

FILED

AUG 16 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. ) 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 formal 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 Conduct informing him that a Verified Statement was filed in

Statement of Charges - 1  
W:\2189\024\CHARGES.PLD

LAW OFFICES  
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1 accordance with WAC 292-12-010(4) and that the Commission was  
2 pursuing Initial Proceedings.

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

5 Facts Supporting Complaint

6 1. In Cause No. 4549, In Re the Matter of Crystal Terwilliger,  
7 respondent presided over a hearing on April 23, 1987 resulting in an  
8 Order for Visitation by the mother. On or about April 30 or May 1,  
9 1987, respondent contacted the foster mother by telephone, ex parte,  
10 instructing her to disallow the visitation. Further, on May 4, 1987,  
11 respondent sent a letter regarding this matter to all of the  
12 interested parties. Respondent sent one copy of this letter to Joy  
13 Newton, not a party to the proceeding nor otherwise entitled to  
14 confidential records, thus violating the confidentiality of this  
15 juvenile dependency matter.

16 2. In Cause No. 4701, In Re the Matter of Katherine Rohr,  
17 respondent made telephone contact with the Assistant Attorney  
18 General, Brenda Little, and attorney for the father, Richard Linn  
19 Rogers, on July 3, 1989, ex parte, for the purpose of discussing  
20 issues related to this matter.

21 3. In Cause No. 27522, Oakes v. Oakes, a hearing was held in  
22 late 1989, the issue of which was a post decree modification of  
23 residence. After that hearing, respondent contacted the attorney for  
24 Respondent Coni Oakes, Joseph Lavin, ex parte, and improperly  
25 criticized Mr. Lavin regarding his appearance for Ms. Oakes.

1           4. In Cause Nos. 4319, In Re the Matter of Natalie Cawyer,  
2           4320, In Re the Matter of Vanessa Cawyer, and 4677, In Re the Matter  
3           of Eric Baublits, respondent indicated to Chris Shea, counsel for one  
4           of the children involved in these matters during and after a hearing  
5           on an ex parte motion, that respondent had pre-decided the case  
6           scheduled for trial shortly thereafter. When confronted with this  
7           information by other counsel in this matter, respondent recused  
8           himself, under protest, from hearing the case.

9           5. In Cause Nos. 4319, In Re the Matter of Natalie Cawyer,  
10          4320, In Re the Matter of Vanessa Cawyer, and 4677, In Re the Matter  
11          of Eric Baublits, respondent indicated to Lane Wolfley, counsel for  
12          Terry Maybury (Cause No. 4320), that he did not need to read a  
13          particular deposition because "I've already decided the case." This  
14          comment was made before in open court, and before trial in the  
15          Vanessa Cawyer matter had begun.

16          6. At a meeting involving another judge, personnel from local  
17          counseling services, and medical personnel associated with the  
18          hospital, in addition to others, respondent commented that, in his  
19          opinion, it would be desirable to have a stun gun to use in dealing  
20          with patients in involuntary treatment.

21          7. Over the past few years, respondent has engaged in a pattern  
22          of making offensive racist and sexist remarks to attorneys and court  
23          personnel. Racist remarks include, but are not limited to, referring  
24          to American Indians as "war whoops;" Mexican-Americans as "Beaners,"  
25          and Middle Eastern Arabs as "sand niggers." These remarks also

1 include a joke concerning a sign captioned "No dogs or niggers  
2 shitting on the lawn;" and referring, from the bench, to an attorney,  
3 Karen Unger, as a "Jewish mother." Sexist remarks include, but are  
4 not limited to, references to attorneys Karen Unger and Deborah  
5 Conklin-Taylor as "brown-eyes" and "honey;" a directive made, while  
6 on the bench, to Karen Unger to "get her tail in the courtroom;" a  
7 comment to Lane Wolfley that respondent judge had decided a case in  
8 favor of one side because the prevailing party, a woman, "looked  
9 great;" and a directive to court employee Tammy Woolridge to "take a  
10 Midol" when she complained about working late one night.

11 8. Over the past few years, respondent has engaged in a pattern  
12 of making inappropriate and disparaging remarks to attorneys, court  
13 personnel and others involved in the justice system. These remarks  
14 include, but are not limited to, stating, in open court, that Child  
15 Protective Services caseworker Jeanine Granson was "stupid and  
16 incompetent;" telling a defendant in the courtroom that "I know your  
17 parents so I'll let you off;" stating from the bench that various  
18 attorneys are incompetent to practice law; referring, from the bench,  
19 and in the presence of the client, to a criminal defendant's  
20 appointed counsel as "youngster;" telling attorneys, in open court,  
21 to "shut up and sit down;" and stating, after hearing argument on a  
22 motion, that "now after listening to all this crap, now I have to go  
23 and read it."

24 9. Over the past few years, respondent has abused his judicial  
25 authority by enforcing Clallam County Superior Court Local Rule 40(f)

1 in contravention of statute and established precedent. Respondent  
2 has required that motions for prejudice be submitted to him for  
3 review, **and has also denied certain of these motions.** Further, in  
4 contravention of statute and established precedent, respondent has  
5 required clients to sign affidavits of prejudice.

6 Basis for Commission Action:

7 The Commission has determined that probable cause exists for  
8 believing respondent has violated Canons 1, 2(A), 3(A)(3), and  
9 3(A)(4), of the Code of Judicial Conduct (CJC) which state:

10 **Canon 1**

11 **Judge Should Uphold the Integrity and  
Independence of the Judiciary**

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

16 **Canon 2**

17 **Judges Should Avoid Impropriety and the Appearance  
of Impropriety in All Their Activities**

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

21 **Canon 3**

22 **Judges Should Perform the Duties of Their Office  
Impartially and Diligently**

23 The judicial duties of a judge take precedence over all other  
24 activities. The judge's judicial duties include all the duties of  
25 office prescribed by law. In the performance of these duties, the  
following standards apply.

1           **(A) Adjudicative Responsibilities.**

2           (1) Judges should be faithful to the law and maintain  
3 professional competence in it. Judges should be unswayed by partisan  
interests, public clamor, or fear of criticism.

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

5           (3) Judges should be patient, dignified, and courteous to  
6 litigants, jurors, witnesses, lawyers and others with whom judges  
7 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.

8           (4) Judges should accord to every person who is legally  
9 interested in a proceeding, or that person's lawyer, full right to be  
10 heard according to law, and, except as authorized by law, neither  
initiate nor consider ex parte or other communications concerning a  
11 pending or impending proceeding. Judges, however, may obtain the  
advice of a disinterested expert on the law applicable to a  
12 proceeding before them, by amicus curiae only, if they afford the  
parties reasonable opportunity to respond.

13                           \* \* \*

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

17                           \* \* \*

18           **(C) Disqualification.**

19           (1) Judges should disqualify themselves in a proceeding in  
20 which their impartiality might reasonably be questioned, including  
but not limited to instances where:

21                   (a) the judge has a personal bias or prejudice concerning a  
22 party, or personal knowledge of disputed evidentiary facts  
concerning the proceeding....

23           Notification of Right to File Written Answer

24           In accordance with WAC 292-12-030(5), the respondent is herewith  
25 informed that he may file with the Commission a written answer to the

1 charges within twenty-one (21) days after the date of service. If  
2 respondent does not file a written answer, a general denial will be  
3 entered on behalf of respondent. The Statement of Charges and Answer  
4 shall be the only pleadings required. Once filed, the answer shall  
5 be available to the public.

6 DATED this 16<sup>th</sup> day of August, 1991.

7  
8 COMMISSION ON JUDICIAL CONDUCT OF THE  
9 STATE OF WASHINGTON

10 By Esther Garner  
11 Esther Garner, Executive Director  
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13 Olympia, Washington 98507  
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