

**IN THE SUPREME COURT
OF THE
STATE OF INDIANA**

IN THE MATTER OF)
)
J. DIRK CARNAHAN)
Attorney No. 15715-42)

DISCIPLINARY COMPLAINT

The Indiana Supreme Court Disciplinary Commission, having found reasonable cause to believe the Respondent's acts, if proved, would warrant disciplinary action, by its Executive Director, G. Michael Witte, pursuant to Indiana Admission and Discipline Rule 23, Section 12, files and presents this verified Disciplinary Complaint ("the Complaint") against J. Dirk Carnahan. The Complaint is as follows:

1. J. Dirk Carnahan ("Respondent") is an active attorney in good standing, who was admitted to practice law in the State of Indiana on June 7, 1991, subjecting him to the Court's disciplinary jurisdiction.

2. Upon being admitted to practice law in the State of Indiana in 1991, the Respondent took and subscribed to the following oath or affirmation:

I do solemnly swear or affirm that: I will support the Constitution of the United States and the Constitution of the State of Indiana; I will maintain the respect due to courts of justice and judicial officers; I will not counsel or maintain any action, proceeding, or defense which shall appear to me to be unjust, but this obligation shall not prevent me from defending a person charged with crime in any case; I will employ for the purpose of maintaining the causes confided to me, such means that are only consistent with truth, and never seek to mislead the court or jury by any artifice or false statement of fact or law; I will maintain the confidence and preserve inviolate the secrets of my client at every peril to myself; I will abstain from offensive personality and advance no fact prejudicial to the honor or

reputation of a party or witness, unless required by the justice of the cause with which I am charged; I will not encourage either the commencement or the continuation of any action or proceeding from any motive of passion or interest; I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed; so help me God.

3. At all times relevant to this proceeding, Respondent practiced law in Knox County, Indiana.

4. Since 2015, the Respondent has served as the Prosecuting Attorney for the 12th Circuit located within Vincennes, Knox County, Indiana.

FACTS

5. On or about March 28, 2018, the Respondent's Chief Deputy Prosecutor was Joseph Burton ("Burton").

6. On or about March 28, 2018, Burton advised the Respondent that an inmate incarcerated at the Indiana Department of Correction ("IDOC"), Natalie Fields ("Fields"), had informed Burton that Fields had been interviewed by a member of the Vincennes Police Department ("VPD").

7. The Respondent was told by Burton that the interview had been conducted by Detective Stacy Reese ("Reese") of the VPD.

8. Reese is the Special Victims Investigator for the VPD.

9. Burton told the Respondent that the interview had taken place at the VPD in December of 2017 while Fields had a pending criminal matter in Greene County, Indiana.

10. Prior to Reese's interview with Fields in December of 2017, Reese had been told in passing, by members of the Indiana State Police ("ISP"), that Fields was having a sexual relationship with "your prosecutor".

11. At the time of the interview, Reese did not know which prosecutor from Knox County the members of the ISP were referencing.

12. During the interview, Reese inquired whether either Burton or the Respondent had engaged in a sexual relationship with Fields.

13. Reese also inquired whether either Burton or the Respondent had attempted to trade consideration of leniency in her criminal matters over the years for sexual contact.

14. Fields confirmed to Reese that she had in fact been involved in an on-and-off sexual relationship with Burton over a twenty (20) year period.

15. Fields told Reese that any sexual contact that she had with Burton was when she was not involved in a criminal matter, that all sexual contact was consensual, and that Burton was never assigned as a deputy prosecutor to any of her cases.

16. Fields also told Reese that she and the Respondent had never been involved in any relationship as she had never met the Respondent at any time.

17. At the conclusion of the interview, Reese alluded to Fields that it probably would not be a good idea to tell Burton about the interview.

18. Shortly after being advised by Burton about the December 2017 interview, the Respondent called Reese directly to ask her about whether she was investigating the Respondent by interviewing Fields.

19. Reese told the Respondent that she had not interviewed Fields.

20. On or about March 28, 2018, after speaking with Reese, the Respondent called the Vincennes Chief of Police, Dusty Luking (“Luking”).

21. The Respondent informed Luking that Reese had questioned someone about

whether he and Burton had traded sex for consideration in criminal matters.

22. The Respondent advised Luking that he did not believe that an investigation such as this was appropriate for the VPD and that someone from the VPD should have come to the Respondent directly.

23. On March 29, 2018, the Respondent again called Luking and told Luking that the Respondent intended to file a civil action against Reese for slander.

24. The Respondent also advised Luking that he was performing research to determine whether criminal charges could be filed against Reese.

25. The Respondent informed Luking that the Respondent was in the process of obtaining statements from witnesses.

26. Luking advised the Respondent that VPD policy required that the Respondent submit formal complaints against VPD officers in writing to the Merit Commission.

27. Luking emailed the Respondent a packet in order for the Respondent to submit a formal written complaint.

28. Burton and Fields continued to communicate on March 28th and March 29th through IDOC recorded telephone calls.

29. Burton advised Fields that Carnahan wanted Fields to create a written statement regarding the December, 2017 interview with Reese.

30. The Respondent has admitted that, on or about April 5, 2018, the Respondent received a letter from Fields dated March 30, 2018.

31. On April 5, 2018, the Respondent filed an Employee Misconduct Complaint/Allegation Form ("Complaint") with the Vincennes Police Department Merit

Commission.

32. The Complaint alleged that Reese had made slanderous statements about the Respondent to Fields, that Reese had threatened Fields if she told Burton, Reese's "unauthorized fishing expedition was done for personal reasons", and that Reese's interview of Fields was an abuse of police authority.

33. The Complaint alleged that Reese's threat to Fields "made to conceal the other misconduct is potentially criminal."

34. Burton retired from the Knox County Prosecutor's Office effective on or about April 21, 2018.

35. Following the Complaint being filed, Luking and Detective Lt. Josh Burke ("Burke"), investigated the complaint for the Merit Commission.

36. Luking and Burke travelled to the Madison Correctional Facility in Madison, Indiana to interview Fields on May 7, 2018.

37. Fields informed Burton about the May 7th interview through an IDOC recorded telephone call.

38. Burton instructed Fields to write another letter to the Respondent.

39. On May 3, 2018, the Respondent sent an email to Luking indicating that he knew that Luking had spoken to witnesses of the investigation and inquired when the investigation would be completed.

40. The Respondent also advised Luking in the May 3rd letter that if the Merit Commission took no action against Reese, then he would take action to clear his name and that working with Reese would be difficult at best.

41. The Respondent closed the letter by stating the following:

I want to be perfectly clear that this is serious to me. You and I each suffer from gossip and unwarranted talk about our personal lives due to our positions. Some of that just comes with the territory. When someone in a professional position uses that position to advance a personal agenda and spread hateful gossip and slander it is different. Each time Ms. Reese has repeated this nonsense to another officer or citizen of this county then it impacts my reputation, the lives of my family and my ability to successfully prosecute criminals. You surely understand that this isn't something that I can just let slide.

Dirk

42. Luking advised the Respondent that the Merit Commission was meeting on May 15, 2018 and that the board would give their disposition at the meeting.

43. The Respondent has admitted that he received another letter on or about May 11, 2018 from Fields dated on April 8, 2018.

44. On May 15, 2018, the VPD Merit Commission met to review the Respondent's Complaint.

45. Luking gave a recommendation that the "Commission exonerate Detective Reese and find the complaint unfounded."

46. The Merit Commission concurred with the recommendation and the Complaint was dismissed as unfounded.

47. On May 16, 2018, at 2:55 p.m., Luking advised the Respondent about the Merit Commission's decision by sending an email to the Respondent.

48. Luking attached a copy of the investigative summary for the Complaint to the email.

49. On May 16, 2018, at 5:02 p.m., the Respondent sent an email to Luking that

started as the following:

Chief Luking,

I have heard rumors that you have molested a child. I have no complainant nor any indication that the rumors are true. However, I intend to launch a full-scale investigation. I intend to question your family and friends and repeatedly comment that you are the subject of an official investigation for child molestation. The press may pick up on this and certainly the people you work with every day will hear it. I doubt they will ever again be able to look at you the same way. You will hear whispers among the people you work with. You will wonder how the news of the investigation will affect your children and your family.

50. The second paragraph of the Respondent's email to Luking continued as follows:

Obviously, I would never do such a thing. For a few seconds, you may have felt some of what I feel every day. My complaint has been that Ms. Reese, with Burke's blessing did even worse than this. They instituted a formal investigation for something that isn't criminal and for which no complainant had come forward. In the course of this investigation of something that wasn't criminal and was based solely on "rumors" they repeated to other officers, to the witness they interviewed and others that "there are rumors that Dirk has traded sex" with criminal defendants. If that had happened to you, you would be furious. Your perspective would be entirely different had you been the target of such a thing.

51. The May 16, 2018 email from the Respondent to Luking concluded by stating the following:

I like you. I always have, but it is clear from your response that your opinion of me is much different than mine of you. I hope that you never have to endure the humiliation or embarrassment, that continues every day, that I now endure because your officers decided to investigate a non-criminal act, with no complaining witness, based on rumors that they had helped to create and spread.

"Prosecutor Carnahan"

52. The Respondent has admitted that he sent the May 16, 2018 email to Luking.

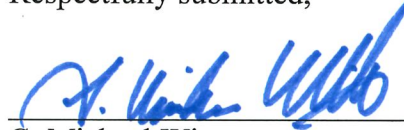
Disciplinary Charges

53. Based on the foregoing, the Respondent has exhibited an offensive personality in violation of the Oath of Attorneys. The Respondent failed to uphold the Oath of Attorneys and violated Rule 22 of the *Indiana Rules for Admission to the Bar and Discipline of Attorneys*.

54. Based on the foregoing, the Respondent engaged in conduct that is prejudicial to the administration of justice. The Respondent violated Rule 8.4(d) of the *Indiana Rules of Professional Conduct*.

WHEREFORE the Executive Director prays that J. Dirk Carnahan be disciplined as warranted for professional misconduct, and that the Respondent be ordered by the Court to pay such expenses to the Clerk of the Court as shall be prepared and submitted to the Court by the Executive Director as an itemized statement of expenses allocable to this case incurred in the course of investigation, hearing and review procedures, pursuant to Indiana Admission and Discipline Rule 23, Section 21.

Respectfully submitted,



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STATE OF INDIANA)
)
COUNTY OF MARION) SS:

G. Michael Witte, being duly sworn upon his oath, deposes and says that he is the Executive Director of the Disciplinary Commission of the Supreme Court of Indiana appointed pursuant to Ind. Admis. Disc. R. 23(8)(a); that he makes this affidavit as Executive Director of the Disciplinary Commission, and that the facts set forth in the above and foregoing Disciplinary Complaint are true as he is informed and believes.

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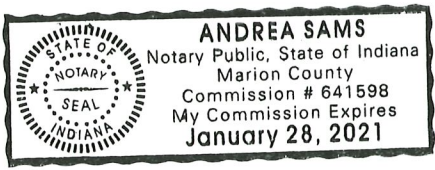
G. Michael Witte

Subscribed and sworn to before me, a Notary Public, in and for said County and State,

this 20th day of May, 2019.

[Handwritten signature]

Andrea Sams
Commission #
My Commission expires January 28, 2021
County: Marion



CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Disciplinary Complaint was deposited in the United States Mail, certified, return receipt number 7017 2620 0000 1621 8667, postage prepaid, on this 20th day of May, 2019, addressed to the following:

J. Dirk Carnahan
c/o Margaret Christensen
Bingham Greenbaum & Doll
2700 Market Tower, 10 West Market Street
Indianapolis, IN 46204



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