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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

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
his accusers.

3 4/22/88 - Defendant Douglas Treib pled not guilty
4 to disorderly conduct. Judge Miller did
5 give him a chance to defend himself. The
Court asked a few questions and then
6 pronounced sentence, which was entered on
court records as a plea of guilty.

7 6/8/88 - Judge Miller announced to court employees
8 that he had the power to impose jail
9 sentences, although Waitsburg has no jail
and he has no such authority. Judge
10 Miller has engaged in a practice of
imposing and suspending jail time similar
to the sentence imposed 12/10/88 against
defendant Corbett B. Lawyer.

11 8/10/88 - Defendant John Hightower was charged with
12 simple assault. He had pled not guilty
on an earlier charge. Judge Miller
13 indicated that he was going to dismiss
the case but would hold everyone
14 responsible for their own incarceration
fees. When told that he had no authority
15 to impose costs on dismissal, Judge
Miller announced that he would find the
16 defendant guilty on the witnesses'
written testimony, then suspended \$300
and charged him jail costs.

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

20 (4) Judge Miller has on at least one occasion failed to
21 disqualify himself in a proceeding where he had personal knowledge of
22 disputed evidentiary facts concerning the proceeding. In at least
23 one instance Judge Miller ruled upon a case before him in which he
24 was the source of information for bringing the complaint against the
25 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.

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(C) Disqualification.

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

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

Notification of Right to File Written Answer.

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

DATED this 13th day of June, 1989.

COMMISSION ON JUDICIAL CONDUCT OF
THE STATE OF WASHINGTON

BY: Esther Garner
ESTHER GARNER
Executive Director
P. O. Box 1817
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VAT/rrp
6/01/89

FORMAL COMPLAINT - 5
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