

FILED

AUG 23 1995

COMMISSION ON JUDICIAL CONDUCT

BEFORE THE COMMISSION ON JUDICIAL CONDUCT  
FOR THE STATE OF WASHINGTON

In re the Matter of ) NO. 94-1693-F  
)  
The Honorable MERLE E. WILCOX, ) RESPONSE TO AMENDED STATEMENT  
District and Municipal Courts ) OF CHARGES  
of Island County and Oak Harbor )  
)  
)

I. BACKGROUND

The Honorable Merle E. Wilcox previously submitted a response to the original "statement of charges." The response is dated May 31, 1995. To the extent necessary, the statements contained therein are included by reference in this response to the amended statement.

II. SPECIFIC RESPONSE TO CHARGES OF MISCONDUCT

- A. Judge Wilcox did not exhibit inappropriate conduct toward Eileen Taylor Andersen, a court employee.
- B. Judge Wilcox has never intentionally touched Eileen Taylor Andersen's breasts nor has he made inappropriate comments of a sexual nature to Eileen Taylor Andersen.
- C. Eileen Taylor Andersen was discharged from the employ of the Island County District Court on or about June 8, 1983, because of incompetence and deceit occurring during the course of her employment with the Island County District Court.

RESPONSE TO AMENDED STATEMENT OF CHARGES  
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### III. LEGAL ISSUES PRESENTED

The Commission failed to abide by the requirements of WAC 292-12-010, et seq. WAC 292-12-020(2) & (3), WAC 292-08-050(1), Article IV, Section 3, of the Washington State Constitution. Specifically, Judge Wilcox was never notified by the Commission that he was the subject of initial proceedings relating to the complaint described in the Amended Statement of Charges. Judge Wilcox was not afforded a reasonable opportunity to present matters in response. There is no evidence or indication that the Commission made any finding with respect to the grounds for further Commission proceedings as required by WAC 292-12-020(4) and WAC 292-12-020(5).

The fact that a complaint was made by Eileen Andersen, and the substance of the complaint were not maintained as confidential, as required by WAC 292-08-050. The amended charges should be dismissed since they lack both factual merit and have been filed contrary to the requirements of the Washington Administrative Code. The Commission's failure to follow the provisions of the code with respect to the amendment of charges violates Judge Wilcox's constitutional right to procedural due process and his right to confidentiality as provided in WAC 292-08-050.

DATED this 21 day of August, 1995.



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