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Top judges call for McFalls' suspension

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By Timothy McNulty, Post-Gazette Staff Writer

In an unprecedented move, top Allegheny County court officials have asked the state Supreme Court to suspend Civil Division Judge H. Patrick McFalls Jr., saying he failed to comply with repeated orders to meet with them and discuss his planned return to the bench.

In a six-page emergency petition received by the court's prothonotary in Pittsburgh yesterday, Common Pleas President Judge Robert A. Kelly and Joseph M. James, administrative judge for the Civil Division, cited McFalls' "repeated dereliction" and asked the court to suspend him pending an explanation of his conduct.



Civil Division Judge H. Patrick McFalls Jr. (Martha Rial, Post-Gazette)

According to a spokesman for the Administrative Office of Pennsylvania Courts in Harrisburg, it was the first time an Allegheny County president judge had asked the Supreme Court, which oversees judicial discipline, to suspend one of his judges.

According to court documents, McFalls was evaluated by a court-appointed psychologist Dec. 7, two days after two former staffers sued him in federal court, claiming he fired them after they informed superiors that McFalls was repeatedly drunk on the job. A third ex-staff member filed a similar suit Dec. 11.

Kelly and James, with the support of the state administrative office, placed McFalls on paid leave, predated to Nov. 8.

Allegheny County Common Pleas judges are paid \$121,611 a year. The "interim



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suspension" requested by Kelly and James did not specify whether it would be with or without pay.

Based on the results of the psychological evaluation -- which has been sealed from public view -- McFalls requested a return to full-time judicial duties. Kelly and James asked to meet with McFalls to discuss ground rules for his return, including plans to monitor his conduct.

But McFalls missed five scheduled meetings in January and early February, once having his lawyers phone Kelly to say he was stuck in the Miami airport because he had no photo identification and wasn't allowed to board a plane.

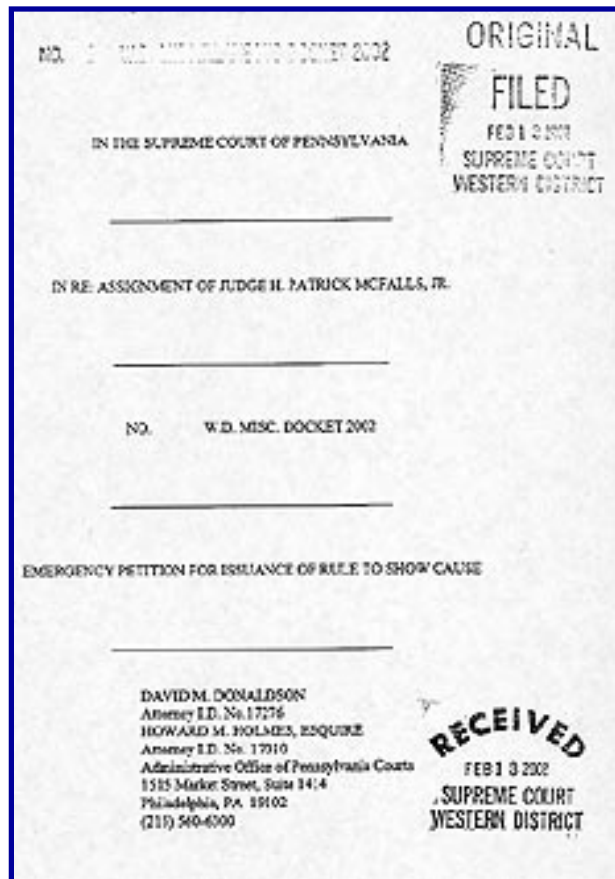
The petition said the "continued failure" of McFalls to meet with his two superiors "has had a continuing detrimental effect" on the functioning of the court.

His behavior is also a "dereliction of his judicial duties, either from a willful refusal to perform his judicial duties or, in the alternative, because of a physical or mental impairment effectively incapacitating Judge McFalls," the petition says.

McFalls' lawyer, Robert O Lampl, declined comment on the petition.

There was no indication yesterday how the Supreme Court would handle the suspension request, though it does have an administrative session scheduled for tomorrow in Philadelphia.

In federal lawsuits filed in December, McFalls' three fired staff members -- James and Barbara Joseph, his law clerk and legal secretary, and tipstaff John Jakomas -- charged that McFalls was frequently drunk while on the bench, missed work due to alcohol abuse and illegally fired them Nov. 13 after they reported his behavior to Judge James.



To view a 1.8Mb .pdf file of the six-page petition concerning Judge McFalls, optimized for Web display, [click here](#). Downloading this pdf file using a 28.8 baud modem, for example, could take as long as 4 minutes. You must have Adobe Acrobat Reader, available as a free download from [Adobe](#).

McFalls, 58, of Shadyside, has denied the allegations. A former worker in the county controller's office and a failed candidate for City Council and city controller, McFalls won election to the court in 1985, taking office the following January and winning a second 10-year term in a retention election in November 1995.

The suspension petition, with 90-plus pages of backup documents, was filed this week by two lawyers from the Philadelphia office of the court's administrative office. It was first filed in Philadelphia Tuesday.

According to the petition, Lampl told administrative office lawyers McFalls planned to return full-time to the bench Jan. 14 but would schedule a meeting with his superiors first. He did not show. On Jan. 16 Lampl called again, with McFalls teleconferenced in, saying the judge would return Jan. 18.

But on Jan. 17, McFalls left Kelly a message saying he would return instead the following Monday, Jan. 21. That was Martin Luther King Jr. Day, when courts were closed.

Kelly then scheduled a mandatory meeting with McFalls for Jan. 31, which McFalls did not attend. Instead, Lampl left a message saying McFalls could not come because he was stuck in Miami.

Another mandatory meeting was scheduled for Feb. 4 and McFalls again did not show. Instead, he went the next day to Kelly's chambers, and then to a court calendar office, where he picked up files and asked for approval from the court's administrator to hire a new tipstaff and law clerk.

Due to McFalls' "repeated dereliction" and refusal to explain himself, the petition concluded, Kelly and James are asking the court to issue an order for interim suspension of the judge and "for such other or further relief as is just and proper."

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