would be so I could be satisfied that she is contrite, said Mr. McQuiston. Based on the whole host of things that have transpired, I am satisfied.

Justice Resnick was on the bench yesterday in Columbus and did not return calls.

On Monday, during a swearing-in ceremony for new attorneys, she offered this advice: We must remember that we are human, and from time to time we will make a mistake. The best advice I can give you is to own up to it immediately. Do not try to avoid your responsibility for any misdeeds.

Although she never mentioned her own legal problems, Mr. Zoll said that was what she was referring to.

I've been very impressed with Justice Resnick and her courage to handle this difficult matter, he said. I think we're really fortunate to have someone of her caliber and character on the bench. Someone who admits to a mistake and moves ahead.

The investigation was triggered by a complaint filed by self-proclaimed court watchdog David Palmer, formerly of

Maumee and now of Sacramento. He said he does not believe a reprimand is sufficient.

She was driving a state-owned vehicle, obviously tanked to the gills, he said. Worst of all, she tried to use her position as justice to persuade the patrolmen to give her a free pass. It s clearly egregious misconduct.

Justice Resnick recorded an unofficial 0.261 percent blood alcohol level on a field Breathalyzer test, the results of which are not admissible in court. (The legal limit in Ohio is 0.08 percent.) She later refused to take the official test at the police station.

She pleaded guilty a week later to driving under the influence, participated in a three-day alcohol intervention program in lieu of jail time, paid a \$500 fine, and lost her operating privileges for six months.

Justice Resnick of Ottawa Hills admits to violating Canon 2 of the Code of Judicial Conduct, which requires judges to respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

State Highway Patrol and Bowling Green police first approached Justice Resnick s vehicle while she was parked at a gas station off I-75 after police received several cell-phone reports of a vehicle moving erratically. She refused to take a field sobriety test and drove off. She was pulled over a few minutes later on I-75 near Cygnet.

Judge Peter Sikora of Cuyahoga County Common Pleas Court has expressed interest in seeking the Democratic nomination for Justice Resnick s seat should she not seek re-election. Mr. Zoll said the justice will make her decision after the first of the year.

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