FILED
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COMMISSION ON

CONCURRING AND DISSENTING OPINION

The undersigned concur with Findings of Fact and Conclusions of Law set forth by the majority, except as to the sanction of "censure" from which we dissent as follows. Although the Respondent's violations of the Code of Judicial Conduct must be considered serious, we believe that the purpose of imposing sanctions, as set forth in In Re Buchanan, 100 Wn.2d 396, 669 P.2d 1248 (1983)[1], can and would be achieved by imposition of a reprimand without the need for full censure.

Respondent testified that he would follow the direction given by this Commission and we believe he will do so. This decision will be sent to the Respondent and will be made public so that it will serve to educate judges throughout the state, the decision will serve as a guide and corrective direction to Respondent, and the decision will serve notice to the people of the State of Washington that they may expect their judges to comply with the Code of Judicial Conduct, to handle matters without allowing personal knowledge or conduct to bias or prejudice their decisions, and as an admonishment to treat all people coming before them with the respect, dignity and courtesy they deserve, regardless of their differences.

The Washington State Constitution, Article IV, Section 31, mandates that the Commission, upon finding a violation of the Code of Judicial Conduct, impose one of three sanctions listed in order

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[1] "In making this decision [the appropriate sanction to be imposed], our primary concern will be to provide sanctions sufficient to restore and maintain the dignity and honor of the position and to protect the public from any future excesses. As in attorney discipline cases, the sanctions must also be sufficient to prevent recurrences." Id. at 400.

as: admonishment, reprimand or censure[2]. These terms are not defined in the Constitution[3] but implicit in the Constitutional listing is the notion that they differ in degree of severity which, presumably, the Commission should consider in proportion to the severity of the violation(s) of the Code and the presence or absence of aggravating and/or mitigating circumstances. Upon reviewing the sanctions imposed by the Commission in other cases, such as In Re Velie, CJC No. 90-946-F-25, a reprimand, in our opinion, is the proportionally requisite sanction in this case.

Susan A. Dubuisson

[2] The Commission is given further discretionary authority in cases of censure to recommend, to the Washington Supreme Court, that a respondent be suspended or removed from office.

[3] The Commission has defined the terms by rule. See WAC 292-08-030(1), (2) and (13).