

FILED
JUN 26 1990
COMMISSION ON
JUDICIAL CONDUCT

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

In re the Matter of)	
)	No. 90-913-F-19
HON. H. W. FELSTED)	
Judge of the Franklin)	STATEMENT OF CHARGES
County District Court,)	
)	
Respondent.)	

Pursuant to authority granted in Revised Code of Washington, chapter 2.64 (Commission on Judicial Conduct) and the Washington Administrative Code, Chapter 292, and at the order of the Commission on Judicial conduct, this Statement of Charges is filed alleging the violation by HON. H. W. FELSTED, of rules of judicial conduct. The background and facts of the charges are set forth in the following paragraphs:

Background

(1) HON. H. W. FELSTED (Respondent herein) is now and, at all times hereinafter mentioned, was a Judge of the Franklin County District Court.

(2) On April 19, 1990, Respondent was sent a letter from the Commission on Judicial Conduct informing Respondent a Verified Statement was filed in accordance with WAC 292-12-010(4) and the Commission was pursuing initial proceedings.

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

STATEMENT OF CHARGES: 1

Facts Supporting Charges

(1) Respondent has on several occasions, amounting to a pattern of conduct, disregarded and not fulfilled the duties of his office as required by the Supreme Court adopted Justice Court Traffic Infraction Rules and Chapters 46.63 and 46.64 RCW. Respondent has engaged in ex parte communication and "ticket fixing" with selected individuals to whom Notices of Traffic Infractions were issued by law enforcement officers. Rather than presiding over the hearings required by the above rules and statutes and deciding the cases accordingly, Respondent would request that the selected individuals make a payment to a law enforcement related service such as the SWAT team or the K-9 Unit in exchange for the Respondent's promise that, upon such payment, he would enter an Order of Dismissal and that he would intercede on behalf of the individual in such a manner that the individual's driving record at the Department of Licensing would not be affected and that the Department of Licensing would not be notified of the payment made by the individual. Respondent's conduct resulted in a diversion of fund which should have been paid in accordance with legislative mandates and a disregard of the Supreme Court's adoption of the penalty schedule as set forth in JTIR 6.2(2).

Examples of the above are as follows:

<u>NAME</u>	<u>NOTICE OF TRAFFIC INFRACTION NUMBER</u>
BOBBY MARKS	901579
SHARON MONK	897055
GARY CARLSON	900306
ERNEST COXEN	891210
RODGER MORRIS	890639
GERALD ZIMMER	900319
RODGER WILLIS	898979
JOEL ESTES	900016

(2) Respondent presides over matters involving persons of Hispanic background, and his treatment of such persons was not the same as his treatment of other litigants who were not of Hispanic origin. An example of this difference was the preferences accorded non-hispanics as set forth in (1) above. Another example is the small claims court case of Florian J. Nordhus v. Pedro Romero Thahuel, where only Mr. Thahuel appeared at the time set for the hearing. Rather than the case being dismissed because the plaintiff did not appear at the hearing, Respondent acted on Mr. Nordhus' behalf and, through the use of a leading question, got Mr. Thahuel to admit that he owed the exact amount Mr. Nordhus was suing for and entered judgment for that amount and court costs against Mr. Thahuel. Respondent's decisions, as well as his demeanor, create the impression that persons of Hispanic background are treated differently in his court.

(3) Respondent has recessed his court hearings for the purpose of accommodating matters relating to his private practice of law in violation of RCW 3.34.040. An example of such conduct involves Attorney Robert J. Thompson, and recesses for the purpose

of discussing cases not on the court docket but rather office sharing for private practice and cases being handled by the Respondent in his private practice.

Basis for Commission Action

The Commission has determined that probable cause exists for believing that Respondent has violated Canons 1, 2(A), 2(B), 3, 3(A)(4), 3(B)(1) and 5(C)(1) of the Code of Judicial Conduct (CJC) which state:

CANON 1

JUDGES SHOULD UPHOLD THE INTEGRITY AND
INDEPENDENCE OF THE JUDICIARY

An independent and honorable judiciary is indispensable to justice in our society. Judges should participate in establishing, maintaining, and enforcing, and should themselves observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this code should be construed and applied to further that objective.

CANON 2

JUDGES SHOULD AVOID IMPROPRIETY AND THE
APPEARANCE OF IMPROPRIETY IN ALL THEIR
ACTIVITIES

(A) Judges should respect and comply with the law and should conduct themselves at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

(B) Judges should not allow their families, social, or other relationships to influence their judicial conduct or judgment. Judges should not lend the prestige of their office to

advance the private interests of others; nor should judges convey or permit others to convey the impression that they are in a special position to influence them. Judges should not testify voluntarily as character witnesses.

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 interests, public clamor, or fear of criticism.

* * *

(4) Judges should accord to every person who is legally interested in a proceedings, 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.

(B) Administrative Responsibilities.

(1) Judges should diligently discharge their administrative responsibilities, maintain professional competence in judicial

administration, and facilitate the performance of the administrative responsibilities of other judges and court officials.

CANON 5

JUDGES SHOULD REGULATE THEIR EXTRAJUDICIAL ACTIVITIES TO MINIMIZE THE RISK OF CONFLICT WITH THEIR JUDICIAL DUTIES

(C) Financial Activities.

(1) Judges should refrain from financial and business dealings that tend to reflect adversely on their impartiality, interfere with the proper performance of their judicial duties, exploit their judicial position, or involve them in frequent transactions with lawyers or persons likely to come before the court on which they serve.

Notification of Right to File Written Answer

In accordance with WAC 292-12-030(5), the Respondent is herewith informed that a written answer may be filed with the Commission to the charges contained in the Statement of Charges within twenty-one (21) 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 State^{ment (66)} of Charges and Answer shall be the only pleadings required.

DATED this 26th day of June, 1990.

COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

By



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