

FILED
JUN 9 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,)
District and Municipal Courts) RESPONSE TO STATEMENT OF
of Island County and Oak Harbor) CHARGES
)
)
)
)

I. BACKGROUND

A. Judge Wilcox began his first term as the Island County District Court Judge on January 2, 1983. At that same time, he began acting as the Oak Harbor Municipal Court Judge. He has served continually in that position.

B. Judge Wilcox has not been the subject of any prior commission investigations or actions.

C. In 1986, Judge Wilcox married Margaret Lynne Wilcox. Margaret Lynne Wilcox had one dependent child, Bethany Williams, who resided with them during the marriage.

In 1993, Judge Wilcox petitioned the Island County Superior Court for the dissolution of his marriage to Margaret Lynne Wilcox. Shortly before the time the petition was filed, Ms. Wilcox made a threat to Judge Wilcox in which she told him that she would "ruin him" and report him to the "Judicial Conduct Commission" if he did not settle the divorce case

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LAW OFFICE OF
ZYLSTRA BEEKSMA WALLER & SKINNER, P.L.L.C.
3101 300 AVENUE WEST
OAK HARBOR, WASHINGTON 98277
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1 by payment to her of the sum of \$100,000.00. Judge Wilcox refused by telling Ms. Wilcox
2 that her threats amounted to extortion.

3 D. In January of 1994, the superior court judge presiding over the divorce case
4 ruled, among other things, that Ms. Wilcox should retain the property that she owned at the
5 time of the marriage and the Judge Wilcox would retain his property, free and clear of any
6 claims asserted by his spouse. No award of cash was made to Ms. Wilcox.
7

8 E. Shortly after the decision in the dissolution of marriage case was issued, Ms.
9 Wilcox filed her complaint against Judge Wilcox with the Commission on Judicial Conduct.

10 F. Judge Wilcox provided the Commission with a specific response to the statement
11 of allegations on December 29, 1994.
12

13 G. Shortly after the filing of the initial "statement of allegations," Margaret Lynne
14 Wilcox and Bethany Williams, sought a protective order against Judge Wilcox in the King
15 County Superior Court. Although no statutory or administrative authority existed for them
16 to do so, the Commission's counsel assisted Ms. Wilcox and Ms. Williams in this endeavor.
17 The petition was captioned "In re Commission on Judicial Conduct Request For Assistance."
18 The Commission's counsel obtained an ex parte order of protection and order to show cause
19 from a King County Superior Court Judge and subsequently distributed it to law enforcement
20 through the statewide computer system designed for dissemination of domestic violence
21 orders.
22

23 At the show cause hearing, Judge Wilcox appeared in person and through counsel.
24 Ms. Wilcox and Ms. Williams appeared personally and were assisted by the Commission's
25 counsel. The Seattle Times also appeared through its counsel and orally moved for an order
26 directing that the proceedings be open to the public.
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28 After hearing argument on this subject from all three parties, the court declined to
29 hold the hearing in public and closed the courtroom. The court then heard argument on
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LAW OFFICE OF
ZYLSTRA BEEKSMA WALLER & SKINNER, P.L.L.C.
3101 300 AVENUE WEST
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1 the merits of the request for a protective order. In doing so, the court considered the written
2 materials presented. Thereafter, the judge denied the petition, finding, among other things,
3 that, "[n]o statutory basis exists to issue the order."¹ In its decision, the court also noted
4 that Ms. Wilcox failed to make any prior complaint about the 1991 assault that she alleged
5 was the basis of her request for a protective order in December, 1994.
6

7 **II. SPECIFIC RESPONSE TO CHARGES OF MISCONDUCT**

8 A. Judge Wilcox has never "molested" a child or engaged in sexual misconduct with
9 a minor at any time nor has he "engaged in a course of conduct" involving these allegations.
10 Judge Wilcox denies the allegations set forth in paragraphs A(1)(a) through A(1)(d) of the
11 Statement of Charges.

12 B. Judge Wilcox denies the allegations set forth in paragraph B of the Statement of
13 Charges.
14

15 C. Judge Wilcox denies the allegations set forth in paragraphs C(1)(a) through C(1)(c);
16 and paragraphs C(2)(a) and C(2)(b) of the Statement of Charges.
17

18 **III. LEGAL ISSUES PRESENTED**

19 The Commission lacks jurisdiction to act on specific charges of misconduct allegedly
20 occurring prior to the date that Judge Wilcox took office as the District and Municipal Court
21 Judge for Island County and the City of Oak Harbor. Specifically, those charges set forth
22 in paragraphs A(1)(a) and A(1)(b) allege misconduct occurring in 1976 and 1982,
23 respectively. On neither occasion was Judge Wilcox a judge. R.C.W. 2.64.057 does not
24 give the Commission authority to base specific charges upon conduct occurring prior to a
25 judge's assumption of office. This statute merely confers upon the commission the authority
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29 ¹ See Order Denying Motion For Entry of Protective Order dated January 27, 1995, King County Superior
30 Court cause nos. 94-2-31107-7 and 94-2-31106-9.

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LAW OFFICE OF
ZYLSTRA BEEKSMA WALLER & SKINNER, P.L.L.C.
3101 300 AVENUE WEST
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1 to "investigate and consider" conduct occurring "prior to, on, or after December 4, 1980"²
2 when such conduct relates to a complaint filed.

3 The charges described in paragraphs A(1)(a) and A(1)(b) of the Statement of Charges
4 should be dismissed as a matter of law. The remaining charges are not supported by the
5 facts and should also be dismissed.
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7 Dated this 31st day of May, 1995.

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CHRISTON C. SKINNER #9515
Zylstra, Beeksma, Waller and Skinner
Attorneys for Judge Merle Wilcox

29 ² The effective date of Article 4, Section 31 of the Washington State Constitution (the amendment that
30 created the Judicial Qualifications Commission and its authority to act.)

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