

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

In Re the Matter of)	
)	
Honorable Albert M. Raines, Judge)	No. 98-2810-F-72
Des Moines Municipal Court)	
21630 11 th Avenue S.)	DISSENTING OPINION
Des Moines, WA 98198-6317)	
_____)	

We fully concur with the Commission findings that the act of Respondent Judge Albert M. Raines in passing a patently offensive note to an attorney was a bad call. However, no matter how we classify said act, it still constituted a clear violation of the Code of Judicial Conduct.

It was likewise established during the fact-finding hearing as well as from pleadings and testimonies of Respondent Judge Raines and Complainant Ms. Dao, among others, that:

1. Respondent Judge Raines personally apologized to Ms. Dao;
2. Respondent Judge Raines assured Ms. Dao that it would never happen again (Judge Raines' Answer to Statement of Charges, page 2, lines 7-10); and
3. Both Respondent and Complainant were friends for so many years.

These facts were well established; there are however several factors that still remain disturbing: To wit:

1. If Commission Counsel and Judge Raines through Counsel presented a stipulation to consider the matter as an “isolated incident” and that Respondent’s character was not an issue, why did Judge Raines still wasted everybody’s time in presenting nine witnesses before the Commission who all testified to his excellent reputation in the field of the legal profession as well as to his nondiscriminatory conduct?
2. Why was there still a need for Judge Raines to call his friends to testify before the Commission portraying the character of Ms. Dao as an issue?
3. Why did not Judge Raines show any compliance with the rules relative to the Commission hearing? Commission on Judicial Conduct Rules of Procedure 22 provided clearly:

(a)(2) Upon written demand after the time for filing an answer has expired, the commission and respondent will each disclose within fourteen days thereof...the following:

- (A) Names and addresses of all witnesses whose testimony that party expects to offer at the hearing;
- (B) A brief summary of the expected testimony of each witness.

None of the above sixteen (16) witnesses listed in the last list, nor the additional list of six (6) more witnesses, included the required “brief summary of the expected testimony,” appearing like a legal tactic or maneuver.

All matters and issues considered, we are now confronted with the sensitive issues of:

1. What Judicial Canons were violated; and

2. Whether or not to impose sanction.

With respect to the first issue, we strongly believe and/or concur with the majority that:

- a. Respondent violated Canon 1 by failing to establish, maintain and enforce high standards of judicial conduct, thereby diminishing public confidence in the judiciary.
- b. Respondent violated Canon 2(A) by failing to respect the law and not acting at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
- c. Respondent violated Canon 3(A)(2) for failure to maintain order and decorum in proceedings before him.
- d. Respondent violated Canon 3(A)(3) by failing to be “patient, dignified and courteous to...lawyers and others with whom judges deal in their official capacity.”

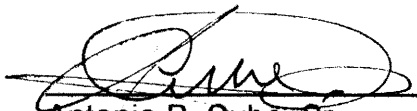
The second issue is whether or not to impose sanction. The Respondent is a person clothed with judicial authority that imposes sanctions and/or punishments on people found guilty of statutory infractions. Why should the same Respondent be treated differently? If we want to maintain public confidence in the integrity of the judicial system, we must show with all sincerity that nobody is above the law.

CONCLUSION

After careful consideration of all the facts and circumstances, and despite all the mitigating circumstances of:

1. The incident appearing to be an isolated incident;
2. That Respondent had been on the bench for approximately three months prior to the incident and Respondent had not previously served as a judge; and
3. That Respondent had no prior record of disciplinary action,

We strongly submit for consideration that Respondent Judge Albert M. Raines should at least be **ADMONISHED** for his act and be required to attend a course in judicial ethics as approved by the chair.


Antonio P. Cube, Sr.


Todd Whitrock


Sherry Appleton


Vivian Caver