

FILED
OCT 11 1994
COMMISSION ON
JUDICIAL CONDUCT

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

In Re the Matter of:)	
)	
HONORABLE CARMEL C. MACKIN,)	NO. 94-1677
Commissioner)	
Mason County District Court)	STATEMENT OF CHARGES
4th & Alder Streets)	
P.O. Box 0)	
Shelton, WA 98584-0090)	
_____)	

This Statement of Charges is filed alleging violation by the Honorable Carmel C. Mackin 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

The Honorable Carmel C. Mackin, Respondent herein, was at all times discussed herein a Commissioner of the Mason County District Court.

II. FACTS SUPPORTING CHARGES

1. Commissioner Mackin violated Canons 1, 2(A) and 2(B) of the Code of Judicial Conduct and RCW 46.61.502 by her conduct on or about January 23, 1994, and March 31, 1994, in

the city of Olympia, Thurston County, Washington. That conduct includes, without limitation the following:

a. Commissioner Mackin operated a motor vehicle on a public roadway in Olympia, Washington, on or about January 23, 1994, while under the influence of intoxicating liquor.

b. At the time of her arrest for Driving While Intoxicated on January 23, 1994, Commissioner Mackin falsely denied that she had consumed intoxicating liquor.

c. At the time of her arrest on January 23, 1994, for Driving While Intoxicated, Commissioner Mackin identified herself to the arresting officer as a District Court Commissioner and demanded the officer's name and refused to cooperate with the officer by voluntarily exiting her vehicle.

d. Commissioner Mackin refused to cooperate with the arresting officer during the breath test but did ultimately provide samples which resulted in blood alcohol readings of .16 and .17.

e. Commissioner Mackin was issued a citation for the offense of Driving While Intoxicated in violation of RCW 46.61.502.

f. On or about March 31, 1994, Commissioner Mackin drove a motor vehicle into another vehicle located in the AM/PM Mini Mart parking lot located at 1725 Evergreen Park Drive, Olympia, Washington.

g. When the police responded to the report of an accident, the investigating officer observed Commissioner Mackin outside of her vehicle in an intoxicated condition. She was identified by witnesses to the accident as the driver and described by the witnesses as "out of it".

h. Because of her intoxication Commissioner Mackin was placed under arrest for Driving While Intoxicated. At the police station Commissioner Mackin refused to provide a breath sample and her refusal was reported to the Department of Licensing.

i. Commissioner Mackin was given a citation for Driving While Intoxicated in violation of RCW 46.61.502.

2. Commissioner Mackin's conduct and information available to the Commission evidence a substance abuser.

III. BASIS FOR COMMISSION ACTION

1. The Commission on Judicial Conduct sent Respondent a Statement of Allegations on February 16, 1994. On March 3, 1994, the Commission received a response from the Respondent's attorney. On April 11, 1994, a copy of the Verified Statement of Allegations was sent to Commissioner Mackin's attorney, together with notice that the requested stay of proceedings was denied. On May 18, 1994, the Commission received an additional response to the Statement of Allegations from Commissioner Mackin. On June 9, 1994, an Amended Statement of Allegations was served on Commissioner Mackin's attorney. On June 17, 1994, Commissioner Mackin's response to the Amended Statement of Allegations was received by the Commission on Judicial Conduct.

2. The Commission has determined that probable cause exists for believing that Respondent has violated Canons 1, 2(A) and 2(B) 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.

(B) Judges should not allow their families, social, or other relationships to influence their judicial conduct or judgment. Judges should not lend the prestige of their office to advance the private interests of others; nor should judges convey or permit others to convey the impression that they are in a special position to influence them. Judges should not testify voluntarily as character witnesses.

3. The Commission also acts pursuant to WAC 292-12-030(1) in its belief that the Respondent suffers from a condition which seriously impairs the performance of her judicial duties.

IV. NOTIFICATION OF RIGHT TO FILE WRITTEN ANSWER

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 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 pleadings required.

DATED this 11th day of October, 1994.

COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

By David Akana
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