

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

FILED
SEP 21 1992

In Re the Matter of)

Honorable John P. Junke)
Walla Walla District Court)
328 W. Poplar)
Walla Walla, WA 99362)

No. 91-1137-F- 34

STATEMENT OF
CHARGES

This Statement of Charges is filed alleging violation by the Honorable John P. Junke of the Rules of Judicial Conduct pursuant to the authority granted in Chapter 2.64 RCW and Chapters 292-08 and 292-12 WAC, and at the order of the Commission on Judicial Conduct, the Commission having determined that Probable Cause exists to believe that:

I. BACKGROUND

1. The Honorable John P. Junke, Respondent herein, is now and was at all times discussed herein a Judge of the Walla Walla District Court and Walla Walla Municipal Court.

II. FACTS SUPPORTING CHARGES

2. Judge Junke violated Canons 1, 2(A) and 3(A)(4) of the Code of Judicial Conduct by initiating and considering ex parte or other communications concerning matters pending before his court including without limitation the following:

a. Judge Junke contacted the Superior Court, ex parte, to request reconsideration of its decision in State v. Juan Torres, Superior Court Cause No. 91-1-00328-6 (e.g., memos April 24, 1992, May 5, 1992) (April, 1992).

b. Judge Junke met with defendant in jail, ex parte, in State v. Robert Phillips, District Court Cause No. 102420 and 102689, Municipal Court Cause Nos. 9596, 10015, 2928, 2929, 3276, 3741, and 3740 (February, 1992); City of Walla Walla v. Grant Arthur Weaver, Municipal Court Cause No. 8345 (October, 1991); City of Walla Walla v. Kurt Barclay Ogden, Municipal Court Cause Nos. 3700 and 3701 (April, 1992); City of Walla Walla v. Steven Gonzales, Municipal Court Cause No. 92518 (March, 1992); and City of Walla Walla v. Donald Bates, Municipal Court Cause Nos. 11225, 11640 and 12407 (May, 1992). See e.g., Junke memorandums May 1, 1992, December 23, 1991, October 14, 1991, April 6, 1992 and April 9, 1992.

c. Judge Junke communicated ex parte with the judge pro tem, defense counsel, and/or prosecuting attorney in State v. Manuel Jiminez Lara, District Court Cause Nos. 102378 and 102879, Municipal Court Cause Nos. 9555 and 9556 (April, 1992); State v. Robert Phillips, District Court Cause No. 102420 and 102689, Municipal Court Cause Nos. 9596, 10015, 2928, 2929, 3276, 3741, and 3740 (February, 1992); State v. Juan Torres, Cause No. 91-1-00328-6, District Court Cause Nos. 102044, 102168, 102169, Municipal Court Cause No. 01912 (April, 1992); City of Walla Walla v. Kurt Barclay Ogden, Municipal Court Cause Nos. 3700 and 3701 (April, 1992); City of Walla Walla v. Donald Bates, Municipal Court Cause Nos. 11225, 11640 and 12407 (May, 1992); State v. Scott E. Brown, District Court Cause No. 101591 (April, 1992); City of Walla Walla v. Grant Arthur Weaver, Municipal Court Cause No. 8345 (October, 1991); and State v. Lyonnais, District Court Cause No. 102576 (June, 1992). See e.g., Junke memorandums October 21, 1991, May 1, 1992, December 23, 1991, April 9, 1992, April 6, 1992 and April 24, 1992.

d. Judge Junke interfered with the attorney-client relationship and/or

representation in State v. Robert Phillips, District Court Cause No. 102420 and 102689, Municipal Court Cause Nos. 9596, 10015, 2928, 2929, 3276, 3741, and 3740 (February, 1992) (Suggesting that defense counsel talk with him concerning affidavits of prejudice, or that clauses in their contract would be invoked); State v. Juan Torres, Superior Court Cause No. 91-1-00328-6, District Court Cause Nos. 102044, 102168, 102169, Municipal Court Cause No. 01912 (April, 1992) (Advocating position against prosecutor); State v. Gilberto Veracruz, District Court Cause No. 102291 (Interfering with the role of the prosecutor); and cases referred to in Junke memorandums dated May 5 and 22, 1992. Junke reference to Contract for Legal Services in memorandum, May 1992.

3. Judge Junke violated Canons 1, 2(A), 3(A)(1), 3(A)(4), and 3(C)(1)(a) of the Code of Judicial Conduct by improperly taking or considering evidence obtained outside the trial, ex parte, without the consent of the parties, including without limitation in the following cases: State v. Robert Phillips, District Court Cause No. 102420 and 102689, Municipal Court Cause Nos. 9596, 10015, 2928, 2929, 3276, 3741, and 3740 (February, 1992); City of Walla Walla v. Grant Arthur Weaver, Municipal Court Cause No. 8345 (October, 1991); State v. Manual Jiminez Lara, District Court Cause Nos. 102378 and 102879, Municipal Court Cause Nos. 9555 and 9556 (April, 1992); and City of Walla Walla v. Steven Gonzales, Municipal Court Cause No. 92518 (March, 1992).

4. Judge Junke violated Canons 1, 2(A), 3(A)(1) and 3(A)(4) of the Code of Judicial Conduct by failing to maintain proper impartiality and by inserting himself into proceedings, including without limitation in the following cases: State v. Robert Phillips, District Court Cause No. 102420 and 102689, Municipal Court Cause Nos. 9596, 10015, 2928, 2929, 3276, 3741, and 3740 (February, 1992) (Preparing memorandum concerning defendant

matters); State v. Juan Torres, District Court Cause Nos. 102044, 102168, 102169, Municipal Court Cause No. 01912 (April, 1992) (Coercing plea bargain); City of Walla Walla v. Kurt Barclay Ogden, Municipal Court Cause Nos. 3700 and 3701 (April, 1992) (Communicating with defense counsel and treatment facility director, ex parte); State v. Gilberto Veracruz, District Court Cause No. 102291 (Coercing discretion of prosecutor); and State v. Scott E. Brown, District Court Cause No. 101591 (April, 1992) (Conducting court business by memorandums without a hearing).

5. Judge Junke violated Canons 1, 2(A), 3(A)(1), 3(A)(3) and 3(C)(1) of the Code of Judicial Conduct by improperly exercising the power of his office and permitting his personal bias to affect his impartiality, including without limitation, when Judge Junke held Deputy Prosecuting Attorney Matt Rutt in contempt of court on the basis that he did not continue the prosecution of a case. State v. Gilberto Veracruz, District Court Cause No. 102291.

6. Judge Junke violated Canons 3(A)(1), 3(A)(3), 3(A)(5) and 3(B)(1) of the Code of Judicial Conduct by misusing the administrative power of his office and improperly treating court personnel, including without limitation, Judge Junke's circulation of a memorandum to court employees requiring that any other judge could not rule or dispose of a matter unless there was a valid affidavit of prejudice filed against him, violation of this direction could jeopardize employment. See Junke Memorandum, "Access to Citations for Dispositions," dated March 10, 1992. Further, Judge Junke improperly limited access to court records by locking them in his office. Access to such records was available only by permission of the Judge.

7. Judge Junke violated Canons 2(A) and 3(A)(6) by seeking out opportunities

for news coverage on a pending case by initiating contact with the press beyond the scope of his official duties, including without limitation, in the case of State v. Sally Byrd, District Court Cause No. 102464 (1992).

III. BASIS FOR COMMISSION ACTION

8. The Commission on Judicial Conduct sent Respondent a Statement of Allegations on July 2, 1992. Respondent requested from the Commission, and was granted, an extension to answer to August 10, 1992. The Commission did not receive an answer pursuant to the extension. On September 3, 1992, Respondent's attorney sent a letter stating concerns and further requests to the Commission. Thereafter, the Commission proceeded to formal Statement of Charges.

The Commission determined, on September 4, 1992, that probable cause exists for believing that Respondent violated Canons 1, 2(A), 3, 3(A)(1), 3(A)(2), 3(A)(3), 3(A)(4), 3(A)(5), 3(A)(6), 3(B)(1), and 3(C)(1)(a) of the Code of Judicial Conduct (CJC) which state:

CANON 1

Judges Should Uphold the Integrity and Independence of the Judiciary

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

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 the judiciary.

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.
- (5) Judges should dispose promptly of the business of the court.
- (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.

(B) Administrative Responsibilities.

- (1) Judges should diligently discharge their administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative

responsibilities of other judges and court officials.

(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;

IV. NOTIFICATION OF RIGHT TO FILE WRITTEN ANSWER

9. 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 pleading required.

DATED this 18th day of September, 1992.

COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON



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