

BEFORE THE COMMISSION ON JUDICIAL CONDUCT  
OF THE STATE OF WASHINGTON

**FILED**  
**JAN 15 1991**

COMMISSION ON  
JUDICIAL CONDUCT

In Re the Matter of:

|                               |   |                             |
|-------------------------------|---|-----------------------------|
| HONORABLE RUSSELL HEATON, Jr. | ) | <u>NO. 90-998-F-21</u>      |
| Judge                         | ) |                             |
| Moxee City Municipal Court    | ) | <b>STATEMENT OF CHARGES</b> |
| 255 West Seattle              | ) |                             |
| P.O. Box 248                  | ) |                             |
| Moxee City, WA 98936          | ) |                             |

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. RUSSELL HEATON, JR. of rules of judicial conduct. The background and facts of the charges are set forth in the following paragraphs:

**BACKGROUND:**

(1) HON. RUSSELL HEATON, JR. (Respondent herein) is now and, at all times hereinafter mentioned was a Judge of Moxee City Municipal Court.

(2) On November 13, 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.

**FACTS SUPPORTING CHARGES:**

(1) The Honorable Russell Heaton, Jr., has failed to maintain professional competence in the law, has failed to determine the facts of a case before disposition, has denied defendants the right to be heard or to trial, and has otherwise committed procedural irregularities in violation of WASH. REV. CODE 3.50.020, .050, .135 - .450 (1989), 46.63.070 - .130 (1989), 46.64.020 (1990 Supp.), 46.64.025 (1989). The following are specific examples:

8/13/90 - Defendant Mario Mendez Hernandez, charged with drinking in public (Moxee City Park), failed to appear in court. The Judge entered a finding of guilty and imposed a penalty.

8/13/90 - Defendant Lino Soto Monquez (AKA Ramon Perez Bernardino), charged with drinking in public (Moxee City Park), failed to appear in court. The Judge entered a finding of guilty and imposed a penalty.

8/20/90 - Defendant Federico Acosta-Galven, charged with refusal to give information to or cooperate with police officer and minor in possession and consumption of alcohol, was not given a trial and was found guilty and was sentenced.

8/20/90 - Defendant Ramon Perez Bernardino (AKA Lino Soto Monquez), charged with refusal to give information to or cooperate with police officer. He was not given a trial, was found guilty and was sentenced.

Other matters not included are documented in the log of the police court of the City of Moxee during, but not limited to, the

time between February 16, 1988 to October 29, 1990.

(2) The Honorable Russell Heaton, Jr., has failed to provide qualified interpreters in all matters involving non-English speaking defendants in violation of WASH. REV. CODE 2.43.010 - .080 (1990 Supp.).

(3) The Honorable Russell Heaton, Jr., did not complete the lay judges examination or mandatory training requirements in violation of GR 8.2 and WASH. REV. CODE 46.63.050 (1989).

(4) The Honorable Russell Heaton, Jr., 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.

**BASIS FOR COMMISSION ACTION:**

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

**"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 all judiciary."

**"CANON 3**

**(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 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.

**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 Statement of Charges and Answer shall be the only pleadings required.

DATED this 15<sup>th</sup> day of January, 1991.

COMMISSION ON JUDICIAL CONDUCT  
OF THE STATE OF WASHINGTON

by: Esther Garner  
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