

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**FILED**

JUN 13 1989

COMMISSION ON  
JUDICIAL CONDUCT

BEFORE THE COMMISSION OF JUDICIAL CONDUCT  
OF THE STATE OF WASHINGTON

IN RE THE MATTER OF ) NO. 88-689-F-13  
HONORABLE ROBERT E. MILLER, SR. )  
JUDGE ) STATEMENT OF CHARGES  
WAITSBURG MUNICIPAL COURT )  
\_\_\_\_\_ )

Pursuant to authority granted in Revised Code of Washington, Chapter 2.64 (Commission on Judicial Conduct) and the Commission of Judicial Conduct Rule (CJCR), and at the order of the Commission on Judicial Conduct, this Formal Complaint alleging the violation by HON. ROBERT E. MILLER, SR., of rules of judicial conduct is filed. The background and facts of the complaint are set forth in the following paragraphs:

**BACKGROUND:**

(1) HON. ROBERT E. MILLER SR., Respondent, is now and, at all times relevant to this Complaint was a Judge of the Waitsburg Municipal Court.

(2) On January 30, 1989 Respondent was sent a letter from the Commission on Judicial Conduct informing him a Verified Statement

FORMAL COMPLAINT - 1  
L:\DDE\FORMAL.COM

LAW OFFICES  
Riddell, Williams, Bullitt & Walkinshaw  
SUITE 4400 - 1001 FOURTH AVENUE PLAZA  
SEATTLE, WASHINGTON 98154  
(206) 624-3600

1 was filed in accordance with CJCR 5(d) and the Commission was  
2 pursuing initial proceedings.

3 (3) Enclosed with the above-referenced communication was a  
4 Statement of Allegations.

5 FACTS SUPPORTING COMPLAINT:

6 (1) The Hon. Judge Robert E. Miller, Sr. has on several  
7 occasions amounting to a pattern of conduct, made inappropriate  
8 remarks of a sexually explicit nature to persons in his courtroom,  
9 including the following specific occasions:

10 6/10/87 - A sexually explicit story was told  
11 immediately after the courtroom had cleared, in  
12 the presence of court employees.

13 8/26/87 - An episode similar to that of 6/10/87.

14 1/27/87 - While in court, the Judge told a sexually  
15 explicit joke in the presence of police  
16 officers and staff.

17 (2) The Hon. Judge Robert E. Miller, Sr. has failed to maintain  
18 professional competence in the law, has failed to determine the facts  
19 of a case before disposition, has denied defendants the right to be  
20 heard or to trial, and has otherwise committed procedural  
21 irregularities, of which the following are specific examples:

22 1/28/87 - Defendant Roger Miller, charged with  
23 allowing vicious animals to run at large,  
24 pled not guilty. He was not given a  
25 trial was found guilty and was sentenced.

4/1/87 - Defendant Richard Baril, charged with  
allowing a vicious animal to run at  
large, pled not guilty. He was not given  
a trial, was found guilty and was  
sentenced. The Judge did not allow the  
defendant or the witnesses to testify  
regarding the charge.

1 2/24/88 - Defendant Mitchell Powers represented  
2 himself but was not allowed to question  
3 his accusers.

4 4/22/88 - Defendant Douglas Treib pled not guilty  
5 to disorderly conduct. Judge Miller did  
6 give him a chance to defend himself. The  
7 Court asked a few questions and then  
8 pronounced sentence, which was entered on  
9 court records as a plea of guilty.

10 6/8/88 - Judge Miller announced to court employees  
11 that he had the power to impose jail  
12 sentences, although Waitsburg has no jail  
13 and he has no such authority. Judge  
14 Miller has engaged in a practice of  
15 imposing and suspending jail time similar  
16 to the sentence imposed 12/10/88 against  
17 defendant Corbett B. Lawyer.

18 8/10/88 - Defendant John Hightower was charged with  
19 simple assault. He had pled not guilty  
20 on an earlier charge. Judge Miller  
21 indicated that he was going to dismiss  
22 the case but would hold everyone  
23 responsible for their own incarceration  
24 fees. When told that he had no authority  
25 to impose costs on dismissal, Judge  
Miller announced that he would find the  
defendant guilty on the witnesses'  
written testimony, then suspended \$300  
and charged him jail costs.

(3) Judge Miller has on several occasions, amounting to a  
pattern of conduct, discussed pending cases with police officers  
ahead of trial, outside the presence of the individuals charged.

(4) Judge Miller has on at least one occasion failed to  
disqualify himself in a proceeding where he had personal knowledge of  
disputed evidentiary facts concerning the proceeding. In at least  
one instance Judge Miller ruled upon a case before him in which he  
was the source of information for bringing the complaint against the  
defendant before him.

**Basis For Commission Action:**

The Commission has determined that probable cause exists for believing that Respondent has violated Canons 3(A)(1), 3(A)(3), 3(A)(4), and 3(C)(1) of the Code of Judicial Conduct (CJC) which state:

**CANON 3**

**Judges Should Perform the Duties of Their Office Impartially and Diligently**

The Judicial duties of a judge take precedence over all other activities. The judge's judicial duties include all the duties of office prescribed by law. In the performance of these duties, the following standards apply:

**(A) Adjudicative Responsibilities.**

(1) Judges should be faithful to the law and maintain professional competence in it. Judges should be unswayed by partisan interest, public clamor, or fear of criticism.

. . .

(3) Judges should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom judges deal in their official capacity, and should require similar conduct of lawyers, and of the staff, court officials, and others subject to their direction and control. . .

(4) Judges should accord to every person who is legally interested in a proceeding, or that person's lawyer, full right to be heard according to law, neither initiate nor consider ex parte or other communications concerning a pending or impending proceeding. Judges, however, may obtain the advice of a disinterested expert on the law applicable to a proceeding before them, by amicus curiae only, if they afford the parties reasonable opportunity to respond.

1 (C) Disqualification.

2 (1) Judges should disqualify themselves in a  
3 proceeding in which their impartiality might  
4 reasonably be questioned, including but not limited  
5 to instances where:

6 (a) the judge has a personal bias  
7 or prejudice concerning a party, or  
8 personal knowledge of disputed  
9 evidentiary facts concerning the  
10 proceeding.

11 Notification of Right to File Written Answer.

12 In accordance with CJCR 7, the Respondent is herewith informed  
13 that he may file with the Commission a written answer to the charges  
14 contained in the Complaint within fourteen (14) days after the date  
15 of service. If Respondent does not file a written answer, a general  
16 denial will be entered on behalf of Respondent. The Complaint and  
17 answer shall be the only pleadings required.

18 DATED this 13<sup>th</sup> day of June, 1989.

19 COMMISSION ON JUDICIAL CONDUCT OF  
20 THE STATE OF WASHINGTON

21 BY: Esther Garner  
22 ESTHER GARNER  
23 Executive Director  
24 P. O. Box 1817  
25 Olympia, WA 98507

VAT/rrp  
6/01/89

FORMAL COMPLAINT - 5  
L:\DDH\FORMAL.COM

LAW OFFICES  
Riddell, Williams, Bullitt & Walkinshaw  
SUITE 4400 · 1001 FOURTH AVENUE PLAZA  
SEATTLE, WASHINGTON 98154  
(206) 624-3600