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COMMISSION ON JUDICIAL CONDUC

## BEFORE THE COMMISSION ON JUDICIAL CONDUCT OF THE STATE OF WASHINGTON

In Rc the Matter of:	)	•
	)	
Justice Richard B. Sanders	)	No. 96-2173-IF-63
Washington State Supreme Court	)	
Temple of Justice	)	ANSWER TO STATEMENI
P. O. Box 40929	)	OF CHARGES
Olympia, WA 98504-0929	)	

## I. Preliminary Statement

The Honorable Richard B. Sanders hereby files his answer completely and unequivocally denying the allegations of the Commission on Judicial Conduct that he violated the Cannons of the Code of Judicial Conduct. Justice Sander's conduct did not diminish in any way the public confidence in the integrity, impartiality and independence of the judiciary. Neither did Justice Sanders engage in political activity inappropriate to his judicial office. Moreover, any determination that Justice Sanders' speech and conduct did constitute a violation of the Code of Judicial Conduct would violate Justice Sanders' rights under the United States and Washington State Constitutions. Justice Sanders' brief and general statement and appearance at a March for Life event are speech protected by the First Amendment of the United States Constitution and Article I, §5 of the Washington State Constitution and reflect Justice Sanders' religious conscience protected by the First Amendment of the United States Constitution and Article I, §11 of the Washington State Constitution. Justice Sanders' conduct is also consistent with the conduct of many jurists who have made statements or appeared at functions reflecting support for matters such as the death penalty, crime victims rights, criminal penalties for sex offenders, gun control, and the right to have an abortion. Any determination to sanction Justice Sanders would therefore constitute invidious viewpoint discrimination which is further prohibited by the First Amendment of the United States Constitution and Article I, §5 of the Washington State

ANSWER TO STATEMENT OF CHARGES - 1

PRESTON GATES & ELLIS 5000 COLUMBIA CENTER 701 PIPTILA AVENUE SEATTLE, WASHINGTON 9R104-7078 TRLEPHONE (200) 523-7022 FACSIMILE: (200) 523-7022



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Constitution. Finally, the entirely secretive and one-sided process utilized by the Commission in investigating, charging and prosecuting Justice Sanders violates Justice Sanders' due process rights guaranteed by the Fifth Amendment of the United States Constitution and Article I, § 3 of the Washington State Constitution.

## II. Answers to Statement of Charges

In Answer to the statement of charges, Justice Sanders states as follows:

- 1. Justice Sanders admits that he is now and has been a Justice of the Washington Supreme Court since December 12, 1995 as alleged in Section I, paragraph 1 and denies the remainder of the paragraph.
  - 2. Justice Sanders admits the matters alleged in Section I, paragraphs 2.
- 3. Justice Sanders admits that on January 26, 1996 he addressed the March for Life event held at the Washington State Capital as alleged in Section II, paragraph 1 and denies the remainder of the paragraph.
  - 4. Justice Sanders admits the matters alleged in Section II, paragraph 2.
- 5. Justice Sanders admits that he appeared at the event carrying a red rose as alleged in Section II, paragraph 3 and denies the remainder of the paragraph.
  - 6. Justice Sanders denies the matters alleged in Section II, paragraph 4.
- 7. Justice Sanders admits that his introduction and statement are accurately transcribed in Section II, paragraph 5 and denies the characterization of the event as a "rally".
  - 8. Justice Sanders denies the matters alleged in Section II, paragraph 6.
  - 9. Justice Sanders denies the matters alleged in Section II, paragraph 7.
  - 10. Justice Sanders denies that he violated any Cannon of the Code of Judicial Conduct.

## III. Further Response

By way of further response, Justice Sanders states as follows:

1. The facts alleged in the statement of charges do not state a basis for finding a violation of the Code of Judicial Conduct.

- 2. Justice Sanders' brief and general statement and appearance at a March for Life event are speech protected by the First Amendment of the United States Constitution and Article I, §5 of the Washington State Constitution.
- 3. Justice Sanders' brief and general statement and appearance at a March for Life event reflect Justice Sanders' religious conscience protected by the First Amendment of the United States Constitution and Article I, §11 of the Washington State Constitution
- 4. The Commission's effort to sanction Justice Sanders is based on the particular viewpoint stated by Justice Sanders and/or is based on the particular principles advanced by the March for Life and therefore constitutes invidious viewpoint discrimination which is prohibited by the First Amendment of the United States Constitution and Article I, §5 of the Washington State Constitution.
- 5. The process utilized by the Commission in investigating, charging and prosecuting

  Justice Sanders violates Justice Sanders' due process rights guaranteed by the Fifth Amendment of the

  United States Constitution and Article I, § 3 of the Washington State Constitution.
- 6. Justice Sanders intends to present a full and vigorous defense to the charges and anticipates taking all necessary discovery in the course of that defense. He therefore requests that any hearing date set allow sufficient time to accomplish such discovery. At a minimum, no hearing date should be set sooner than the sixty day period set forth for discovery in CJCRP Rule 22(b)(2).

DATED this 24th day of December, 1996.

PRESTON GATES & ELLIS

Paul J. Lawrence, wsba#13557

Cooperating Attorney for the ACLU-W