

FILED

OCT 30 1991

COMMISSION ON
JUDICIAL CONDUCT

BEFORE THE COMMISSION OF JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

In re the Matter of)	
)	
Honorable Gary W. Velie,)	NO. 90-946-F-25
Judge, Clallam County)	
Superior Court.)	ANSWER TO
)	AMENDED
_____)	STATEMENT OF CHARGES

COMES NOW, the Honorable Gary W. Velie, by and through his attorney Kurt M. Bulmer, and answers the Amended Statement of Charges dated October 9, 1991, filed by the Commission of Judicial Conduct against him, as follows:

ADMISSION AND GENERAL DENIAL

1. Respondent admits paragraphs 1, 2, 3 and 4.

2. Because of restrictions found in juvenile dependency confidentiality laws, because of the lack of sufficient facts and details to be able to fairly determine the charges against him, and because of his right to require the State to prove the allegations against him, Respondent enters a general denial as to the remaining portions of the Amended Statement of Charges. By doing so he puts the State to its proof as to each and every factual allegation made in its Amended Statement of Charges and to each and every element of the Code of Judicial Conduct he is alleged to have breached.

JURISDICTION AND OTHER DEFENSES

By way of further response Respondent asserts:

3. As to those matters asserted in the Amended Statement of Charges but which were not identified in the Verified Statement and the letter about the Initial Proceedings, the Commission is proceeding without authority and beyond the scope of its powers.

4. As to all matters which relate to factual events occurring before June 7, 1988, and which the Commission had previously investigated in matter 88-626, the Commission is estopped from bringing or presenting charges based on these matters since they have been dismissed by the Commission after a proceeding before the Commission. The Commission may not now use those events in the pending proceeding. For the Commission to do so is a denial of due process of law and fundamental fairness, is estopped by collateral estoppel and res judicata principles and is prevented by laches.

5. As to all matters involving legal determinations as to the interpretation of statutes, case law or court rules as they relate to judicial determinations made in Respondent's official capacity as Superior Court judge, the Commission is without authority to review such matters and may not impose its judgement as to decisions made by the Respondent on matters of law. This includes:

A. Respondent's interpretation of the statutory question of who is or is not properly a party within the scope of a juvenile dependency proceeding and who is or is not entitled to records of such proceedings.

B. Respondent's interpretation of the legal question of

when he must or must not recuse himself from a case.

C. Respondent's interpretation of the legal question of what he must read as part of his evidence taking.

D. Respondent's interpretation of the legal question of the applicability and application of Clallam County Superior Court Local Rule 40(f), in conjunction with the applicable provisions of the RCW and established precedent.

6. As to all matters which are protected by the confidentiality provisions of the juvenile dependency provisions, Respondent will be unable to adequately defend such matters without complete use of the files in the open Commission hearing. Respondent cannot use such files in open proceedings without breaking the law. Without the full and open use of such files Respondent cannot adequately defend these matters and to require him to do so would be a denial of due process and fundamental fairness. Respondent is fully prepared to defend his actions in connection with these cases but must have the full files available to do so.

7. As to allegations that Respondent has made offensive racist, sexist and homophobic remarks and has made inappropriate and disparaging remarks, Respondent has not been provided with sufficient details to respond to these allegations or raise his defenses. Until such time as there is sufficient detail provided, Respondent reserves his right to raise his defenses. Such defenses include but are not limited to freedom of speech, freedom of assembly, freedom to express a political opinion,

vagueness, lack of jurisdiction of the Commission, laches, double jeopardy, collateral estoppel, res judicata and judicial independence.

8. The Commission's allegations that Respondent has made offensive racist and sexist remarks and has made inappropriate and disparaging remarks is, essentially, an allegation that Respondent has failed to engage in "politically correct" speech. The Commission lacks jurisdiction to impose its determination of what is politically correct speech upon an elected public official and in attempting to do so in this proceeding is outside of its constitutional and statutory jurisdiction.

9. Respondent is unable to answer as to the specific provisions of the Code of Judicial Conduct he is asserted to have violated since the Amended Statement of Charges does not identify with sufficient specificity which parts of the provisions identified are asserted to have been violated nor does the Amended Statement of Charges identify which provisions relate to the specific factual allegations made. Absent such detail Respondent is unable to defend since he does not know with sufficient specificity what provisions of the Code he is alleged to have violated in connection with which charges. He is entitled to such notice under principles of due process, fundamental fairness and equal protection.

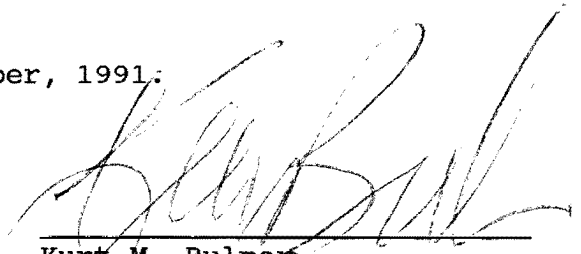
REQUEST FOR DISMISSAL

Respondent denies he has acted improperly and asks that all allegations made against him be dismissed.

X

X

Dated this 29th day of October, 1991:

A handwritten signature in dark ink, appearing to read 'Kurt M. Bulmer', written over a horizontal line.

Kurt M. Bulmer
Attorney for Respondent
WSBA # 5559

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