

FILE NO. A15-1996

STATE OF MINNESOTA

IN SUPREME COURT

**FILED**

December 14, 2015

**OFFICE OF  
APPELLATE COURTS**

-----  
In Re Petition for Disciplinary Action  
against ALAN F. PENDLETON,  
a Minnesota Attorney,  
Registration No. 0121538.  
-----

**PETITION FOR  
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

The Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this petition upon the parties' agreement pursuant to Rules 10(a) and 12(a), Rules on Lawyers Professional Responsibility. The Director alleges:

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on October 24, 1980. Respondent is not currently engaged in the practice of law in Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

**FIRST COUNT**

1. Respondent was appointed to serve as a district court judge in the Tenth Judicial District in 1999. He was elected to that position in 2002 and re-elected in 2008 and 2014.

2. Article VI, Section 4, of the Minnesota Constitution provides, in pertinent part, "Each judge of the district court in any district shall be a resident of that district at the time of his selection and during his continuance in office."

3. On May 22, 2014, respondent completed and filed with the Office of the Minnesota Secretary of State a document entitled Affidavit of Candidacy. In that document, respondent falsely stated his residence address was at a townhouse that he did not then live in and, in fact, had sold in November 2013 and had not lived in since the sale. In fact, at the time of the filing with the Secretary of State, respondent did not reside in the Tenth Judicial District. Respondent did not reside in the Tenth Judicial District from January 15, 2014, through June 2, 2014.

4. On October 14, 2015, the Minnesota Supreme Court held that respondent's conduct in failing to reside in the district in which he held judicial office violated Rules 1.1, 1.2, and 2.1 of the Code of Judicial Conduct. The Court further held that by making a knowingly false statement about his residence address on his affidavit of candidacy respondent violated Rules 1.2 and 4.1(A)(9) of the Code of Judicial Conduct. The Court ordered respondent removed from office as a district court judge.

5. Respondent's conduct in failing to maintain residency in the Tenth Judicial District as required by the Minnesota Constitution and in making a knowingly false statement in the Affidavit of Candidacy filed with the Secretary of State violated Rule 8.4(c) and (d), Minnesota Rules of Professional Conduct (MRPC).

#### SECOND COUNT

6. On October 25, 2015, after removal from judicial office, respondent made the following statements in a post to his judicial training & education blog:

ON A PERSONAL NOTE: As i'm [sic] sure many of you have heard, due to a recent Minnesota Supreme Court decision, after 16 wonderful years on the District Court Bench I must now take an early retirement four years earlier than I had planned.

and

Former Judge Alan F. Pendleton retired from the District Court Bench on October 14, 2015.

7. Respondent's statement in his blog that he had "retired" from the district court bench, as opposed to having been removed from the bench by court order, was misleading.

8. Respondent's conduct in making a misleading statement about the circumstances surrounding his removal from the bench violated Rules 7.1 and 8.4(c), MRPC.

WHEREFORE, the Director respectfully prays for an order of this Court imposing appropriate discipline, awarding costs and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: Nov. 24, 2015.

  
\_\_\_\_\_  
MARTIN A. COLE  
DIRECTOR OF THE OFFICE OF LAWYERS  
PROFESSIONAL RESPONSIBILITY  
Attorney No. 0148416  
1500 Landmark Towers  
345 St. Peter Street  
St. Paul, MN 55102-1218  
(651) 296-3952

and

  
\_\_\_\_\_  
PATRICK R. BURNS  
FIRST ASSISTANT DIRECTOR  
Attorney No. 0134004