

2019 IL App (1st) 170967-U
No. 1-17-0967
March 29, 2019

FIRST DIVISION

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

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|----------------------|---|-------------------------------|
| ROGER SHEKAR, |) | Appeal from the Circuit Court |
| |) | Of Cook County. |
| Plaintiff-Appellant, |) | |
| |) | No. 17 OP 30106 |
| v. |) | |
| |) | The Honorable |
| BHAVASH DOSHI, |) | Samuel Betar, |
| |) | Judge Presiding. |
| Defendant-Appellee. |) | |

JUSTICE WALKER delivered the judgment of the court.
Presiding Justice Mikva and Justice Griffin in the judgment.

ORDER

¶ 1 *Held:* When a person files in the circuit court a document accusing a judge of corruption, a different judge must provide notice and hold an evidentiary hearing on the accusations to determine whether the filer committed direct criminal contempt of court. The circuit court has authority to issue an attachment order directing the Sheriff to take a witness into custody to ensure the witness's appearance in court, but the court shall not jail the witness without bail if the witness agrees to sign a recognizance. Where alleged contemptuous acts occur in the constructive presence of the judge, and extrinsic evidence is needed, the judge shall provide the contemnor with notice of the basis for the criminal contempt charge, an opportunity to be heard, and the right to counsel.

¶ 2 The circuit court found that Roger Shekar committed direct criminal contempt of court when he filed in the circuit court a document that accused a judge of corruption. In this appeal from the contempt order, we hold that the circuit court abused its discretion in failing to release Shekar from jail on recognizance and the court failed to give Shekar sufficient notice of the contempt proceedings. We vacate the contempt order and remand for proceedings in accord with this order.

¶ 3 BACKGROUND

¶ 4 On February 10, 2017, Bhavesh Doshi filed a "Petition for Stalking No Contact Order," (No Contact Order) alleging that Shekar had threatened Doshi and Doshi's family. The circuit court docketed the No Contact Order as case number 17 OP 30106. Judge Joel Greenblatt entered an order dated February 10, 2017, prohibiting Shekar from coming within 60 feet of Doshi's home and from having any contact with Doshi's family for 18 days. Judge Greenblatt subsequently extended the No Contact Order to March 13, 2017. Although Shekar had not accepted service of process in the case, he filed a notice of appeal from the No Contact Order on February 21, 2017. This court later dismissed the appeal for want of prosecution, and the merits of the emergency order have no bearing on this appeal.

¶ 5 On February 28, 2017, Judge Samuel Betar entered an order further extending the No Contact Order to March 28, 2017, and he scheduled a hearing on the petition for that date. Also on February 28, 2017, Shekar filed a document that led to the appeal now before this court. The caption of the document shows:

"IN THE SUPREME COURT OF ILLINOIS
SPRINGFIELD[*sic*], ILLINOIS."

"Roger Shekar, Petitioner, v. Joel Greenblatt, Respondent," and Shekar filed the document as part of the case of as a part of "Lower court Case no. 17 OP 30106," which is the file number for the case of Doshi v. Shekar, the case now before this court. The file stamp indicates the document was filed in the Circuit Court of Cook County. Shekar claimed in his notice of filing that he filed the document with the Illinois Supreme Court, but no file stamp supports that claim.

¶ 6 Shekar titled the document, "SUUPLEMENT [sic] TO THE PETITION [sic] TO THE DIRECT PETITION UNDER III. S. Ct. R. 302, S.R. 302 (a) (c) , S.R.383 and for Sanctions and Referral to Illinois General Assembly for Impeachment and Removal of Judge Greenblatt." Like the circuit court, we will refer to the document as the "Supplement."

¶ 7 The Cook County Sheriff's Office unsuccessfully attempted to serve a summons and the complaint in Doshi v. Shekar on Shekar on March 1 and March 4, 2017.

¶ 8 On March 16, 2017, Judge Betar entered an order *sua sponte*, stating:

"In the Supplement, [Shekar] makes serious allegations of misconduct by a member of this Court.

It is the Court's intention to fully investigate those charges and conduct a hearing to determine the facts and veracity of the allegations."

¶ 9 Judge Betar ordered Doshi and Shekar to appear in court on March 28, 2017. In a separate order entered on March 16, Judge Betar stated:

"The Cook County Sheriff's Office has advised the Court that Respondent is evading service of process and is refusing to open the door to his residence so a

deputy sheriff may serve him with the Complaint and Summons [in Doshi v. Shekar]. ***

IT IS HEREBY ORDER[E]D that the Sheriff of Cook County may, in the event Respondent is visibly present in his residence and refuses to open the front door of his residence to accept service, serve Respondent by posting on the front door the Alias Summons, Petition for No Stalking No Contact Order, this Order, and the *** Order entered on February 28, 2017."

¶ 10 The Sheriff's Office reported that subsequent attempts at service, including service of the order dated March 16, 2017 which directed Shekar to appear in court, were met with the same response. The deputy who attempted to serve Shekar on March 19, 2017 said he saw Shekar looking out the window of his home, and Shekar did not answer the door. The deputy left a copy of the summons and other papers posted on Shekar's door.

¶ 11 In response to the March 16, 2017 order directing him to appear before Judge Betar, Shekar filed an "Emergency Motion to Recuse Judge Betar" on March 24, 2017. Shekar failed to appear in court on March 28, 2017. On March 28, Judge Betar entered the following order:

"ATTACHMENT ORDER NO BAIL

This matter coming for hearing on this date pursuant to the Order of this Court entered on MARCH 16 , 2017 For the Respondent, to appear before the Court ***; he/she having failed to appear; and the Court being fully informed;

IT IS ORDERED as follows:

*** That the Sheriff of Cook County, State of Illinois, is directed to take and bring the person of the Respondent *** Shekar before this Court immediately *** to answer to the Order entered and to respond to the matter of relief set forth in the Order."

¶ 12 Shekar filed a motion to vacate the March 28, 2017 Attachment Order on April 5, 2017. Pursuant to the Attachment Order, police arrested Shekar on Friday, April 7, 2017.

¶ 13 When Shekar was brought to court on Monday, April 10, 2017, Judge Betar read into the record an order that Judge Betar prepared prior to the court appearance. The order stated:

"This matter coming on to be heard on the matter of direct criminal contempt against Respondent, *** SHEKAR, Contemnor, and Contemnor appearing in open court, and the Court being fully advised in the premises, finds the following:

10. On February 28, 2017, Contemnor filed with the Clerk of this Circuit Court a Notice of Filing, directed to Judge Greenblatt, and a 'Supplement[.]' ***

11. Contemnor's Supplement is replete with false, malignant, and scurrilous allegations against Judge Greenblatt.

12. Those allegations are:

Preamble 'Remove a judicial crook named Joel Greenblatt Form (sic) the bench.'

*** 'Petitioner had complained to the Judicial Inquiry Board as to a flagrant, reckless abuse by his crook Greenblatt'

*** 'to disbar Greenblatt even as an attorney for unethical, vicious and judicial malpractice actions.'

*** 'This supplemental petition is mandated due to continued abuse, harassment and threats by this Judicial crook and must be stopped immediately before this judicial maniac indulge in more criminal acts ***.'

*** 'On February 10, 2017 This (sic) criminal crook Greenblatt, entered a frivolous order...'

*** 'In order to intimidate, harass this Petitioner, Doshi as pro se had apparently filed a frivolous, merit less (sic) and illegal under any statutes of Illinois "NO Contact" statutes, a baseless petition with "no substance" and walked into this crook Greenblatt court room and got "one just like that for asking". These are the type of judicial crooks unfit to wear a black robe of justice sent to Federal Jail in late 80s.'

*** 'It is quite clear that this felon Bhavesh Doshi under criminal investigation paid monies to Greenblatt to "buy" a frivolous no contact order of protection...'

*** 'The unconstitutional frivolous and reckless Emergency Order entered by this crook Greenblatt...'

*** 'An FBI investigation also initiated against this judicial criminal crook for corruption, obstruction of justice in an ongoing Felony Investigation...'

*** 'The "bs" No contact order, a judicial abuse by this coward using his undeserved "black robe" to indulge in vindictive, retaliatory, venomous, vicious act of offering "shelter" to Bhavesh Doshi of his crimes and to protect Doshi from criminal prosecution, is a criminal act by Greenblatt and he should be immediately removed, terminated his judgeship in "public interest". Greenblatt is a threat to the public safety who encourage criminals like Doshi to "escape scratch free".'

*** 'As narrated in the original petition, when this petitioner was waiting almost a whole day for this sadist crook made to call a case (unrelated to this matter) in May 2016, Petitioner had an opportunity to watch how this "judicial crook and crazy maniac" let felons — who beat up their wives, abuse children, indulged in severe criminal assault and domestic violence — all these felons got away with a "slap in the wrist" wit (sic) a simple supervision or probation by this judicial imbecile. So it is not a surprise this "crazy crook Greenblatt" entered an *ex parte* "Order of Protection" for a felon Bhavesh Doshi, and especially when Greenblatt who knows Mr. Shekar, (this petitioner in Supreme court so well) and is fresh in his memory by the recent filings in Supreme court to impeach Greenblatt.'

*** 'It will not be a surprise if this "judicial maniacal crook" Greenblatt even took this Felon Bhavesh Doshi for a dinner treat as a gratitude as Doshi offered

him an opportunity to take vengeance on Mr. Shekar for Mr. Shekar's petition seeking impeachment of Greenblatt, and by granting this felon Doshi a laughable, amusing, illegal and unconstitutional order of protection.'

*** 'Removal of Judge Greenblatt from the judiciary branch and the bench for severe constitutional violations, judicial abuses violations of every Judicial Canons of Ethics prescribed by this highest court as Judicial conduct. Greenblatt is threat to the public safety and one who gives shelter, protection to criminals; and should be impeached and removed as public interest.'

*** 'Petitioner has not been served any Emergency order granted by this Judicial criminal crook Greenblatt on felon Doshi petition.'

*** 'However this crook might further abuse his authority and this coward taking shelter under "black robe" might even enter an ex[]parte Plenary order, though no service effected on the initial order or no summons served.'

*** 'While attempting to file an Order of Protection against Doshi, Mr. Shekar discovered the ex parte OP Emergency Order entered by this crook Greenblatt.'

*** 'This crook and old fart Joel Greenblatt had violated every Judicial canons of Ethics and must be impeached and removed for perjury of oath of office.'

*** WHEREFORE 'Referral is made to Illinois General Assembly to impeach and remove Joel Greenblatt for the judicial abuses, judicial tyranny, judicial misconduct...'

13. THE COURT FINDS THAT:

14. The conduct of the Contemnor, which occurred in the Office of the Clerk of the Circuit Court, a place set apart for the use of a constituent part of this court and an integral part of the court, impeded and interrupted this court's proceedings, lessened the dignity of the court, and tended to bring the administration of justice into disrepute. See, *D'Agostino v. Lynch*, 382 Ill. App. 3d 960 (2008), and *People ex rel. Kunce v. Hogan*, 67 Ill. 2d 55 (1977)."

¶ 14 After Judge Betar read this part of the order, Shekar's counsel asked the court to set a date for sentencing so that counsel would have time to prepare. The court denied the request and proceeded directly to the prepared sentence. The written order concludes:

"IT IS THEREFORE ORDERED AND ADJUDGED that the Contemnor, *** SHEKAR, is, by reason of his willful and contemptuous conduct, hereby adjudicated to be in direct criminal contempt of court ***.

IT IS FURTHER ORDERED AND ADJUDGED that, as a sanction for said contempt, *** SHEKAR is hereby sentenced to a period of 179 days in the County Jail."

¶ 15 Shekar appeals from the contempt order.

¶ 16 ANALYSIS

¶ 17 Supreme Court Rule 304(b)(5) gives this court jurisdiction to review the circuit court's order. Ill. S. Ct. R. 304(b)(5) (eff. March 8, 2016). Doshi and the State filed no appellee's brief. We consider the appeal without the aid of an appellee's brief. See *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133 (1976).

¶ 18 Shekar raises 14 separate issues on appeal. He offers no citations in support of several arguments, and no citations related to the principal points of law asserted in several other arguments. We will not address the issues for which Shekar provides no citations to pertinent authority. See *Glassman v. St. Joseph Hospital*, 259 Ill. App. 3d 730, 742 (1994).

¶ 19 Shekar claims that Judge Betar violated the constitutional principle of the separation of powers (see Ill. Const. 1970, art. II § 1) by entering orders in a case initially assigned to Judge Greenblatt. The separation of powers doctrine ensures that the judiciary exercises judicial power rather than legislative or executive power. *City of Waukegan v. Pollution Control Board*, 57 Ill. 2d 170, 173-74 (1974). The reassignment of a case from one judge to another does not involve the exercise of executive or legislative functions. Therefore, this case does not create a separation of powers issue.

¶ 20 Next, Shekar contends Judge Betar lacked jurisdiction to enter the direct criminal contempt order because the circuit court lost jurisdiction over the case on February 21, 2017, when Shekar filed his notice of appeal from the No Contact Order. "The filing of a notice of appeal from an interlocutory injunction does not deprive the trial court of all jurisdiction over a case. [Citation.] The notice of appeal only restrains the trial court from changing or modifying the injunction order, or from taking any other action which would interfere with appellate review of that order." *In re Parentage of Melton*, 321 Ill. App. 3d 823, 827 (2001). Judge Betar's contempt order did not affect appellate review of the No Contact Order. The February 21, 2017 notice of appeal did not deprive the circuit court of jurisdiction to determine whether Shekar committed criminal contempt of court.

¶ 21 Shekar also contends Judge Betar should have granted his "Motion to Recuse," or held a hearing on it. In his motion, Shekar cited section 2-1001(a)(2) of the Code of Civil Procedure, which applies only "before the judge to whom it is presented has ruled on any substantial issue in the case." 735 ILCS 5/2-1001(a)(2)(ii) (West 2016). By the time Shekar filed his motion, Judge Betar had already ruled that the court would investigate Shekar's allegations about Judge Greenblatt, that Shekar must appear in court to testify concerning the allegations, and that Shekar had violated a court order by failing to appear. The order concerning necessary witnesses qualifies as a substantive ruling. *In re Marriage of Petersen*, 319 Ill. App. 3d 325, 339 (2001). Moreover, even if the judge has made no substantive ruling, the judge may properly deny a motion for substitution of judge if the movant had an opportunity to form an opinion as to the judge's reaction to his claims. *In re D.M.*, 395 Ill. App. 3d 972, 976-77 (2009); *Petersen*, 319 Ill. App. 3d at 338. The record is clear that Shekar formed an opinion as to Judge Betar's reaction to his claims before he filed the "Motion to Recuse." Because Shekar did not state viable grounds for a motion for substitution of judge under section 2-1001(a)(2), there was no basis for granting the motion or holding a hearing. See *In re Estate of Hoellen*, 367 Ill. App. 3d 240, 248 (2006). We note that Shekar forfeited any claim under section 2-1001(a)(3) (735 ILCS 5/2-1001(a)(3) (West 2016)), concerning motions for substitution of judge for cause, as Shekar made no such claim in the circuit court. See *Lemke v. Kenilworth Insurance Co.*, 109 Ill. 2d 350, 355 (1985).

¶ 22 Shekar next contends that Judge Betar lacked authority to enter the attachment order dated March 28, 2017. "Attachments are awarded against witnesses on the ground that they are in contempt of the authority of the court in failing to appear when legally summoned."

Calloway v. Todd, 10 Ky. Op. 184 (1879); see *State v. Reed*, 853 S.W.2d 452, 454 (Mo. Ct. App. 1993); *State v. Mills*, 104 So. 2d 428, 430 (La. 1958). "A motion *** for issuance of attachment to compel the presence of a witness in a civil action is addressed to the sound discretion of the trial judge." *Schneider v. Seibutis*, 3 Ill. App. 3d 323, 325–26 (1972). Judge Betar had authority to issue an attachment to compel Shekar to testify in court.

¶ 23 Shekar argues that Judge Betar had a duty to hold a bail hearing before jailing Shekar. The appellant in *People v. Johns*, 2016 IL App (1st) 160480, raised a similar argument. In *Johns*, the defendant witnessed a murder and the State filed charges based on the defendant's statements to police. The State asked for a continuance when it could not find the defendant for the initial date set for trial. Police later arrested the defendant on unrelated charges and asked the court to hold the defendant without bail so that the defendant would testify in the murder trial. The trial court granted the request. The defendant appealed from the no-bail order. The *Johns* court found:

"The authority for a court's jurisdiction to impose conditions on material witnesses in criminal cases is found in section 109–3(d) of the Code of Criminal Procedure of 1963 (Code), which provides:

'[T]he judge may require any material witness for the State or defendant to enter into a written undertaking to appear at the trial, and may provide for the forfeiture of a sum certain in the event the witness does not appear at the trial. Any witness who refuses to execute a recognizance may be committed by the judge to the custody of the sheriff until trial or further order of the court having jurisdiction of the cause. Any witness who executes a recognizance and fails to

comply with its terms shall, in addition to any forfeiture provided in the recognizance, be subject to the penalty provided in Section 32–10 of the Criminal Code of 2012 [(720 ILCS 5/32–10 (West 2014))] for violation of bail bond.' 725 ILCS 5/109–3(d) (West 2014).

The plain language of this provision requires that a witness first be given the opportunity to sign a written undertaking to appear for hearing or trial. Further, section 109–3(d) allows the court, in addition to requiring the witness to execute a written undertaking, to provide for the forfeiture of a sum certain if the witness fails to appear. Finally, the statute authorizes a court to commit a material witness to the custody of the sheriff *only* after the witness has refused to agree in writing to appear at trial. The statute does not authorize a court to bypass the process of inquiring whether the witness is willing to sign a written undertaking and, if so, what (if any) bond should be required.

*** Because section 109–3(d) specifies only one circumstance that will authorize a court to take custody of an individual who has not been charged with a crime—the refusal to agree in writing to appear at trial—there is no authority to read into the statute additional circumstances that would warrant such a serious infringement on a witness's freedom." (Emphasis in original.) *People v. Johns*, 2016 IL App (1st) 160480, ¶¶ 12-14.

¶ 24 The case *sub judice*, unlike the murder prosecution in *Johns*, started as a civil case. However, the case took on some characteristics of a criminal case when Judge Betar decided

to consider sanctions for criminal contempt. Though section 109-3(d) of the Code of Criminal Procedure applies to criminal cases, we find section 109-3(d) and *Johns*, to be instructive in this case. After notice to Shekar, Judge Betar issued an Attachment Order directing the Sheriff to take Shekar into custody as a witness. Judge Betar did not allow the posting of bond, as Judge Betar titled the order, "Attachment Order No Bail." Shekar was held in the county jail from Friday April 7 to Monday April 10, 2017. Shekar appeared in court on April 10, 2017 and was held until April 20, 2017, when this court ordered his release pending appeal.

¶ 25 Judge Betar erred by failing to allow Shekar to execute a recognizance. Even in a criminal case, the trial court is required to allow a witness to execute a recognizance pursuant to section 109-3(d). The "Attachment Order No Bail" was superseded by the contempt order. However, the "Attachment Order No Bail" was improper.

¶ 26 Shekar raises several arguments for reversal of the contempt order as matters of due process. "A summary proceeding to punish for direct contempt, properly used within the discretion of the court, is not a violation of the constitutional guarantee of due process." *People v. Loughran*, 2 Ill. 2d 258, 262 (1954). Our supreme court discussed the requirements for direct criminal contempt proceedings in *People v. Javaras*, 51 Ill. 2d 296 (1972), where the court said:

"The procedural requirements for judicial punishment for criminal contempt of court depend upon whether the contempt is 'direct' or 'indirect.' Previous decisions of this court have recognized two types of direct criminal contempts — those which are personally observed by the judge and those which are not

personally seen by the judge but take place in an integral or constituent part of the court and are thereby deemed to have occurred in the constructive 'presence of the court.' (*People v. Skar*, 30 Ill. 2d 491 (1964); [citations].) As a general rule, a direct criminal contempt (involving punishment of less than six months imprisonment) which is personally seen by the judge may be summarily punished without the necessity of a hearing or other procedural formalities. A direct criminal contempt which occurs in the constructive 'presence of the court' may call for the hearing of extrinsic evidence ([citations]), although, again, the proceeding may be essentially summary in nature. If, however, such evidence is necessary to establish the contempt, notice and hearing are required." *Id.* at 299-300.

¶ 27 A contemnor may commit direct criminal contempt "consisting of contemptuous acts not personally observed by a judge, but which take place in an integral or constituent part of the court. These acts are thus deemed to have occurred within the constructive presence of the court. [Citation.] Matters such as *** the filing of contemptuous documents in court *** fall within this subcategory of direct contempt." *In re Marriage of Betts*, 200 Ill. App. 3d 26, 48 (1990).

¶ 28 This case involves a direct criminal contempt committed by filing an allegedly contemptuous document with the court, and therefore in the constructive presence of the court. Because the trial court needed to consider extrinsic evidence to determine whether Shekar committed direct criminal contempt, the court should have proceeded with procedural formalities including notice and a statement of charges in a rule to show cause.

¶ 29 Judge Betar found Shekar guilty of criminal contempt because he filed the Supplement, identifying Judge Greenblatt as "a judicial crook" guilty of "flagrant, reckless abuse" and "unethical, vicious and judicial malpractice." Shekar called Judge Greenblatt a "judicial maniac" who subjected Shekar "to continued abuse, harassment and threats," and who granted Doshi a "frivolous" No Contact Order " Shekar also alleged that Doshi "paid monies to Greenblatt to 'buy' a frivolous No Contact Order of Protection." Shekar concluded the Supplement with the following allegations against Judge Greenblatt, "this sadist crook[,] *** let felons — who beat up their wives, abuse children, indulged in severe criminal assault and domestic violence — all these felons got away with a 'slap in the wrist' wit (sic) a simple supervision or probation by this judicial imbecile."

¶ 30 Judge Betar cited in the contempt order the case of *D'Agostino v. Lynch*, 382 Ill. App. 3d 960 (2008). In *D'Agostino*, the circuit court found a litigant in contempt because the litigant accused a judge of corruption. The *D'Agostino* court noted first that the law offers significant protections to persons who accuse judges of corruption:

"The public interest in the integrity and competence of the judicial process requires that courts and judges not be shielded from 'wholesome exposure.' *People v. Goss*, 10 Ill. 2d 533, 544 (1957). To that end, the United States Supreme Court has declared that freedom of speech and freedom of the press should not be impaired through the exercise of a court's contempt power unless there is 'no doubt that the utterances in question are a serious and imminent threat to the administration of justice.' *People v. Hathaway*, 27 Ill. 2d 615, 618 (1963), quoting *Craig v. Harney*, 331 U.S. 367, 373 (1947). Thus, 'the first

amendment forbids the punishment by contempt for comment on pending cases in the absence of a showing that the utterances created a "clear and present danger" to the administration of justice.' *Hathaway*, 27 Ill. 2d at 618. We further note that although the so-called 'clear and present danger' test was developed in cases dealing with out-of-court conduct by the press, it applies equally to cases dealing with in-court conduct by individuals. [Citation.]

Although no Illinois cases have considered whether motions or comments made in court accusing judges of being corrupt would constitute a 'clear and present danger' to the administration of justice, the Indiana Court of Appeals has considered this specific issue in *Skolnick v. State*, 388 N.E.2d 1156 (Ind. App. 1979). Therein, Skolnick, an attorney, was called to testify as a witness and during his testimony, he accused the trial judge of being corrupt and to have breached judicial ethics. *Skolnick*, 388 N.E.2d at 1161-62. Skolnick further stated that he was the head of a citizens group that had been investigating corrupt judges for years and accused the judge of questioning him in order to discredit him in his efforts to 'clean up the court.' *Skolnick*, 388 N.E.2d at 1161-62. In discussing the 'clear and present danger' test, the Indiana Court of Appeals observed that '[s]o long as critics [of court] confine their criticism to facts and base them upon the decisions of the court, they commit no contempt no matter how severe the criticism may be; but when they pass beyond that line and charge that judicial conduct was influenced by improper, corrupt, or selfish motives, or

that such conduct was affected by political prejudice or interest, the tendency is to poison the foundation of justice and create distrust, and destroy the confidence of the people in their courts.' *Skolnick*, 388 N.E.2d at 1166, quoting *Ray v. State*, 114 N.E. 866, 869 (Ind. 1917). The court went on to hold that the first amendment cannot be invoked to shield those who make accusations of judicial corruption from contempt charges because such conduct crosses the boundary between protected judicial criticism and conduct posing a serious and imminent threat to the administration of justice. *Skolnick*, 388 N.E.2d at 1166.

We find this rationale to be particularly true where, as here, the accusations against the judiciary are unsubstantiated and have been found to be false." *D'Agostino*, 382 Ill. App. 3d at 971-72.

¶ 31 The record includes no showing that the Judicial Inquiry Board investigated the allegations against Judge Greenblatt and found them to be false. Judge Betar did not assert that he "relied solely upon facts within his own personal knowledge in summarily finding contempt in this case." See *People v. Minor*, 281 Ill. App. 3d 568, 574 (1996). The record does not show how Judge Betar would know whether Judge Greenblatt harassed and threatened Shekar, or how Judge Betar would know whether Doshi "paid monies" to Judge Greenblatt for the No Contact Order.

¶ 32 The allegedly contemptuous act occurred in the constructive presence of the judge, when Shekar filed the Supplement in the circuit court. The court needed to consider extrinsic evidence to determine whether Shekar in the Supplement made false assertions of Judge

Greenblatt's corruption. Because Judge Betar needed to consider extrinsic evidence, "notice and hearing [were] required." *Javaras*, 51 Ill. 2d at 299-300.

¶ 33 Judge Betar ordered the "staff of the office of the Presiding Judge *** to mail copies of this Order [dated March 16, 2017] to the parties." That order notified Shekar that Judge Betar would "conduct a hearing to determine the facts and veracity of the allegations" Shekar made in the Supplement. However, the order did not notify Shekar that Judge Betar would impose contempt sanctions if Shekar did not adequately support the assertions made in the Supplement. Judge Betar did not enter a rule to show cause. See *People v. Howarth*, 415 Ill. 499, 509 (1953). We find that Judge Betar did not provide adequate notice to Shekar of the impending contempt proceedings, and Judge Betar did not give Shekar a sufficient opportunity to respond to the contempt allegations.

¶ 34 In accord with the principles stated in *D'Agostino*, we vacate the criminal contempt order and remand for the court to provide Shekar with notice of the basis for the criminal contempt charge and the time for a hearing, with the hearing set to give Shekar sufficient time to assemble and present to the court evidence in support of the assertions he made in the Supplement and any defense he may have. The court should impose contempt sanctions only if it finds that the Supplement "created a 'clear and present danger' to the administration of justice." *Hathaway*, 27 Ill. 2d at 618.

¶ 35 CONCLUSION

¶ 36 The proceedings in the circuit court did not accord with section 109-3(d) of the Code of Criminal Procedure because Judge Betar ordered the Sheriff to hold Shekar in custody without bond, when Judge Betar did not first ask Shekar to execute a recognizance. The

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court also failed to provide Shekar with sufficient notice that he faced sanctions for criminal contempt if he did not present evidence substantiating the allegations of his Supplement. We vacate the circuit court's judgment and remand this case to the Chief Judge of the Circuit Court of Cook County with instructions that it be transferred to a judge who has not been previously assigned.

¶ 37 Contempt order vacated; remanded with instructions.