

FILED

JUN 05 1985

JUDICIAL QUALIFICATIONS
COMMISSION

BEFORE THE JUDICIAL QUALIFICATIONS COMMISSION

STATE OF WASHINGTON

In The Matter of the Complaint Against:)	
)	
FRED R. STAPLES,)	NO. 84-320-F-7
)	
Superior Court Judge for Benton-)	DECISION
Franklin Counties)	

A fact-finding hearing was held pursuant to Judicial Qualifications Commission rules (JQCR) as ordered by the Judicial Qualifications Commission on April 12, 1985. The Complaint was personally served on the Honorable Fred R. Staples (Respondent) on March 4, 1985. Notice of Presentation of Evidence and Argument was mailed to Respondent on March 13, 1985 and a Stipulation was entered into between Respondent and Milburn D. Kight, attorney for the Judicial Qualifications Commission, on March 18, 1985 as approved by William W. Baker, chairperson.

Members of the Judicial Qualifications Commission present as fact-finders were: William W. Baker, Chairperson; Nancy Burnett, Honorable Frank D. Howard, Thomas D. Loftus, Honorable Ray E. Munson, Ann Sandstrom and Honorable W. Laurence Wilson.

Respondent was present in person and not represented by counsel. The Judicial Qualifications Commission was represented by counsel, Milburn D. Kight.

The Commission, having heard and considered the testimony of Respondent and having reviewed the records and files herein and having considered the arguments of Respondent and Counsel, finds by clear, cogent and convincing evidence the following:

FINDINGS OF FACT

I.

Respondent is now and at all times mentioned herein was a Judge of the Superior Court for Benton-Franklin Counties, Washington.

II.

On August 30, 1984, after receipt of a written Complaint, the Commission wrote a letter to Respondent advising him of alleged violations of the Code of Judicial Conduct through his activities with an organization called Citizens for Cost Effective County Government which were alleged to be political. Respondent replied to those allegations by letter dated September 24, 1984 in which Respondent denied his efforts to remove the county seat of Benton County from Prosser to Kennewick were violative of any ethical consideration.

III.

On November 19, 1984, Respondent was sent a letter from the Commission informing him the Commission was proceeding with a preliminary investigation upon filing of a verified statement in accordance with Commission Rule 5(d). A statement of allegations was also enclosed. Respondent had previously

been sent a copy of Commission Rules and Rule 6 was noted to Respondent.

IV.

Respondent replied to the Commission letter of November 1, 1984 by letter dated November 26, 1984. Respondent admitted the facts set forth in the statement of allegations except as explained in that letter and denied Respondent violated Canon 7 or any other Canon of Judicial Conduct.

V.

Respondent, a Judge and candidate for reelection to judicial office, assumed a leadership position in attempting to move the Benton County seat from Prosser to Kennewick. Respondent made speeches in support of the county seat movement.

VI.

The organization formed to finance the drive to move the county seat of Benton County from Prosser to Kennewick was known as Citizens for Cost Effective County Government and was a political organization.

VII.

Benton County had previously established the Benton County Justice Center in Kennewick. The Washington Supreme Court has authorized the conduct of court sessions at said facility. Thus, removal of the county seat to Kennewick to authorize court sessions was not a measure to improve the law, the legal system or the administration of justice.

VIII.

Respondent, as a leader of said political organization, was well-intentioned, sincere and intended for the benefit of Benton County.

Based upon the foregoing Findings of Fact, the Commission makes the following:

CONCLUSIONS

I.

Respondent's activities were on behalf of a political organization whose purpose was to effect a move of the county seat of Benton County from Prosser to Kennewick and therefore was not devoted to the improvement of the law, the legal system or the administration of justice.

II.

Respondent's conduct constituted a violation of the Code of Judicial Conduct, Canon 7(A)(1)(a) and (b) and was not excused under Canon 7(A)(4).

Canon 7

(A) Political Conduct in General.

(1) A judge or a candidate for election to judicial office should not:

(a) act as a leader or hold any office in a political organization;

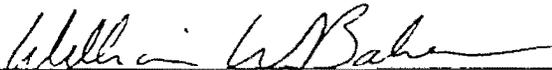
(b) make speeches for a political organization or candidate or publicly endorse a nonjudicial candidate for public office.

(4) A judge should not engage in any other political activity except on behalf of measures to improve the law, the legal system, or the administration of justice.

DECISION

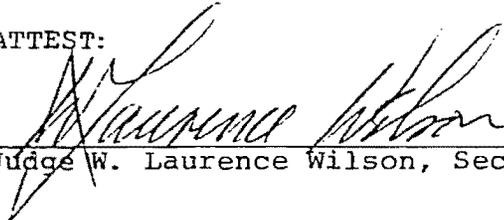
Based on the foregoing Findings of Fact and Conclusions, the Judicial Qualifications Commission hereby determines that Respondent shall be offered the opportunity to resolve the complaint against him as stated above by acknowledging his violations of Canon 7(A)(1)(a) and (b) and by consenting to a private admonition from the Commission. It is further determined that should Respondent consent to such letter of admonition within 14 days of notice to him of the proposed resolution of this matter, no further proceedings shall be held in this matter.

Dated this 5th day of June 1985.



William W. Baker, Chairperson

ATTEST:



Judge W. Laurence Wilson, Secretary

Concurring in part, Dissenting in part - I concur in the Findings, Conclusions and the Decision, except in that the offered admonition would not be made public.

The overriding objective of the Canons of Judicial Conduct, as clearly stated in Canon 1, is preserving the independence, honor and integrity of the judiciary. The first duty of the Commission must be the same. Sanctions are a means to that

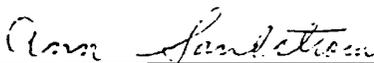
end, not an end in themselves.

The Commission found that the Respondent was well-intentioned, sincere and intended for the benefit of Benton County. I would hope that those admirable qualities could be marshalled for one further step: To alert other judges and the public to the abuse and divisiveness which leadership by a judge in political controversy invites, to the detriment of the judiciary.

The controversy had high visibility throughout the campaign. The absence of a public resolution at this time leaves the clear impression that (1) the public can expect to lighten its political responsibilities by seeking to enlist judicial prestige as an ally, (2) future judicial candidates have broad latitude in interpreting Canon 7, and (3) four fellow judges were needlessly circumspect in their public statement on the issue.

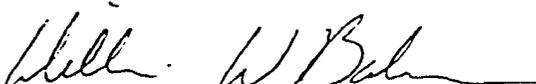
For these reasons, I believe the Commission should have offered a public admonition.

Dated this 20th day of May, 1985.



Ann Sandstrom

I concur in Ann Sandstrom's opinion.



William W. Baker

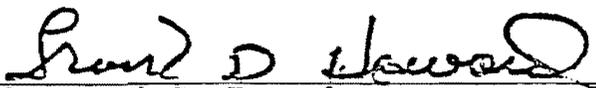
Dissenting - On this record it can legitimately be argued that moving the county seat would improve the administration

of justice by accomplishing substantial monetary and time savings to the governmental bodies of the county and to the litigants.

A judge, under the Code of Judicial Conduct, Canon 7(A) (4), can assume a leadership position in a political organization, where the accomplishment of its purpose would result in an improvement of the administration of justice.

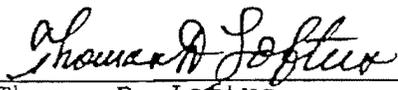
The petition has failed to establish by clear, cogent and convincing evidence a violation of the Code of Judicial Conduct.

Dated this 24 day of May, 1985.

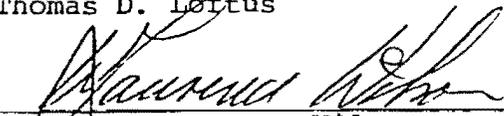


Judge Frank D. Howard

We concur in Judge Howard's opinion.



Thomas D. Loftus



Judge W. Laurence Wilson