

BEFORE THE COMMISSION ON JUDICIAL CONDUCT  
OF THE STATE OF WASHINGTON

ORIGINAL

FILED  
DEC 9 1991

COMMISSION ON  
JUDICIAL CONDUCT

In Re the Matter of )  
 )  
Honorable Philip Y. Killien ) No. 91-1090-F-27  
Seattle District Court )  
E-312 King County Courthouse ) STIPULATION AND AGREEMENT  
516 Third Avenue ) PURSUANT TO WAC 292-12-020(6)  
Seattle, WA 98104-2381 ) AND ORDER OF ADMONISHMENT  
\_\_\_\_\_ )

Pursuant to WAC 292-12-020(6) of the Commission on Judicial Conduct Rules as revised and adopted on December 5, 1989 ("CJCR"). The Commission on Judicial Conduct ("Commission") and The Honorable Philip Y. Killien, ("Respondent"), Judge of the Seattle District Court, King County, Washington, do hereby stipulate as follows:

STIPULATION

1. While serving in his capacity as a District Court Judge in Seattle District Court, King County, Washington, Respondent presided over the small claims matter of Kevin Cooper v. King County, cause number 498790. At the conclusion of the trial of the matter, Respondent entered a judgment in favor of the Defendant, King County.

2. Later that same day, the Plaintiff, Kevin Cooper, returned to the courtroom alone. A representative of the Defendant was not present. Without invitation, Mr. Cooper began complaining

in general about his personal problems. Despite Respondent's protests that he could not talk with Mr. Cooper, Plaintiff insisted that Respondent hear him out. Mr. Cooper became increasingly emotionally distraught and, at times, tearful.

Feeling sympathy for Mr. Cooper, Respondent listened to his complaints until Mr. Cooper brought up Respondent's earlier judgment in his case. At that point, Respondent advised Mr. Cooper that the case was over and that he could not and would not reconsider his decision. In response, Mr. Cooper became even more distraught, and Respondent, being touched by the depth of Mr. Cooper's despair, became concerned that perhaps he had not listened to Mr. Cooper's side thoroughly enough during the trial. Respondent decided at that point that justice would best be served by granting Mr. Cooper a new trial before a different judge.

3. At the time, Respondent considered the fact that Small Claims court was established for the intended purpose of handling matters with informality and he was mindful of the provisions of RCW 12.40.080 which provides (in pertinent part):

...the judge may informally consult with witnesses or otherwise investigate the controversy between the parties and give judgment or make such orders as the judge may deem right, just and equitable for the disposition of the controversy.

In granting Mr. Cooper a new trial, Respondent's intention was to serve the ends of justice, but he acknowledges that his action in granting the new trial ex parte was a violation of Canons 2(A) and 3(A)(4) of the Code of Judicial Conduct.

FINDING

Based upon the above stipulated facts, the Commission finds that Respondent's conduct, as described above, was a violation of the Code of Judicial Conduct, Canons 2(A) and 3(A)(4), even though Respondent believed he was acting to further the interests of justice. Accordingly, pursuant to RCW 2.64.055 and 2.64.010(1), the Commission cautions Respondent not to engage in the conduct described in Paragraph 1 above in the future.

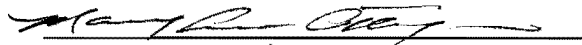
AGREEMENT

Respondent does hereby agree to accept admonishment as described in RCW 2.64.010(1) and further agrees that he will not repeat the violation in the future.

DATED this 3rd day of Nov., 1991.



Philip Y. Killien  
Judge

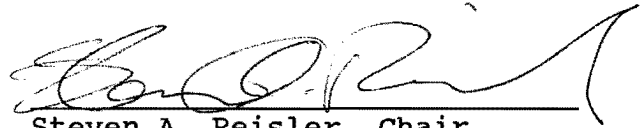


Mary Ann Ottinger  
Attorney for Respondent

ORDER OF ADMONISHMENT

Based upon the Stipulation and Agreement herein, the Commission hereby orders, and Respondent is hereby admonished for violations of Canons 2(A) and 3(A)(4) of the Code of Judicial Conduct.

DATED this 9 day of DECEMBER, 1991.



Steven A. Reisler, Chair  
Commission on Judicial Conduct