

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

COMMISSION ON JUDICIAL CONDUCT

In Re the Matter of:)
)
Justice Richard B. Sanders)
Washington State Supreme Court)
Temple of Justice)
P.O. Box 40929)
Olympia, WA 98504-0929)
_____)

No. 96-2173-F-63

STATEMENT OF CHARGES

This Statement of Charges is filed alleging violation by the Honorable Richard B. Sanders of the Code of Judicial Conduct pursuant to the authority granted in Article IV, Section 31 of the Washington Constitution and at the order of the Commission on Judicial Conduct, the Commission having determined that probable cause exists to believe that:

I. BACKGROUND

1. The Honorable Richard B. Sanders ("Respondent" herein) is now, and has been a Justice of the Washington State Supreme Court since January 26, 1996.

2. On July 11, 1996, Respondent was sent a letter from the Commission on Judicial Conduct informing him that a Verified Statement was filed and that the Commission was pursuing Initial Proceedings. A Statement of Allegations was enclosed and a response invited. Respondent submitted a response to the Statement of Allegations, received August 5, 1996.

II. FACTS SUPPORTING CHARGES

1. On January 26, 1996, shortly after being sworn in as a Justice of the Washington State Supreme Court, Respondent addressed the "March for Life" rally at the Washington State Capitol.

2. Respondent's participation was arranged in advance of the event.

3. Respondent appeared at the event carrying a red rose, a symbol identified with the "March for Life."

4. Respondent knew or reasonably should have known that this event was a political demonstration to support the anti-abortion, pro-life movement, to support political candidates identified with that movement, and to support legislative initiatives identified with that movement which, if enacted, are likely to come before the Court on which Respondent sits.

5. Respondent was introduced and made remarks at the "March for Life" rally as follows:

Introduction: "I'm going to do something very different. Today, we had a Chief Justice of our State Supreme Court sworn in at 10:30. I would like now to introduce Justice Richard Sanders."

Respondent: "Well, I'm not quite Chief Justice, but I am a Justice. That's plenty good enough for me. I want to give all of you my best wishes in this celebration of human life. Nothing is, nor should be, more fundamental in our legal system than the preservation and protection of innocent human life. By coincidence, or perhaps by providence, my formal induction to the Washington State Supreme Court occurred about an hour ago. I owe my election to many of the people who are here today and I'm here to say thank you very much and good luck. Our mutual pursuit of justice requires a lifetime of dedication and courage. Keep up the good work."

6. The remarks in paragraph 5 above have caused public concern about Respondent's ability to hear impartially those issues likely to come before the Court.

7. Respondent's appearance and remarks delivered in the context of the "March For Life" rally are alleged to violate the Code of Judicial Conduct, because such conduct serves to diminish rather than to promote public confidence in the integrity, impartiality and independence of the judiciary.

III. BASIS FOR COMMISSION ACTION

The Commission has determined that probable cause exists to believe that Respondent has violated Canons 1, 2(A), 2(B), 7(A)(1) and 7(A)(5), and that Respondent's conduct was not permitted by Canons 4 and 5 of the Code of Judicial Conduct. Pertinent portions of the Code sections provide in part:

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.

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.

(B) Judges should not allow family, social, or other relationships to influence their judicial conduct or judgment. Judges should not lend the prestige of judicial office to advance the private interests of the judge or others; nor should judges convey or permit others to convey the impression that they are in a special position to influence them. Judges should not testify voluntarily as character witnesses.

Comment

Maintaining the prestige of judicial office is essential to a system of government in which the judiciary functions independently of the executive and legislative branches. Respect for the judicial office facilitates the orderly conduct of legitimate judicial functions. Judges should distinguish between proper and improper use of the prestige of office in all of their activities

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CANON 4

JUDGES MAY ENGAGE IN ACTIVITIES TO IMPROVE THE LAW, THE LEGAL SYSTEM AND THE ADMINISTRATION OF JUSTICE.

Judges, subject to the proper performance of their judicial duties, may engage in the following quasi-judicial activities, if in doing so they do not cast doubt on their capacity to decide impartially any issue that may come before them:

(A) They may speak, write, lecture, teach and participate in other activities concerning the law, the legal system and the administration of justice.

(B) They may appear at a public hearing before an executive or legislative body or official on matters concerning the law, the legal system and the administration of justice, and they may otherwise consult with an executive or legislative body or official, but only on matters concerning the administration of justice.

(C) Judges may serve as members, officers or directors of an organization or governmental agency devoted to the improvement of the law, the legal system or the administration of justice. They may assist such an organization in raising funds and may participate in their management and investment, but should not personally solicit contributions from the public. They may attend fund raising activities. They may make recommendations to public and private fund granting agencies on projects and programs concerning the law, the legal system and the administration of justice.

Comment

As judicial officers and persons specially learned in the law, judges are in a unique position to contribute to the improvement of the law, the legal system and the administration of justice, including revision of substantive and procedural law and improvement of criminal and juvenile justice. To the extent that their time permits, they are encouraged to do so, either independently or through a bar association, judicial conference, or other organization dedicated to the improvement of the law.

Use of an organization's letterhead for fund raising or membership solicitation is permissible provided the letterhead lists only the judge's name and position in the organization, and if comparable designations are listed for other persons.

Judges must not be speakers or guests of honor at an organization's fund raising event, but attendance at such an event is permissible if otherwise consistent with this Code. Judges may pay to attend an organization's fund raising event.

Extrajudicial activities are governed by Canon 5.

CANON 5

JUDGES SHALL REGULATE THEIR EXTRAJUDICIAL ACTIVITIES TO MINIMIZE THE RISK OF CONFLICT WITH THEIR JUDICIAL DUTIES.

(A) **Avocational Activities.** Judges may write, lecture, teach and speak on nonlegal subjects, and engage in the arts, sports and other social and recreational activities, if such avocational activities do not detract from the dignity of their office or interfere with the performance of their judicial duties.

Comment

Complete separation of judges from extrajudicial activities is neither possible nor wise; they should not become isolated from the society in which they live.

(B) **Civic and Charitable Activities.** Judges may participate in civic and charitable activities that do not reflect adversely upon their impartiality or interfere with the performance of their judicial duties. Judges may serve as officers, directors, trustees or nonlegal advisors of an educational, religious, charitable, fraternal or civic organization not conducted for the economic or political advantage of its members, subject to the following limitations:

(1) Judges should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before them or will be regularly engaged in adversary proceedings in this state's courts.

Comment

The changing nature of some organizations and of their relationship to the law makes it necessary for judges to reexamine regularly the activities of each organization with which they are affiliated to determine if it is proper for them to continue their relationship with it. For example, in many jurisdictions charitable hospitals are now more frequently in court than in the past.

(2) Judges should not use the prestige of their office to solicit contributions for any educational, religious, charitable, fraternal or civic organization, but they may be listed as officers, directors or trustees of such an organization. They should not be speakers or the guest of honor at an organization's fund raising events, but they may attend such events.

Comment

Judges may pay to attend an organization's fund raising event. Participation in fund raising activities for organizations devoted to the law, the legal system, and the administration of justice are governed by Canon 4. Use of an organization's letterhead lists only the judge's name and position in the organization, and if comparable designations are listed for other persons.

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CANON 7

**JUDGES SHOULD REFRAIN FROM POLITICAL ACTIVITY
INAPPROPRIATE TO THEIR JUDICIAL OFFICE.**

(A) Political Conduct in General.

- (1) Judges or candidates for election to judicial office shall not:
- (a) act as leaders or hold any office in a political organization;
 - (b) make speeches for a political organization or nonjudicial candidate or publicly endorse a nonjudicial candidate for public office;
 - (c) solicit funds for or pay an assessment or make a contribution to a political organization or nonjudicial candidate;
 - (d) attend political functions sponsored by political organizations or purchase tickets for political party dinners or other functions, except as authorized by Canon 7(A)(2);
 - (e) identify themselves as members of a political party, except as necessary to vote in an election;
 - (f) contribute to a political party, a political organization or nonjudicial candidate.

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(5) Judges should not engage in any other political activity except on behalf of measures to improve the law, the legal system or the administration of justice.

IV. ANSWER TO STATEMENT OF CHARGES

In accordance with CJCRP Rule 20, Respondent shall file a written answer with the Commission and serve a copy on designated counsel for the Commission within twenty-one days after service of the Statement of Charges. ***As provided by Rule 21(a), failure to answer the formal charges shall constitute an admission of the factual allegations.***

DATED this 3rd day of December, 1996.

COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON



David Akana
Executive Director
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Olympia, WA 98507