

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

FILED

AUG 9 1996

In Re the Matter of)
)
Honorable Randal B. Fritzler)
Clark County District Court)
1200 Franklin Street)
Vancouver WA 98666)
_____)

No. 95-2136-F-61

COMMISSION ON JUDICIAL CONDUCT

**STIPULATION AND ORDER
OF CENSURE**

The Commission on Judicial Conduct and the Honorable Randal B. Fritzler, Judge of the Clark County District Court, do hereby stipulate and agree as provided for herein. This stipulation shall not become effective until approved by the Washington Commission on Judicial Conduct.

The Commission on Judicial Conduct is represented in these proceedings by its counsel, David Akana, and the Honorable Randal B. Fritzler is represented by his attorney, John A. Strait.

STIPULATED FACTS

1. The Honorable Randal B. Fritzler, Respondent herein, is now, and was at all times discussed herein, a Judge of the Clark County District Court, Vancouver, Washington.

2. For one or two months in 1995, Respondent engaged in a consensual sexual relationship with a court employee.

3. The court employee held the position of judicial secretary. The duties of this position required regular contact with Respondent and the other district court judges. The judicial secretary was directly supervised by the court administrator.

4. The court employee's spouse is an attorney, a sole practitioner who appears often in district court, and whose offices are located in Clark County.

5. Respondent and the court employee conducted their relationship over a few months. Aspects of the relationship occurred after scheduled court business, but with some association with court facilities and scheduling.

6. The relationship became known within the district court.

7. Respondent performed a number of judicial acts in cases where the court employee's spouse was attorney of record. These judicial acts included presiding over primarily uncontested hearings and entering default judgments in collection matters.¹ Respondent did not disclose his relationship with the court employee to any party in these proceedings.

8. The relationship between Respondent and the court employee disrupted the administration of the court. Although the court employee bears some responsibility in this matter, the relationship impacted the workplace through distractions including social contacts, rumors, and work performance problems.

9. Respondent did not disclose his relationship with the employee in meetings with the court administrator concerning rumors and the work performance of the court employee.

¹ E.g., Court Case Nos. 7554102, 222011, 940525, 7810078.

10. The relationship interfered with the court's business. It eventually required rescheduling the attorney's matters out of Respondent's department. For a short time, the entire district court bench recused itself from this attorney's cases. His matters were rescheduled before a judge pro tem solely assigned for him. These consequences may have affected the attorney's reputation and practice.

11. Respondent cooperated with the Commission by promptly submitting preliminary information and filing a thorough response to a Statement of Allegations. Respondent has voluntarily undergone counseling.

12. Respondent has been a judge since his election in 1986. Respondent has no history of disciplinary action by this Commission for any violation of the Code of Judicial Conduct.

AGREEMENT

1. Based upon the foregoing stipulated facts, Respondent agrees that while serving in his capacity as Judge of the Clark County District Court, he did violate Canons 1, 2(A), 3(B)(1) and 3(D)(1)(a) of the Code of Judicial Conduct.²

2

CANON 1

Judges shall 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 high standards of judicial conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective.

2. Respondent agrees that he shall not repeat such violations in the future, mindful of the threat his conduct poses to public confidence in the integrity and impartiality of the judiciary, and to the administration of justice.

Comment

Deference to the judgments and rulings of courts depends upon public confidence in the integrity and independence of judges. The integrity and independence of judges depends in turn upon their acting without fear or favor. Although judges should be independent, they must comply with the law, including the provisions of this Code. Public confidence in the impartiality of the judiciary is maintained by the adherence of each judge to this responsibility. Conversely, violation of this Code diminishes public confidence in the judiciary and thereby does injury to the system of government under law.

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 act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

. . . .

CANON 3

Judges shall perform the duties of their office impartially and diligently.

The judicial duties of judges should take precedence over all other activities. Their judicial duties include all the duties of office prescribed by law. In the performance of these duties, the following standards apply:

. . . .

(B) Administrative Responsibilities.

(1) Judges should diligently discharge their administrative responsibilities, maintain professional competence in judicial administration and facilitate the performance of the administrative responsibilities of other judges and court officials.

. . . .

(D) Disqualification.

(1) Judges should disqualify themselves in a proceeding in which their impartiality might reasonably be questioned, including but not limited to instances in which:

(a) the judge has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

. . . .

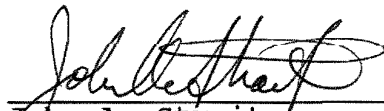
3. Although this sexual relationship was consensual, Respondent agrees that, in addition to concerns of propriety and concerns about this court employee's attorney spouse, intimate relationships between individuals of such unequal power and such proximity are, at best, ill-advised, and by their nature may impair the functioning of any work environment.


4. Respondent agrees that, although the judicial acts referred to above required little discretion, his conduct raised reasonable questions about his impartiality.

5. Respondent agrees that he will attend and participate in the course "Ethics for Judges," scheduled for November 20-22, 1996, at the National Judicial College, Reno, Nevada. Respondent agrees that he shall personally pay for all expenses connected with the course. In the alternative, Respondent may substitute a suitable educational offering pertinent to the violations set forth above, subject to the advance approval of the Commission. Respondent shall certify his attendance at either educational offering to the Commission.

DATED this 11th day of June, 1996


Honorable Randal B. Fritzler


John A. Strait
Counsel for Respondent


David Akana
Counsel for Commission on
Judicial Conduct

ORDER OF CENSURE

Based upon the above Stipulation and Agreement, the Commission on Judicial Conduct hereby orders, and Respondent is hereby censured, for the above set forth violations of the Code of Judicial Conduct.

DATED this 9th day of August, 1996.



Margo Keller, Chair
Commission on Judicial Conduct