

FILED

JUL 30 1999

COMMISSION ON JUDICIAL CONDUCT

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
FOR WASHINGTON STATE

In re the Matter of
Honorable Edward B. Ross, Judge
Whatcom County District Court ,

No. 98-2915-F-75

ANSWER TO STATEMENT OF CHARGES

Pursuant to CJCRP 20(a) respondent, through his lawyer, answers the statement of charges filed against him as follows:

I. BACKGROUND

Judge Ross admits this paragraph.

II RESPONSE TO FACTS SUPPORTING CHARGES

1. Judge Ross admits that after the court's work was completed on the afternoon of August 27, 1998, Eric Weight of the public defender's office approached Judge Ross as he was leaving the bench, to introduce Ms. Laura Smith as a new permanent employee with the public defender. Judge Ross already knew Ms. Smith because she had previously practiced before Judge Ross.
2. During the course of the conversation with Ms. Smith, she told Judge Ross that she attended Tulane Law School. Jim Hulbert, the assistant prosecuting attorney who heard her statement to the judge, stated that he had also attended Tulane. Judge Ross, in a joking manner, asked the deputy prosecutor if Ms. Smith was "one of the babes" that Mr. Hulbert had dated in law school? Judge Ross denies using the term "bagged." He denies

ANSWER
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ORIGINAL

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1 that he used any other words "to the same effect with a sexual connotation." At no time on
2 August 27, 1998 did Judge Ross believe his remarks carried a sexual connotation.

- 3 3. Eric Weight came to Judge Ross and expressed his concern that, based on Judge Ross'
4 August 27, 1998 statement, he wondered if Ms. Smith could receive fair and respectful
5 treatment when she appeared in front of Judge Ross. After listening to Mr. Weight's
6 concerns, Judge Ross was concerned that his remarks could have had such an
7 unintended impact upon Ms. Smith or anyone else at that August 27, 1998 meeting. Judge
8 Ross immediately arranged a meeting in the public defender's office attended by Jon
9 Ostlund, the director, Ms Smith and other lawyers from that office. Judge Ross apologized
10 to Ms. Smith and the other lawyers for any adverse inferences that could have been
11 caused by his best recollection of what he had said on August 27, 1998. Judge Ross told
12 all those present that he had nothing but respect for Ms. Smith and she could rest assured
13 that she would be treated only in a professional manner.

14 Judge Ross can only respond to the rest of the allegations alleged in Paragraph # 3 of the
15 Statement of Charges by providing the responsive information contained in paragraphs 4 - 6.

- 16 4. During the late summer and fall of 1998, Judge Ross was running for reelection as a
17 District Court judge. Judge Ross believed that all the persons who attended the meeting in
18 the public defender's office were satisfied and any issues involving his remarks had been
19 resolved. In a September, 1998 campaign forum, Judge Ross was the only candidate
20 asked about potentially racist or sexist remarks. He attempted to deal with the issue as
21 candidly as possible. Judge Ross realized after he was questioned that rumors about his
22 conduct were circulating.

- 23 5. After the forum, David Hunter, a lawyer who had attended the forum, approached Judge
24 Ross. After Judge Ross further explained the August 27, 1998 meeting to Mr. Hunter, Mr.
25 Hunter told Judge Ross that the current rumor "on the street" was that Judge Ross was
26 saying that Ms. Smith had slept with Mr. Ostlund to obtain her employment. Judge Ross
27 denied that he had ever told anyone this ugly rumor. Judge Ross asked Mr. Hunter who
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1 told him this second rumor. Mr. Hunter would tell Judge Ross only that he heard this
2 version of events from a probation officer.

- 3 6. The next day Judge Ross attended a luncheon held in the probation department. Judge
4 Ross believed that he could possibly be talking to the probation officer who was the source
5 of this rumor. Judge Ross attempted to explain to the District Court employees employed
6 in the probation department what he believed had happened at the August 27, 1998
7 meeting and the subsequent meeting at the public defender's office. Judge Ross also told
8 the people at the luncheon what had happened the night before and that the new rumor
9 was false. As far as Judge Ross can recall, all the persons who attended the luncheon
10 agreed that the rumors needed to be stopped. Judge Ross emphatically denies spreading
11 the new rumor. Judge Ross was trying to stop an ugly rumor by explaining the truth and
12 stopping any further spread of the rumor. Judge Ross' only reason for speaking out at the
13 luncheon was to stop the rumors that distorted his conduct and falsely accused him of
14 statements that he did not make.

15 III. BASIS FOR COMMISSION ACTION

- 16 1. Respondent admits this paragraph.
17 2. Respondent admits this paragraph
18 3. Judge Ross denies that any of his conduct violated Canon 1, Canon 2(A), and Canon
19 3(A)(3) of the Code of Judicial Conduct.

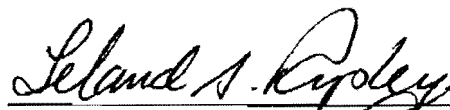
20 IV AFFIRMATIVE DEFENSE

- 21 1. On June 29, 1998, Judge Ross was severely injured in a bicycle accident. He was
22 hospitalized with a significant brain injury in addition to broken bones and nerve damage to
23 his neck.
24 2. While he was not totally recovered, Judge Ross insisted upon returning to the bench on
25 August 3, 1998. On August 18, 1998, Judge Ross contacted his doctor because he was
26 experiencing dizziness.
27 3. Judge Ross recently spoke to his doctor about any possible connection between his injuries
28 and these allegations of misconduct. His doctor told Judge Ross that it is typical of
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1 persons with a severe brain injury to make spontaneous statements without any advance
2 idea what the contents of the statement will be. His doctor also told Judge Ross that this
3 kind of statement could also result from the steroids Judge Ross was taking as a part of his
4 treatment.

- 5 4. Judge Ross believes that he did not make the statement alleged in paragraph #1. If the
6 Commission finds that clear cogent and convincing evidence proves that he made the
7 statement as charged, Judge Ross requests that the Commission consider his medical
8 condition as a mitigating factor.

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11 Dated: July 29, 1999

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13 Leland G. Ripley, WSBA #6266
14 Attorney for Respondent
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ANSWER
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