

BEFORE THE COMMISSION ON JUDICIAL CONDUCT  
FOR THE STATE OF WASHINGTON

FILED  
DEC - 6 1996

COMMISSION ON JUDICIAL CONDUCT

In re the Matter of:

No. 95-2016

The Honorable Kenneth L.  
Jorgensen, Superior Court  
Judge of Grant County.

STIPULATION PURSUANT TO  
WAC 292-12-020(6) AND  
WASHINGTON STATE  
CONSTITUTION ARTICLE IV,  
SECTION 31

Pursuant to the Washington State Constitution, Article IV, Section 31, and WAC 292-12-020(6)<sup>1</sup>, the Commission on Judicial Conduct ("Commission") and The Honorable Kenneth L. Jorgensen, Judge of the Grant County Superior Court, do hereby stipulate and agree as provided herein.

The Commission is represented in these proceedings by attorney Andrew C. Bohrnson and The Honorable Kenneth L. Jorgensen is represented by attorneys Thomas Frey and Anne Bremner.

**I. STIPULATED FACTS SUPPORTING CHARGES**

1. That The Honorable Kenneth L. Jorgensen ("Respondent") is now and has been since 1992 a Superior Court Judge of Grant County.

2. On August 2, 1995, Respondent was sent a letter from the Commission informing him that a verified statement was filed in accordance with WAC 292-12-010(4) and WAC 292-12-020(2), and that the Commission was pursuing initial proceedings. A Statement of Allegations was enclosed. Thereafter, on December 29, 1995, an Amended Statement of Allegations was provided to Respondent,

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<sup>1</sup> Pursuant to Article IV, Section 31, of the Washington State Constitution, the Commission on Judicial Conduct adopted rules on April 6, 1990, designated as Washington Administrative Code, Chapters 292-08 and 292-12 WAC, and on August 9, 1996, has repealed such rules effective on September 18, 1996, adopted Commission on Judicial Conduct Rules of Procedure (CJCRP) and for confidentiality effective on September 18, 1996.

STIPULATION: 1

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1 accompanied by a cover letter in accordance with WAC 292-12-010(4)  
2 and WAC 292-12-020(2).

3 3. That on both occasions, the Respondent was invited to  
4 respond. Respondent responded to the initial Statement of  
5 Allegations on August 16, 1995, and responded to the Amended  
6 Statement of Allegations on January 8, 1996.

7 4. That on March 8, 1996, a Statement of Charges was filed in  
8 Commission offices in accordance with WAC 292-12-030. Respondent  
9 was personally served. The Respondent failed to file an answer  
10 within 21 days after service of the Statement of Charges. A General  
11 Denial was entered on Respondent's behalf, filed April 8, 1996, by  
12 the Executive Director of the Commission on Judicial Conduct.

13 5. That in Cause No. 83-3-00290-7, Debbie Rae Cole (f/k/a  
14 Debbie Rae Smith) v. Travis Dean Smith, Respondent received a  
15 personal phone call from Petitioner's mother, *ex-parte*, improperly  
16 soliciting the quashing of a bench warrant issued by The Honorable  
17 Evan Sperline, Judge of the Superior Court of Grant County. That  
18 said file was highlighted throughout with information regarding the  
19 Affidavit of Prejudice filed against Respondent on record in the  
20 Clerk's office. In addition, this record indicates that Respondent  
21 acknowledged with his signature on this affidavit on December 7,  
22 1992. That in response to said telephone call to the residence of  
23 The Honorable Kenneth L. Jorgensen from the mother of Debbie Rae  
24 Cole, Judge Jorgensen quashed said warrant, lawfully issued by The  
25 Honorable Evan Sperline, Superior Court Judge for Grant County, and  
26 directed a deputy of the Grant County Sheriff's Department to not  
27 fulfill his duties pursuant to said warrant and to return without  
28 said Debbie Rae Cole in custody. That as a result of quashing said  
29 warrant, no hearing was ever held, Ms. Cole was allowed to leave the  
State of Washington, and The Honorable Judge Evan Sperline was  
compelled to reissue another warrant which remains unserved.

6. That in Cause No. 93-3-00536-0, Mark Steven Johnson v.  
Carol Johnson, the Petitioner-father initially appeared before the  
Respondent as a complaining witness in the company of the Grant

STIPULATION: 2

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1 County Deputy Prosecutor, Jerald Hamley, seeking an arrest warrant  
2 to be issued against Carol Johnson, then residing in the State of  
3 Arizona, on the charge of custodial interference. In the course of  
4 giving testimony, Mr. Johnson advised the Respondent that he was  
5 aware of the fact that his wife resided in the State of Arizona,  
6 that the child was residing with his wife in the State of Arizona,  
7 and that a dissolution proceeding was pending in the State of  
8 Arizona. The Respondent failed to contact the Arizona court in  
9 order to ascertain the status of the dissolution action, and issued  
10 a bench warrant for Carol Johnson. Thereafter, the Petitioner-  
11 father, at the suggestion of the Respondent, reappeared before the  
12 Respondent, *ex-parte*, having previously filed a new dissolution  
13 action in the State of Washington. The Petitioner-father, acting  
14 *pro se*, requested the court to enter an order granting him temporary  
15 child custody, *ex parte*, without notice to the other party or the  
16 other party's counsel. That Respondent unilaterally assumed  
17 jurisdiction over a cause of action, *ex-parte*, at the request of the  
18 Petitioner-father, based on a personal relationship. That a cause  
19 of action was already lawfully pending before and within the State  
20 of Arizona. That prior to assuming jurisdiction, the Respondent was  
21 advised that said action was pending and that the minor child of the  
22 parties was residing with the mother. That thereafter, the  
23 Respondent improperly issued an arrest warrant for the Respondent-  
24 mother named in the Grant County action, then a resident of the  
25 State of Arizona. Further, that Respondent issued a Writ of  
26 Extradition and assisted in advising the Petitioner-father as to the  
27 proper method to seek enforcement of said Writ in the State of  
28 Arizona. Thereafter, that the Respondent refused to consult with  
29 The Honorable Judge William J. O'Neil, Judge of Pinal County,  
regarding the case pending in Arizona and refused to respond to his  
efforts to do so until after Respondent closed the case filed in the  
Grant County Superior Court.

7. That on December 15, 1995, the Respondent had *ex-parte*  
communications with the Grant County Prosecutor in which Respondent

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1 was overheard discussing the specifics of a plea bargain in Grant  
2 County Superior Court Cause No. 95-1-00496-5, State of Washington v.  
3 Gregory Paul Roberts. That assigned defense counsel, Tom Earl, was  
4 not notified, was not present, and did not consent to this ex-parte  
discussion.

5 8. That the Respondent has, by his conduct, repeatedly given  
6 the appearance of having had additional ex-parte contacts with both  
7 parties and counsel at locations outside of the Court, off the  
8 record, and to the exclusion of opposing parties and opposing  
9 counsel where issues in controversy were discussed and matters of  
substance appeared to be decided without notice to opposing counsel.

10 9. That the Respondent's demeanor in the course of acting as  
11 a Superior Court Judge of the State of Washington in and for the  
12 County of Grant has on multiple occasions given the impression to  
13 both parties and attorneys that he was failing to be attentive to  
14 the matters pending before him.

15 10. That the Respondent has demonstrated a level of competency  
16 below that demanded of a Superior Court Judge for the State of  
17 Washington in civil matters involving, but not limited to, general  
jurisdiction, evidence, domestic relations, and ethics.

18 11. That the Respondent has failed to avail himself of  
19 educational assistance programs for judges which relate to duties  
20 and responsibilities including, but not limited to, the National  
21 Judicial College and the Superior Court Judges' Association Mentor  
Program.

22 12. That Respondent's incompetence and failure to address  
23 competency problems have placed an unmanageable burden on the  
24 Superior Court Clerk's Office, administrative staff, and Judge Evan  
25 Sperline, the only other duly elected Superior Court Judge in Grant  
26 County.

27 13. That the Respondent has given the appearance to have been  
28 swayed by personal affiliations and relationships with members of  
29 organizations to which Respondent belongs thereby appearing to give  
favorable treatment as a result of that affiliation. That said

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1 appearance has resulted in the filing of numerous Affidavits of  
2 Prejudice thereby placing an additional burden on the Superior Court  
3 Clerk's Office, administrative staff, and Judge Evan Sperline.

#### 4 II. STIPULATED AGREEMENT AND SANCTIONS

5 1. Respondent agrees and stipulates to the facts as set forth  
6 above.

7 2. That said conduct constitutes a violation of Canons 1,  
8 2(A), 2(B), 3(A)(1), 3(A)(4), 3(A)(5), and 3(A)(6).

9 3. Respondent agrees and stipulates that the facts as set  
10 forth above warrant the Commission entering an Order of Censure.

11 4. That the Respondent agrees and stipulates to immediately  
12 register and successfully complete the following courses sponsored  
13 by the National Judicial College:

- |                             |         |
|-----------------------------|---------|
| 14 (a) General Jurisdiction | 1 week  |
| 15 (b) Advanced Evidence    | 1 week  |
| 16 (c) Decision Making      | 1 week  |
| 17 (d) Ethics for Judges    | 2½ days |
| 18 (e) Judicial Writing     | 1 week  |

19 5. That Respondent agrees and stipulates to register and  
20 attend not less than 15 hours of CLE in areas of jurisdiction,  
21 evidence, ethics and civil procedure, per year, for two years  
22 commencing upon entry of the Commission's Order. All seminars must  
23 be pre-approved by Commission and proof of attendance filed upon  
24 successful completion.

25 6. That the Respondent agrees and stipulates to schedule and  
26 meet with an approved Judicial Mentor not less than once per month.

27 7. That the Respondent agrees and stipulates that he will  
28 disclose to opposing parties and counsel any personal relationship,  
29 excluding those involving merely name and facial familiarity, based  
upon the Respondent's common membership in a club or congregation  
with said party or attorney in any formalized organization.

8. That the Respondent agrees and stipulates that he shall  
not make any exculpatory statements to the press, media, or public  
which in any way retracts from the facts stipulated to the above  
sanctions entered by this Commission.

STIPULATION: 5

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1 9. That the Respondent shall take no action which may be  
2 reasonably perceived as retaliatory in nature related to these  
3 proceedings.

4 10. That Respondent stipulates and agrees that by entering  
5 into this Stipulation and agreement he hereby waives his procedural  
6 and appeal rights pursuant to CJCRP 25<sup>2</sup> and Article IV, Section 31,  
7 of the Washington State Constitution in this proceeding No. 95-2016-  
8 F-60.

9 **III. RESERVATION OF RIGHTS UNDER CERTAIN CONDITIONS**


10 1. The Commission and Respondent agree that they intend, by  
11 this Stipulation, to bring this matter to conclusion.

12 2. That this Stipulation shall not become effective until  
13 approved by the Washington Commission on Judicial Conduct. If the  
14 stipulation is not accepted, the proceedings will go forward as  
15 though this Stipulation had not been entered into. Furthermore,  
16 until such time as the Commission accepts this Stipulation, its  
17 terms and conditions shall be strictly confidential and, in the  
18 event this Stipulation is not accepted, then its terms and  
19 conditions shall not constitute evidence at the time of hearing nor  
20 shall any provision contained within this Stipulation and Agreement  
21 be disclosed nor made public.

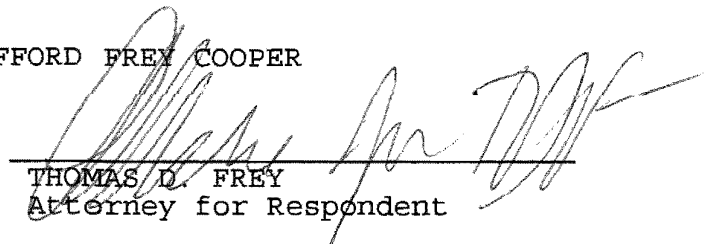
22 **DATED** this \_\_\_\_ day of October, 1996.

23 **COMMISSION ON JUDICIAL CONDUCT**

24 By:   
25 HON. KENNETH L. JORGENSEN

26 By:   
27 ANDREW C. BOHRNSEN  
28 Attorney for Commission

29 STAFFORD FREY COOPER

By:   
THOMAS D. FREY  
Attorney for Respondent

<sup>2</sup> Effective September 18, 1996.

STIPULATION: 6

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IV. ORDER OF CENSURE

Based on the foregoing Stipulation and Agreement set forth herein, the Commission hereby orders, and Respondent is hereby CENSURED for violating Canons 1, 2(A), 2(B), 3(A)(1), 3(A)(4), 3(A)(5) and 3(A)(6) of the Code of Judicial Conduct. Such conduct detrimentally affects the integrity of the judiciary and undermines public confidence in the administration of justice. Respondent shall follow a corrective course of action as enumerated in Section II, Stipulated Agreement and Sanctions, govern his conduct in accordance therewith, and shall ~~confirm~~ <sup>conform</sup> with the foregoing Agreement.

COMMISSION ON JUDICIAL CONDUCT

By:   
HAROLD D. CLARKE, III  
Presiding Officer

STIPULATION: 7

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