

FILED

AUG 28 1997

COMMISSION ON JUDICIAL CONDUCT

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

In Re the Matter of

HONORABLE A. EUGENE
HAMMERMASTER, Judge

Sumner, Orting, and South Prairie
Municipal Courts,
Pierce County, Washington

CJC No. 95-1937-F-67

STATEMENT OF CHARGES

Pursuant to authority granted in Washington State Constitution Article IV, Section 31, Revised Code of Washington (RCW), Chapter 2.64 and the Commission on Judicial Conduct Rules of Procedure ("CJCRP"), and at the order of the Commission on Judicial Conduct ("Commission"), this Statement of Charges alleging violations of the Code of Judicial Conduct ("CJC") by Honorable A. Eugene Hammermaster is filed, the Commission having determined probable cause to believe the following:

I. BACKGROUND

A. Honorable A. Eugene Hammermaster ("Respondent" herein) is now and was at all times referenced herein, a Judge of the Sumner, Orting, and Wilkeson/South Prairie Municipal Courts in Pierce County, Washington.

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1 B. On May 14, 1997, the Commission, acting pursuant to CJCRP 17(e) served
2 Respondent with a Statement of Allegations. Respondent provided a response to the
3 Statement of Allegations, dated June 26, 1997. The Commission then served
4 Respondent with a Supplemental Statement of Allegations dated August 1, 1997.
5 Respondent provided a response to the Supplemental Statement of Allegations by letter
6 dated August 22, 1997.

7
8 **II. FACTS SUPPORTING CHARGES**

9 A. Respondent has issued, or stated that he may issue, orders that are not within his
10 authority or that may constitute an abuse of his authority. Such orders or statements
11 constituted an abuse of Respondent's authority and exhibited a demeanor that is not
12 respectful or dignified. Examples of these orders or statements include the following:

13 1. Respondent routinely stated in court that it is within his authority to hold
14 defendants in jail indefinitely for failure to comply with fine payments or other orders of
15 the Court. Respondent consistently threatened defendants with life sentences and with
16 fines for contempt of court that would accrue at a rate of "\$40 per day, \$300 per week,
17 \$1,200 per month and over \$12,000 per year." See specific cases below. These
18 statements are part of a pattern of undignified courtroom demeanor and such orders are
19 not within Respondent's authority. Such orders would not comply with state law
20 regarding contempt or credit toward fines for time served. See RCW 10.01.180, Ch.
21 10.82 and Ch. 7.21.

22 Cases in which such orders or statements were made include the
23 following:

24 a. City of Sumner v. Daniel Jay Link, Case No. 15779. See Exhibit 1,
25 transcribed excerpt of proceedings of November 26, 1996.

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- 1 b. City of Sumner v. Scott Anton Reisenauer, Case No. 13361. See
2 Exhibit 2, transcribed excerpt of proceedings of November 8, 1996.
- 3 c. City of Orting v. David Alan Deen, Case No. C00000280. See
4 Exhibit 3, transcribed excerpt of proceedings of November 8, 1996.
- 5 d. City of Orting v. Richard Norbert Cebula, Case No. C00000189.
6 See Exhibit 4, transcribed excerpt of proceedings of November 8, 1996.
- 7 e. City of Sumner v. Enrique Ceras-Campos, Case No. C00010522.
8 See Exhibit 5, transcribed excerpt of proceedings of November 5, 1996.
- 9 f. City of South Prairie v. Clifford Raymond Batten, Case
10 No. C00058228. See Exhibit 6, transcribed excerpt of proceedings of November 5,
11 1996.
- 12 g. City of Sumner v. Tracy Stewart Lybeck, Case No. 18523; and City
13 of Orting v. Tracy Stewart Lybeck, Case No. 5382. See Exhibit 7, transcribed excerpt
14 of proceedings of October 29, 1996.
- 15 h. City of Sumner v. Mike Wynn Sattler, Case No. C00010554. See
16 Exhibit 8, transcribed excerpt of proceedings of October 29, 1996.
- 17 i. City of Orting v. Michael Brian Sita, Jr., Case No. 4605. See
18 Exhibit 9, transcribed excerpt of proceedings of October 22, 1996.
- 19 j. City of Orting v. John David Powell, Case No. 6120. See Exhibit
20 10, transcribed excerpt of proceedings of August 27, 1996.
- 21 k. City of Sumner v. Lester Frank Leggitt, Case No. 13846. See
22 Exhibit 11, transcribed excerpt of proceedings of June 11, 1996.
- 23 l. City of Sumner v. Jason Luddington, Case No. 16210. See Exhibit
24 12, transcribed excerpt of proceedings of June 11, 1996.
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1 m. City of Sumner v. Matthew Clay Pankonin, Case Nos. 960036501
2 and C00010368 on or about February 23, 1996.

3 n. City of Sumner v. Eric John Wolf, Case No. 15112 on or about
4 February 10, 1995, May 23, 1995, and November 27, 1995.

5 2. Respondent routinely has issued court orders to compel Spanish-speaking
6 defendants to enroll in courses to learn English, to become citizens of the United States,
7 or to leave the United States in a given period of time. Respondent does not have
8 authority to enter such orders. In addition, such orders are part of a pattern of
9 undignified courtroom demeanor and demonstrate disrespect for defendants who appear
10 before Respondent. The following cases contain examples of such orders:

11 a. City of Sumner v. Enrique Ceras-Campos, Case No. 960127601.

12 b. City of Sumner v. Arcelio Aparicio-Zaldivar, Case No. C00010365.

13 See Exhibit 13, transcribed excerpt of proceedings of June 11, 1996.

14 c. City of Sumner v. Ramon Perez-Cuiriz, Case No. C00010069. See
15 Exhibit 14, transcribed excerpt of proceedings of June 11, 1996.

16 d. City of Sumner v. Francisco Valencia-Arias, Case No. C00010463.

17 e. City of Sumner v. Armando Talavera-Aviles, Case No. C00010044.

18 3. Respondent has issued, or has stated that he may issue, other types of
19 orders that are beyond Respondent's legal authority. These orders and statements are
20 part of a pattern of disrespectful conduct. For example:

21 a. City of Sumner v. Jason Allen Amburgy, Case No. C00010460.

22 In this matter, Respondent referred to court-ordered conditions such
23 as "not being bored." Further, Respondent's lengthy discussion with Mr. Amburgy
24 contains several inappropriate remarks. For example, after encouraging Mr. Amburgy,
25 Respondent vaguely threatens him with the "crow bar hotel" for failing to comply, and

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1 indicates that Mr. Amburgy might "crack up" if indeed he follows the court's order to
2 seek more volunteer activity. See Exhibit 15, transcribed excerpt of proceedings of
3 November 12, 1996.

4 4. Respondent has made statements and issued orders that denigrate the
5 position of individuals living together who are not married. This is part of a pattern of
6 undignified courtroom behavior. Cases involving examples of these orders include the
7 following:

8 a. City of Sumner v. Jason Theodore Elliott, Case No. C00010705.

9 In this matter, Respondent threatened a court order to separate
10 individuals living together, unmarried, where the defendant was charged with driving
11 while license suspended. In addition, Respondent made several disparaging remarks
12 about Mr. Elliott's relationship. Both the threatened order, which is outside
13 Respondent's authority in the matter, and the remarks, served to demean the defendant.
14 See Exhibit 16, transcribed excerpt of proceedings of October 22, 1996.

15 b. City of Orting v. Michael Brian Sita, Jr., Case No. 4605.

16 In this matter, Respondent stated: "I suggest you get rid of her" in
17 reference to defendant Mr. Sita's girlfriend, in addition to making other demeaning
18 remarks about both individuals. See Exhibit 9, transcribed excerpt of proceedings of
19 October 22, 1996.

20 c. City of Sumner v. Gary Wayne Lester, Case No. 960163801.

21 Respondent's order that the defendant Mr. Lester separate from his
22 girlfriend unless married was not within Respondent's authority and discriminated
23 against unmarried couples, as Respondent's further comments regarding domestic
24 violence implied. Mr. Lester was charged with disorderly conduct in this matter. See
25 Exhibit 17, transcribed excerpt of proceedings of November 5, 1996.

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1 d. City of Sumner v. Jeramie T. Petroff, Case No. C00010269.

2 In this matter, Respondent contemplated an order to compel
3 defendant Mr. Petroff's fiance to sell her motor vehicle. Respondent's remarks served
4 to demean the defendant. See Exhibit 18, transcribed excerpt of proceedings of
5 November 26, 1996.

6 e. City of Orting v. Shane Grady Cade, Case No. C00000275.

7 In this matter, following defendant Mr. Cade's plea of guilty to
8 domestic violence assault, Respondent issued an order to compel Mr. Cade and his
9 fiance, who owned a home together at the time, to separate until married. This was
10 beyond Respondent's authority and served to demean the individuals before him.

11 B. Respondent has engaged in a pattern of conducting criminal proceedings in a
12 manner that violates or impinges upon the fundamental procedural rights of criminal
13 defendants including, but not limited to, the holding of trials in absentia contrary to law.
14 Such conduct calls into question the integrity and impartiality of the office as well as
15 Respondent's competence and faithfulness to the law. For example:

16 a. City of Sumner v. John Jay Potter, Case No. C00010615. See Exhibit 19,
17 transcribed excerpt of proceedings of November 5, 1996.

18 b. City of Sumner v. Erroll Joseph Cayald, Case No. C00010318. See Exhibit
19 20, transcribed excerpt of proceedings of June 11, 1996.

20 c. City of Sumner v. Kelly Robert Hoose, Case No. 960103701.

21 d. City of Sumner v. Gregory Dean Bridges, Case No. C00010738.

22 C. Respondent's conduct has raised questions of the appearance of impropriety.

23 1. Aspects of Respondent's relationship with City of Orting Police Chief
24 Emmons have been improper.
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1 a. Respondent allowed Chief Emmons to act as an attorney for the
2 City of Orting before the court even though Chief Emmons is not a licensed attorney.
3 For example, Respondent has authorized Chief Emmons to negotiate, enter into, and
4 submit plea agreements in criminal proceedings.

5 b. Immediately preceding a City of Orting calendar on August 27,
6 1996, Respondent asked Chief Emmons for a summary of the cases for the afternoon
7 calendar. Respondent then proceeded to go to lunch with Chief Emmons immediately
8 before the afternoon calendar. This ex parte contact with Chief Emmons, which
9 immediately preceded City of Orting v. John Powell, raises questions about the
10 appearance of fairness. See Exhibit 21, transcribed excerpt of off-the-record
11 conversation, dated August 27, 1996.

12 2. Respondent has arranged for his son, David C. Hammermaster, to act as a
13 pro tem judge in his absence.

14 a. Such arrangement generates the appearance of impropriety due to
15 their familial relationship and due to the fact that Respondent and his son practice law
16 together at Hammermaster Law Offices. See Exhibit 22, transcribed excerpt of off the
17 record conversation, dated October 29, 1996.

18 b. In addition, under this pro tem arrangement, defendants who file an
19 affidavit of prejudice against Respondent may have their cases heard by Respondent's
20 son, and law associate, David C. Hammermaster.

21 For example, in the case City of Sumner v. Dina Doreen Buyak,
22 Case No. C00010657, after Ms. Buyak filed an affidavit of prejudice against
23 Respondent, David C. Hammermaster heard her case on September 24, 1996. See
24 Exhibit 23, transcribed excerpt of off the record conversation, dated August 27, 1996.
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1 favoritism. They should not approve compensation of appointees beyond the fair value
2 of services rendered.

3 **Comment**

4 *Appointees of the judge include officials such as referees, commissioners, special*
5 *masters, receivers, guardians and personnel such as clerks, secretaries and bailiffs.*
6 *Consent by the parties to an appointment or an award of compensation does not relieve*
7 *the judge of the obligation prescribed by this subsection.*

8 **IV. NOTIFICATION OF RIGHT TO FILE WRITTEN ANSWER**

9 In accordance with CJCRP 20, the Respondent is herewith informed that he shall
10 file with the Commission a written answer to this Statement of Charges and serve a
11 copy on disciplinary counsel in this matter, David Hoff at 1001 Fourth Avenue Plaza,
12 Suite 4500, Seattle, Washington 98154, within twenty-one (21) days after the service
13 of the Statement of Charges, unless the time is extended by the Commission. A failure
14 to answer the Statement of Charges constitutes an admission of the factual allegations.

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16 DATED this 28th day of August, 1997.

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18 COMMISSION ON JUDICIAL CONDUCT OF THE
19 STATE OF WASHINGTON

20 By David Akana
21 David Akana
22 Executive Director
23 Commission on Judicial Conduct
24 P.O. Box 1817
25 Olympia, WA 98507

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