

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

FILED
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COMMISSION ON
JUDICIAL CONDUCT

IN RE THE MATTER OF)

Honorable John G. Ritchie)
King County District Court)
Seattle Division)
E-326 King County Courthouse)
516 Third Avenue)
Seattle, WA 98104-3273)

No. 91-1110-F-33

COMMISSION DECISION

INTRODUCTION

A fact-finding hearing relating to the above-entitled matter was held on January 25, 26 and 27, 1993 in Seattle pursuant to order of the Commission on Judicial Conduct and WAC 292-12-040.

Members of the Commission on Judicial Conduct ("Commission") present as a fact-finding subcommittee were Daniel L. Hannula (presiding officer), Honorable H. Joseph Coleman, Nancyhelen Fischer, Honorable Thomas E. Kelly, and Todd Whitrock (hereinafter "Members of the Commission").

Respondent was represented by his attorneys, Thomas Frey and Anne Bremner; and the Commission was represented by special counsel Peter Byrnes and Paul Taylor.

The Members of the Commission heard and considered the testimony of the witnesses, reviewed exhibits and records and considered the briefs and argument of counsel. At the conclusion of the Commission's case in chief, Respondent, through his counsel, moved to dismiss the charges for failure to present sufficient proof. The Members of the

Commission considered and denied the motion.

On March 1, 1993, the Members of the Commission issued a Report and Recommendation finding two violations of the Code of Judicial Conduct. The Members of the Commission recommended that respondent be censured.

On March 15, 1993, special counsel filed "Objections to Report and Recommendation". On March 17, 1993, respondent filed a response. After consideration, a majority of the Commission proposed to modify the findings and conclusions and to accept the proposed sanctions. Counsel were notified of the Commission's proposed modifications and filed briefs in lieu of giving oral argument.

Having heard or read the evidence, and having considered the arguments of the parties, the Commission finds by clear, cogent, and convincing evidence the following:

FINDINGS OF FACT

I. BACKGROUND

A. The Honorable John G. Ritchie, Respondent herein, is now and was at all times discussed herein a Judge of the King County District Court.

B. On February 19, 1992, Judge Ritchie was sent a letter from the Commission on Judicial Conduct informing him that a Verified Statement was filed in accordance with WAC 292-12-010(4) and that the Commission was pursuing initial proceedings. A Statement of Allegations was included with the letter. On August 18, 1992, an Amended Statement of Allegations was sent to Judge Ritchie. On September 12, 1992, the Commission filed a Statement of Charges. On October 6, 1992, Respondent filed an Answer to the Statement of Charges.

II. TRAVEL REIMBURSEMENT CLAIMS

A. Improper Claims for Travel Reimbursement. For each of the years 1987 through 1991 Judge Ritchie signed and submitted travel vouchers for reimbursement in connection with trips taken by him allegedly in furtherance of the business of the King County District Court. During the years in question, he made four trips to Florida and one trip to Phoenix, Arizona. As detailed below, the travel vouchers submitted by Judge Ritchie in connection with the trips contain false and misleading statements concerning the nature, purpose, duration and benefit of the court-related business allegedly conducted during the trips.

1. 1987 Trip to Florida - Charge II 3(b)

On November 16, 1987, Judge Ritchie submitted a voucher (Ex. 5) for expenses purportedly incurred in connection with attendance at a Florida Bar Association CLE entitled Appellate Practice for the General Practitioner. The CLE lasted one day, was presented by videotape, and was intended for new or inexperienced lawyers. See Ex. 6.

Judge Ritchie was in Florida for a total of two weeks in connection with the trip. He was accompanied by an attorney with whom he regularly vacationed. Judge Ritchie claimed and received reimbursement for his entire air fare (\$309), lodging for approximately four days at the Sun Spot Vacation Apartments (\$160),¹ and rental car expenses for the entire two week period (\$113.54).

2. 1988 Trip to Florida - Charge II 3(c)

On November 14, 1988, Judge Ritchie submitted a travel voucher seeking

¹Judge Ritchie vacationed in Florida between ten and fifteen times from the period 1980 - 1990, and regularly stayed at the Sun Spot while on those vacations.

reimbursement for attendance at a "Florida Bar Association Conference". See Ex. 8. Judge Ritchie attended no such conference. Although Judge Ritchie had originally registered for a one-day Florida Bar Association CLE on sexual harassment to be held sometime during the period in question, he was notified, prior to his travel to Florida, that the CLE had been canceled. Notwithstanding, he took the trip and billed King County for various expenses, representing that he had in fact attended a formal educational conference when he had not.

Even though the CLE was canceled, Judge Ritchie submitted materials which made it appear that he had in fact attended a CLE. In the materials he submitted supporting the claimed expenses, Judge Ritchie wrote the following:

The following are expenses incurred by myself relating to the conference and study in St. Petersburg, Florida.

....

1988 Travel Voucher (Ex. 8) (emphasis added).

Judge Ritchie sought and received reimbursement for his entire air fare (\$360), lodging for approximately five days at the Sun Spot Vacation Apartments (\$236.16), and his rental car bill for the entire twelve days he was in Florida (\$161.31).

3. 1989 Trip to Florida - Charge II 3(d)

On December 5, 1989, Judge Ritchie submitted a voucher seeking reimbursement for a trip to Florida in connection with a purported meeting relating to the "Florida Courts of Limited Jurisdiction". See Ex. 9. There was, however, no formal conference or meeting sponsored by any organization relating to the "Florida Courts of Limited Jurisdiction," and Judge Ritchie did not attend any such conference. Judge Ritchie claimed reimbursement for his entire air fare (\$276) and lodging for approximately six days at the Sun Spot Vacation Apartments (\$256.65).

4. 1990 Trip to Florida - Charge II 3(e)

On August 23, 1990, Judge Ritchie submitted a voucher for attendance at a "Florida Judicial Conference". Ex. 10. There was, however, no such conference sponsored by any organization nor did Judge Ritchie attend any such conference. In the supporting materials submitted by Judge Ritchie in connection with the voucher, he wrote a memo to the Seattle District Court Administrator stating, in part, as follows:

The following are expenses from the conference.

....

1990 Travel Voucher (Ex. 10) (emphasis added).

He also submitted, as a part of the voucher, a copy of a canceled check to a travel agency which represented that the purpose of the check was to pay for travel to a "conference CLE". Id.

Judge Ritchie sought and received reimbursement for his entire air fare (\$300), lodging for approximately eleven days at the Sun Spot Vacation Apartments (\$471.40), and the entire rental car bill (\$187.67).

5. Trip to Arizona - Charge II 3(f)

On November 4, 1991, Judge Ritchie submitted a travel voucher seeking reimbursement for travel to Phoenix, Arizona, from October 8, 1991 through October 29, 1991. See Ex. 11. While in Phoenix, he stayed at one of four condominiums he owns in the Phoenix area. According to the voucher, the purpose of the trip was for a "conference" on "law related education". There was no such conference. On this trip, Judge Ritchie visited the Arizona Center for Law Related Education for portions of two days. Subsequently, in 1992, after the Statement of Charges was filed, Judge Ritchie returned to the Arizona

Center for Law Related Education asking for materials bearing 1991 dates.

Judge Ritchie requested and received reimbursement for his entire air fare (\$258), and one-half of the total rental car charge (\$147.16) for the period he was in Phoenix, Arizona.

6. Judge Ritchie admitted that there were no formal conferences held with respect to Charges II 3(c), (d), (e) and (f) and that he did not attend any organized meeting of any kind on any of those trips.

7. The judicial business which Judge Ritchie contended that he conducted on the foregoing trips was incidental and insignificant to the main purpose of the trips, which was personal in nature. Four trips to Florida averaged two weeks per trip. Evidence most favorable to Judge Ritchie suggests that he would occasionally meet for lunch or dinner with the same Florida judge who was a close personal friend and business associate. Judge Ritchie represented that one of the main reasons he traveled to Florida was to meet with the Honorable Karl Grube, a Pinellas County, Florida, judge. Although evidence was presented that Judge Ritchie and Judge Grube first met in approximately 1986, Judge Ritchie and Judge Grube, and their wives, had been real estate partners since at least as early as 1981. See Ex. 13. Additionally, other explanations offered by Judge Ritchie concerning the Florida trips were contradicted by the deposition testimony of attorneys Morris Bornstein and Barry Steagall, and such explanations are rejected.

B. 1986 Trip to Montego Bay, Jamaica

The Members of the Commission find that Charge No. II 3(a) relating to a California Trial Lawyers Association seminar in Montego Bay, Jamaica was not established by clear, cogent and convincing evidence.

III. IMPROPER USE OF KING COUNTY PHONES FOR PERSONAL
LONG DISTANCE CALLS - CHARGE II 4

Judge Ritchie made 116 personal long distance phone calls from his judicial office to Arizona and Florida between January 1989 and December 1991, and did not, at the time, reimburse King County for those charges. During the course of these proceedings, and after Judge Ritchie had been served with the Statement of Allegations, Judge Ritchie reimbursed King County \$125 for a portion of the calls. Based on Exhibit No. 17 as annotated with costs, Judge Ritchie must make further reimbursement to the County an additional \$46.

IV. IMPROPER USE OF POSTAGE STAMPS SUPPLIED
BY KING COUNTY - CHARGE II 5

The Members of the Commission find that Charge No. II 5, relating to improper use of postage stamps, was not established by clear, cogent, and convincing evidence in light of the evidence presented.

V. ADDITIONAL FINDINGS RELATIVE TO MITIGATING AND
AGGRAVATING CIRCUMSTANCES

A. Respondent has served King County as a District Court Judge for more than fifteen (15) years.

B. Other than Respondent's repayment made for his personal phone calls done after a Statement of Allegations was issued in these proceedings, there is little else to indicate he has acknowledged or recognized that the acts occurred.

C. Respondent has received high ratings from King County lawyers in the King County Judicial Poll.

D. The Commission takes judicial notice of its records and finds that the

Respondent has received no prior discipline.

VI. Any Conclusion of Law which should be deemed a Finding of Fact is hereby adopted as such.

CONCLUSIONS

I. With respect to Finding II(A), Judge Ritchie violated the Code of Judicial Conduct, Canons 1 and 2(A). Judge Ritchie's claimed judicial business in connection with the trips at issue was minimal at best, systematic, and wholly incidental to the personal nature of the trips.

II. With respect to Finding III, Judge Ritchie violated the Code of Judicial Conduct, Canons 1 and 2(A).

III. Judge Ritchie's conduct violated the Code of Judicial Conduct, Canons 1 and 2(A), detrimentally affected the integrity of the judiciary, and undermined public confidence in the administration of justice.

IV. Appropriate sanctions:

In determining whether or not to impose a particular sanction, it is necessary to weigh mitigating and aggravating factors, if any, to arrive at an appropriate discipline in cases involving violations of the Code of Judicial Conduct. To guide the Commission's identification and interpretation of mitigating and aggravating circumstances, the Commission relied upon criteria set forth by the Washington State Supreme Court in In Re Deming, Wn.2d 82 (1987) at pp. 119-120:

"To determine the appropriate sanction we consider the following nonexclusive factors: (a) whether the misconduct is an isolated instance or evidence of a pattern of conduct; (b) the nature, extent and frequency of occurrence of the acts of misconduct; (c) whether the misconduct occurred in or out of the courtroom; (d) whether the misconduct occurred in the judge's official capacity or in his private life; (e) whether the judge has acknowledged or

recognized that the acts occurred; (f) whether the judge has evidenced an effort to change or modify his conduct; (g) the length of service on the bench; (h) whether there have been prior complaints about this judge; (i) the effect the misconduct has upon the integrity of and respect for the judiciary; and (j) the extent to which the judge exploited his position to satisfy his personal desires."

In answer to each of these criteria, the Commission summarizes its findings as follows:

1. ISOLATED INSTANCES OR PATTERN OF MISCONDUCT

Respondent's misconduct is not an isolated instance; rather, it entails multiple offenses occurring over a five-year period evidencing a pattern of misconduct.

2. NATURE, EXTENT AND FREQUENCY OF MISCONDUCT

The nature of Respondent's misconduct is extremely serious, involving dishonesty and conversion of public funds in the sum of approximately \$2,750 for his private use or benefit in discrete annual transactions over a period of five years (approximately \$550 per year on the average).

3. MISCONDUCT MANIFESTED IN THE COURTROOM

None of Respondent's misconduct was manifested through courtroom activities, but all of it occurred in his official capacity. The fact that Respondent garnered high performance ratings and yet also violated the Code of Judicial Conduct underscores the insidiousness of the misconduct found in this matter. Sustained and relatively furtive misconduct, once discovered, not only taints the reputation of the offending judge, but also the system which had neglected to identify and rectify the situation in a timely fashion.

4. MISCONDUCT IN OFFICIAL CAPACITY OR PRIVATE LIFE

Respondent had characterized his travels as official duties, which are valid reasons for seeking reimbursement for expenses incurred on such occasions. In fact, Respondent's trips were mainly personal vacations. By characterizing his trips as official functions,

Respondent has engaged in misconduct both within his official capacity and his private life. A violation in either of these contexts is serious; misconduct in both is inexcusable based on this record.

5. ACKNOWLEDGEMENT OF MISCONDUCT

There is nothing to indicate that Respondent has acknowledged or recognized anything wrongful about his charging for the trips to Florida and Arizona. Only through much searching and effort was the Commission able to ascertain the facts, particularly his relationship with his joint holdings of real estate in Florida with Judge Grube.

6. EFFORT TO CHANGE OR MODIFY BEHAVIOR

Respondent made reimbursement for his personal long distance phone calls after initiation of the Commission proceedings. Other than this, there is little in the proceedings to indicate one way or the other whether Respondent will refrain from similar conduct in the future.

7. LENGTH OF SERVICE ON THE BENCH

Respondent has served on the bench for more than 15 years with a good reputation, and has received high ratings from the practicing lawyers. It is obvious that those participating in the judicial polls could not have been aware of Respondent's misconduct. Respondent's length of service and purported competence are minimized as mitigating conditions given the duration and nature of his misconduct.

8. PRIOR COMPLAINTS

No prior complaints against Respondent resulting in public discipline have been brought to the Commission.

9. EFFECT OF MISCONDUCT ON JUDICIARY

Respondent's misconduct involving dishonesty seriously impairs the integrity of the judiciary, substantially undermines public confidence in the administration of justice, and is considered by the Commission to be a serious violation of the Code of Judicial Conduct.

10. EXTENT OF EXPLOITATION OF POSITION

Respondent's misconduct involves the exploitation of his position as a judge for personal gain, and he would have been unable to engage in the same misconduct had he not been a judge or public official.

SUMMARY

Findings show that Respondent has engaged in a pattern of misconduct involving dishonesty for personal gain, defrauding the public and misrepresentation of facts and circumstances. These constitute an egregious breach of public trust and confidence in the judiciary. The nature of Respondent's transgressions, considering the foregoing, are such that they do not sustain, nor do they warrant, the application of mitigating factors in this matter.

V. The Commission concludes that the aggravating circumstances outweigh any mitigating circumstances, and that Respondent should be censured with appropriate corrective actions mandated; further, that a recommendation be made to the Washington State Supreme Court that Respondent be removed from office.

VI. Any Finding of Fact which should be deemed a Conclusion of Law is hereby adopted as such.

ORDER OF CENSURE

Based upon the foregoing Findings of Fact and Conclusions, the Commission

determines that Respondent violated Canons 1 and 2(A) of the Code of Judicial Conduct, and hereby CENSURES Respondent and Orders him to take the following corrective action:

- A. Make full restitution to King County for travel expenses claimed in 1987, 1988, 1989, 1990 and 1991 (Finding II(A)) within thirty (30) days from the date this decision is final; and
- B. Make full restitution to King County for personal long distance telephone charges (Finding III) within thirty (30) days from the date this decision is final.
- C. Judge Ritchie shall notify the Commission in writing that he has made full restitution in accordance with the foregoing corrective actions.

RECOMMENDATION

Using the criteria stated in Conclusion IV, and considering the Findings and Conclusions, it is the opinion of the Commission on Judicial Conduct that Respondent has demonstrated an absence of the personal and professional qualities which are necessary to hold judicial office in the state of Washington.

Therefore, the Commission recommends to the Supreme Court that the Honorable John G. Ritchie be removed from office.

DATED this 6th day of August, 1993.

COMMISSION ON JUDICIAL CONDUCT

(see dissent)

Daniel L. Hannula, Presiding Officer

Dianne Welsh Bleck
Dianne Welsh Bleck

Pamela T. Praeger
Pamela T. Praeger

K. Collins Sprague
K. Collins Sprague

(see dissent)

Hon. H. Joseph Coleman



G. Douglas Ferguson

Nancyhelen Hunter Fischer
Nancyhelen Hunter Fischer

(see dissent)

Hon. Thomas E. Kelly

Anthony Thein
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Donald H. Thompson
Hon. Donald H. Thompson

Todd Whitrock
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