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Judge's outburst rankles others

Colleague says he may report short fuse to superiors

November 11, 2004

BY DAVID ASHENFELTER
 FREE PRESS STAFF WRITER

The chief judge of U.S. District Court in Detroit threatened to report Judge Avern Cohn to superiors for chewing out the U.S. marshal for ordering party-goers to leave Cohn's courtroom during a fire alarm last month.

"We owe a duty to the lawyers who appear before us and the public to ensure that we act at the highest level of civility and professionalism," Chief Judge Bernard Friedman wrote in a two-page letter to judges on Nov. 1. "For years, I have been aware of the problems in these areas with our colleague, Avern Cohn. I am confident that many of you are aware as well, but collectively we have always looked the other way.

"The time has come for us to confront this issue directly," Friedman wrote, saying informal efforts to persuade Cohn to tone down his boisterous behavior had been unsuccessful. Friedman told his colleagues that he was planning to refer to the matter to the U.S. 6th Circuit Court of Appeals in Cincinnati, although people familiar with the case said he has since relented.

Friedman wouldn't comment on the letter Wednesday.

Cohn, 80, a highly respected judge who is known for his short temper, wouldn't go into detail.

"I see no useful purpose in discussing the matter other than to say that I acted inappropriately," Cohn said Wednesday. "I deeply regret this. I have apologized to the affected parties and it is my understanding the matter is now a closed book."

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Witnesses said the incident happened after 200 to 250 well-wishers gathered in Cohn's courtroom Oct. 22 where lawyers, prosecutors and friends planned to roast Cohn to commemorate his 25 years on the bench. Minutes into the program, a steam pipe burst on the sixth floor, causing a fire alarm to drown out the festivities.

Moments later, federal marshals ordered party-goers to evacuate the courthouse.

Cohn ordered his staff to make some inquiries. After discovering that there was no fire, Cohn asked marshals to relent. When they refused, he demanded to speak to their boss.

By the time U.S. Marshal Robert Grubbs appeared, most of the guests had left. Cohn demanded to know why Grubbs had forced the evacuation of his courtroom when there was no fire. Cohn wanted Grubbs to exercise some discretion, witnesses said.

When Grubbs insisted that he had to follow procedures, Cohn became irate, witnesses said.

Friedman said in the letter that Cohn shouted obscenities at Grubbs, poked him in the chest and loudly accused him of incompetence. Some witnesses, who spoke on condition of anonymity fearing retribution from the judges, disputed that, but agreed that Cohn overreacted.

Eventually, they said, the guests were allowed back in the building and the celebration continued, with lawyers and others in the jury box roasting Cohn for his legendary outbursts.

Three days later, Grubbs sent a letter to Friedman.

"I have never in my over 25 years of law enforcement been subject to the public tirade of abuse from a public official that I received from Judge Cohn," Grubbs wrote. "I was told that I was incompetent, that I did not deserve to be the U.S. marshal and was even shoved.

"There is no excuse for this type of behavior to be tolerated in a professional work environment let alone by a federal judge in a federal courthouse," Grubbs wrote. He would not comment Wednesday. Grubbs' letter prompted Friedman to write to other judges that he was going report Cohn to superiors.

In the letter, Friedman said many lawyers had complained to him over the years about verbal abuse from Cohn. He said Cohn has engaged in similar behavior toward court staff and lashed out at Judge John O'Meara during a recent judges meeting.

When Friedman told Cohn he should apologize to O'Meara and that he planned as chief judge to enforce the court's rules for civility and professional conduct, he said Cohn replied: "Oh yeah, what are you going to do?"

Cohn is one of the brightest, most respected members of the federal bench, according to lawyers who practice there. They said his only flaw

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is his short temper, which causes him to browbeat lawyers in court.

Over the years, Cohn has handled several high-profile cases, including a recent lawsuit that landfill operators filed against the state of Michigan to prevent it from enforcing a new state law to limit the type of out-of-state trash that could be dumped in Michigan. He refused to grant a preliminary injunction to block the law.

He also presided over this year's trial that resulted in the acquittal of eight Detroit police officers who were accused of planting evidence, filing false reports and lying in court to rid the streets of southwest Detroit of drug dealers, pimps and prostitutes.

Lawyers complained repeatedly during that trial that Cohn interfered with their case and berated them in court.

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