

BEFORE THE COMMISSION OF JUDICIAL CONDUCT
STATE OF WASHINGTON

IN RE THE MATTER OF:)	
	)	NO. CJC 98-2912-F-71
)	
The Honorable Charles A. Baechler)	
	)	CJCRP RULE 28
RESPONDENT	)	PETITION
	)	TO PERMIT LIMITED
	)	REINSTATEMENT
)	
)	

Charles Baechler is 41 years of age and is the respondent herein. He resides at 561 Sacheen Terrace Drive, Newport, Washington 99156; respondent resigned November 2nd, 1998 from the Pend Oreille District Court both as to a present term and a new term which was to commence January 1, 1999.

A Stipulation and Order was entered between Respondent and the Commission and the Order of Closure of proceedings was signed effective December 4, 1998.

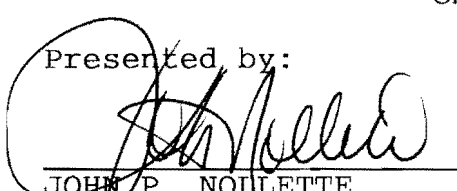
That respondent has been requested by the Pend Oreille County Prosecutor's Office to formalize by Findings of Facts and Conclusions of Law, respondent's oral rulings involving Motions to Suppress and Franks Motions; that Mr. Thomas A. Metzger, Pend Oreille Prosecutor has supplied an affidavit outlining the necessity of this reinstatement and the facts as he perceives them; respondent also attaches his Declaration in support of this limited reinstatement petition.

Respondent believes that an injustice will occur if this reinstatement is not granted; that he will deal ONLY with these matters and none other.

DATED THIS 29TH DAY OF JULY, 1999


CHARLES A. BAECHLER, PETITIONER

Presented by:


JOHN P. NOLLETTE
WSBA #5474
ATTORNEY FOR PETITIONER

JOHN P. NOLLETTE
ATTORNEY AT LAW
N. 4610 ASH, SUITE 203
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CJCRP RULE 28 PETITION TO PERMIT
LIMITED REINSTATEMENT 2

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

IN RE THE MATTER OF:	)	No. CJC No. 98-2912-F-71
)	
The Honorable Charles A. Baechler	)	AFFIDAVIT OF PROSECUTING
	)	ATTORNEY IN SUPPORT OF
	)	EXTREMELY LIMITED CJCRP 28
	)	REINSTATEMENT
)	

STATE OF WASHINGTON)	
	)	ss.
County of Pend Oreille)	

THOMAS A. METZGER, being first duly sworn upon oath deposes and says:

I am the duly elected and acting Prosecuting Attorney for Pend Oreille County, and am fully familiar with the facts and circumstances in this matter. I submit this affidavit to request that the Commission recommend the extremely limited reinstatement of District Court Judge Charles Baechler for the **SOLE** purpose of entering Findings of Fact and Conclusions of Law on various pretrial motions which were heard by Judge Baechler in the case of State of Washington vs. Jeanette and Swen Bergman. The relevant factual background is set forth below.

In January of 1997, a search warrant was issued authorizing a search of the Mountain Top Kennels in Pend Oreille County. The search warrant authorized law enforcement officers to search the premises for abused and/or neglected animals. Based upon what the officers observed at Mountain Top Kennels, law enforcement officers with the assistance of several veterinarians and countless volunteers from across the state, seized over 200 dogs and other animals which were alleged to be abused and/or

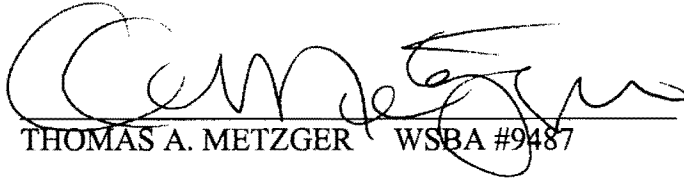
neglected. All of these dogs were placed in kennels and foster homes throughout the state.

Based upon the evidence presented to my office, the owners of Mountain Top Kennels, Jeanette and Swen Bergman, were each charged with 26 counts of Animal Cruelty and other related charges in Pend Oreille County District Court. The three attorneys hired by the Bergmans, filed a variety of pretrial motions. Following days of pretrial testimony and hearings, Judge Baechler denied the motions to suppress evidence and the motions to dismiss the charges. What followed was the longest and most costly District Court trial in Pend Oreille County history.


When the trial began, Court TV was there and highlights of the trial were broadcast nationwide. An 800 number people could call to find out about adopting the dogs or donating to their care received over 10,000 phone calls. Donations in excess of \$100,000.00 were made by concerned citizens. Following over three weeks of both pretrial and trial testimony, Judge Baechler found each defendant guilty of 16 counts of Animal Cruelty in the Second Degree. Each defendant received a substantial sentence and each defendant has filed an appeal, having in hand over 1300 pages of transcript.

While Judge Baechler entered Findings of Fact and Conclusions of Law concerning the judgments, he did not enter Findings of Fact and Conclusions of Law regarding the defendants' pretrial motions. To enable each party to have their day in court, Judge Baechler must be authorized to complete the trial court record by entering his Findings of Fact and Conclusions of Law concerning the pretrial motions heard and decided by him. I request that the Commission on Judicial Conduct take whatever action is necessary to allow Judge Baechler to complete the trial record in this case. If Judge

Baechler is not allowed to complete the trial court record in this case, the people of the State of Washington will be denied their day in court resulting in a substantial miscarriage of justice.


THOMAS A. METZGER WSBA #9487

SUBSCRIBED AND SWORN TO before me this 27th day of July, 1999.


Notary Public in and for the
State of Washington
My commission expires: 2-28-02

)
) DECLARATION OF
) CHARLES A. BAECHLER
)

COMES NOW Charles A. Baechler, being first duly sworn and upon oath to say:

That the matters contained herein are based upon my personal knowledge, and that I am competent to testify thereto.

That I had performed the duties of District Court Judge in Pend Oreille County, Washington from approximately December 16, 1993 until November 2, 1999. That in the course of performing those duties I presided over the pre-trial motions, trial and sentencing of the defendants in the matters of State v. Jenelle and Swen Bergman in the summer of 1997. That I do not currently have access to my notes or the court file and am therefor unable to provide exact dates or some of the specific details relating to my statements contained herein.

That these matters involved 26 separate counts per defendant relating to animal cruelty alleged to have been committed in the course of the Bergman's business at Mountain Top Kennels, located in Pend Oreille County. That at the time of the pre-trial motions relating to alleged Franks violations and suppression, I reserved issuing Findings of Fact or Conclusions of Law in support of my ruling which denied the Defense motions in order to proceed to trial. That the matter proceeded to bench trial without objection by either of the parties.


That upon conclusion of the trial, each of the defendants was convicted of a significant number of counts from each respective information, some of the counts were dismissed, and the defendants were acquitted on some of the counts. That although I was able to announce findings relating to the disposition of the charges and proceed with sentencing, it took a full six months to complete the Findings of Fact and Conclusions of Law relating to the court's determination of innocence and guilt for each count, for each defendant.

That the record that I utilized to supplement my own trial notes consisted of over 25 audio tapes. That there were also a significant number of photographs, and video tapes that had been admitted into evidence which I reviewed in preparing my formal findings. That because of the fact that for the major part of any given week I was the only judicial officer in the County, also functioning as Superior Court Commissioner, I had to complete this work outside of office hours.

That I was aware that an appeal had been filed in Superior Court, and in fact additional motions had also been filed, and stricken by the parties, in District Court. That during my contact with the parties after the conclusion of the trial relating to those motions I was informed that the appeal was going to be resolved by a proposed agreed sentencing revision in District Court. That therefore, at the time of my resignation from office, the Findings of Fact and Conclusions of Law relating to the pre-trial motions of the Defendant's had not been filed.

That I believe that the interests of justice would be furthered by allowing me to enter my findings and conclusions that relate to this matter. That neither of the parties or myself could have foreseen the turn of events which has brought this matter before the Commission. That had those events not occurred, the matter would have either been resolved as it appeared the parties had previously agreed, or the findings would have been entered for consideration by the Superior Court.

DONE this 29th day of July, 1999.



Charles A. Baechler



JOHN P. NOLLETTE

ATTORNEY AT LAW

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FAX COVER SHEET

RECIPIENT: Mr. David Akana; Executive Director
Commission on Judicial Conduct

FROM: JOHN P. NOLLETTE

DATE: July 29th, 1999

FAX NO. 360 586-2918

IF DIFFICULTIES OCCUR PLEASE CALL (509) 328 3733 x#6

NO OF PAGES: 9 INCLUDING COVER SHEET

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