

FILED

OCT 9 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,)
Judge, Clallam County)
Superior Court.)

NO. 90-946-F-25

AMENDED STATEMENT
OF CHARGES

Pursuant to the authority granted in the Revised Code of Washington, Chapter 2.64 (Commission on Judicial Conduct) and the Commission on Judicial Conduct Rules, WAC 292-08 and 292-12, and at the order of the Commission on Judicial Conduct, this amended statement of charges alleging violation by Hon. Gary W. Velie of the Code of Judicial Conduct is filed. The background and facts of the complaint are set forth in the following paragraphs:

Background:

1. Hon. Gary W. Velie, respondent, is now, and was at all times relevant to this complaint, a judge of the Superior Court of Clallam County.

2. On September 28, 1990, in accordance with WAC 292-12-020(2), respondent was sent a letter from the Commission on Judicial

Amended Statement of Charges - 1

W:\2189\024\AMCHARGE.PLD

LAW OFFICES

Riddell, Williams, Bullitt & Walkinshaw

2100 SECURITY PACIFIC PLAZA - 777 108TH AVENUE N.E.

BELLEVUE, WASHINGTON 98004

(206) 462-4500

1 Conduct informing him that a Verified Statement was filed in
2 accordance with WAC 292-12-010(4) and that the Commission was
3 pursuing Initial Proceedings.

4 3. Enclosed with the above referenced communication was a
5 statement of allegations.

6 4. On August 16, 1991, the Commission filed a Statement of
7 Charges in accordance with WAC 292-12-030. Respondent filed an
8 Answer thereto on September 10, 1991.

9 Facts Supporting Complaint

10 1. In Cause No. 4701, In Re the Matter of K.R. respondent made
11 telephone contact with the attorney for the father, Richard Linn
12 Rogers, on July 3, 1989, ex parte, for the purpose of discussing
13 issues related to this matter.

14 2. In Cause No. 4701, In Re the Matter of K.R., respondent
15 received an ex parte letter from the Assistant Attorney General in
16 the case, Brenda Little. Judge Velie failed to notify other parties
17 of the existence of the letter or to send them a copy of the letter.

18 3. In Cause Nos. 4319, In Re the Matter of N.C., 4320, In Re
19 the Matter of V.C., and 4677, In Re the Matter of E.B., respondent
20 indicated, ex parte, to counsel for one of the parties that he did
21 not need to read a particular deposition because "I've already
22 decided the case." This comment was made before trial in the V.C.
23 matter had begun. Further, respondent failed to notify other parties
24 of the fact of the ex parte contact or of its content.
25

1 4. In In re the Dependency of D.J.K., in December, 1990,
2 respondent engaged in an ex parte communication with Maureen Martin
3 concerning issues related to this matter. Respondent failed to
4 notify other parties of the fact of the ex parte contact or of its
5 content.

6 5. In Larson v. Larson, in February or March of 1989,
7 respondent engaged in an ex parte communication concerning issues
8 related to this matter. Respondent failed to notify other parties of
9 the fact of the ex parte contact or of its content.

10 6. In In re the Alternative Residential Placement of E.W.K.,
11 after a hearing held on or about May 11, 1988 to determine whether
12 E.W.K. should be temporarily placed with foster parents, and for the
13 next two Mondays, and while the final Alternative Residential
14 Placement was pending, respondent had ex parte contacts in this
15 matter and discussed issues related to this matter.

16 7. At a August, 1991 calendar call, respondent indicated that
17 he believed that Mr. Dale Davis, a defendant in a pending marijuana
18 growing case, was guilty as charged. At that time, no plea had been
19 received in the case and no trial had been held.

20 8. Over the past few years, respondent has engaged in a pattern
21 of making offensive racist, sexist and homophobic remarks to
22 attorneys and court personnel.

23 9. Over the past few years, respondent has engaged in a pattern
24 of making inappropriate and disparaging remarks to attorneys, court
25 personnel and others involved in the justice system.

1 10. Over the past few years, respondent has abused his judicial
2 authority and failed to abide by the law by enforcing Clallam County
3 Superior Court Local Rule 40(f) in contravention of statute and
4 established precedent. Respondent has required that motions for
5 prejudice be submitted to him for review, and has also denied certain
6 of these motions. Further, in contravention of statute and
7 established precedent, respondent has required clients to sign
8 affidavits of prejudice.

9 Basis for Commission Action:

10 The Commission has determined that probable cause exists for
11 believing respondent has violated Canons 1, 2(A), 3(A)(1), 3(A)(2),
12 3(A)(3), 3(A)(4), 3(A)(6) and 3(C)(1) of the Code of Judicial Conduct
13 (CJC) which state:

14 **Canon 1**

15 **Judge Should Uphold the Integrity and
16 Independence of the Judiciary**

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

23 **Canon 2**

24 **Judges Should Avoid Impropriety and the Appearance
25 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.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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.

(2) Judges should maintain order and decorum in proceedings before them.

(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, and, except as authorized by 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.

* * *

(6) Judges should abstain from public comment about a pending or impending proceeding in any court, and should require similar abstention on the part of court personnel subject to their direction and control. This subsection does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court.

* * *

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(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 WAC 292-12-090, the respondent is herewith informed that he may file with the Commission a written answer to the charges within 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 Amended Statement of Charges and Answer shall be the only pleadings required. Once filed, the answer shall be available to the public.

DATED this 9th day of October, 1991.

COMMISSION ON JUDICIAL CONDUCT OF THE
STATE OF WASHINGTON

By *Esther Garner*
Esther Garner, Executive Director
P.O. Box 1817
Olympia, Washington 98507