

FILED

MAY 9 2002

COMMISSION ON JUDICIAL CONDUCT

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

In re the Matter of:

Honorable Peter M. Lukevich
Tukwila Municipal Court

CJC No. 3514-F-96

STIPULATION, AGREEMENT
AND
ORDER OF ADMONISHMENT

The Commission on Judicial Conduct and the Honorable Peter M. Lukevich, Judge of the Tukwila Municipal Court, stipulate and agree as follows:

This stipulation is submitted pursuant to CJCRP 23 and shall not have any effect until approved by the Washington Commission on Judicial Conduct.

STIPULATED FACTS

1. The Honorable Peter M. Lukevich ("Respondent") is now, and was at all times referred to in this document, Judge of the Tukwila Municipal Court.

2. On or about May 11, 1998, Respondent unintentionally received, ~~directly~~ indirectly, an ex parte communication made outside the courtroom by the victim in Tukwila v. Donald Lockwood, CR0024397. At sentencing on October 29, 1998, Judge Lukevich

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1 first disclosed that he had received and considered that
2 communication:

3 Thank you, Mr. Lockwood. This case
4 presents some very interesting
5 considerations for the court. First of
6 all, Mr. Lockwood, you violated a solemn
7 oath to this court. You violated that
8 oath to me when you and I first met. You
9 gave me your word that you would never see
10 Ms. Thiele again during the stay of our
11 proceedings and during all the pretrial
12 hearings that might be necessary. You gave
13 that word to me, you gave it to your
14 former lawyer, and then you proceeded to
15 violate that. That's one vivid memory that
16 I have with respect to this case. I also
17 have another memory which is probably more
18 vivid. It has been in the front of my
19 mind ever since this case first appeared
20 in this court, and that is a woman by the
21 name of Evonne Thiele arriving in this
22 court some ten minutes after you had been
23 arraigned on the first charge, and with
24 limited information I had made a decision
25 to release you on your personal
26 recognizance. Ms. Thiele appeared at the
27 counter of our court, exclaiming her fear
28 over the fact that your release would
result in her death. She was terrified,
she was crying, she was upset, and she
begged me to be able to do something about
that. She ran to the Police Department,
she came back upstairs, and she begged
again. I had made a decision to ride with
you and to grant that personal
recognizance, based on the representations
that you had made and the information that
I had available. As I indicated, you
violated that trust As a result of
those concerns and with the vivid memory
of Ms. Thiele in my mind, the court is
going to impose the following suspended
sentence

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1 Pages 81 and 82 of the transcript of proceedings in Tukwila v.
2 Lockwood, Tukwila Municipal Court No. CR0024397.

3 Respondent failed to disclose to the parties in a timely
4 manner that there had been an indirect ex parte communication, and
5 he then considered that communication when imposing sentence on
6 Mr. Lockwood.

7 3. The matter was appealed to King County Superior Court.
8 The court reversed the convictions and remanded the matter for a
9 new trial before a different judge. While noting that the judge
10 acted in an open and forthright manner, the sole basis for the
11 reversal was the Court's conclusion that "it is clear from the
12 judge's statement at disposition that he both received and
13 considered ex parte communication" and that he "failed to
14 disclose" the ex parte communication prior to the trial.
15 Memorandum RALJ Opinion in Tukwila v. Lockwood, King County
16 Superior Court No. 99-1-00010-9, September 29, 2000.

17 4. On February 12, 2001, following the disposition on
18 appeal, a complaint was filed with the Commission concerning
19 Respondent's conduct. On August 17, 2001, the Commission sent
20 Respondent a letter informing him that the Commission was
21 reviewing a complaint against him and inviting a response. The
22 Respondent replied on October 4, 2001. On October 8, 2001, the
23 Commission sent Respondent a letter informing him that it had
24 determined to commence initial proceedings against him. A
25 Statement of Allegations was enclosed and a response was invited.
26 Respondent requested, and was granted, an extension of time to
27 respond to the Statement of Allegations, and he submitted his
28 response on December 21, 2001. On January 3, 2002, the Commission
found probable cause existed that Respondent violated Canons 1, 2
and 3(A) (4) of the Code of Judicial Conduct.

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1 5. Under the Code of Judicial Conduct, a judge must act
2 at all times in a way that promotes public confidence in the
3 integrity and independence of judges and the judiciary. The
4 judicial duties of a judge take precedence over all other
5 activities, and one such duty is expressed in Canon 3(A) (4):

6 **CANON 3**

7 Judges shall perform the duties of
8 their office impartially and diligently.

9 The judicial duties of judges should take
10 precedence over all other activities.
11 Their judicial duties include all the
12 duties of office prescribed by law. In the
13 performance of these duties, the following
14 standards apply:

15 (A) Adjudicative Responsibilities.

16

17 (4) Judges should accord to every
18 person who is legally interested
19 in a proceeding, or that
20 person's lawyer, full right to
21 be heard according to law, and,
22 except as authorized by law,
23 neither initiate nor consider
24 ex parte or other communications
25 concerning a pending or
26 impending proceeding. Judges,
27 however, may obtain the advice
28 of a disinterested expert on the
law applicable to a proceeding
before them, by amicus curiae
only, if they afford the parties
reasonable opportunity to
respond.

Comment

 The proscription against communications
concerning a proceeding includes
communications from lawyers, law teachers,

1 and other persons who are not participants
2 in the proceeding, except to the limited
3 extent permitted. It does not preclude
4 judges from consulting with other judges,
5 or with court personnel whose function is
6 to aid judges in carrying out their
7 adjudicative responsibilities.

8 An appropriate and often desirable
9 procedure for a court to obtain the advice
10 of a disinterested expert on legal issues
11 is to invite the expert to file a brief
12 amicus curiae.

13 6. Respondent has one prior disciplinary action, CJC
14 No. 3037-F-86 (December 1, 2000). In his October 3, 2001, letter
15 to the Commission, Respondent expressed his limited experience as
16 a judge at the time the case in this matter came before him, and
17 that "the contact was unintentional."

18 AGREEMENT

19 1. Based on the stipulated facts, Respondent agrees that
20 while a Judge of the Tukwila Municipal Court he violated Canons 1,
21 2 and 3(A) (4) of the Code of Judicial Conduct by engaging in and
22 considering ex parte communication and by failing to act at all
23 times in a manner that promotes public confidence in the
24 impartiality and integrity of the judiciary.

25 2. Respondent agrees to accept a written admonishment as
26 described in RCW 2.64.010(1) and CJCRP Terminology and Rule 6.

27 3. Respondent agrees that he will exercise caution to
28 avoid repeating the violations. To this end, Respondent agrees to
complete not later than June 30, 2003, a course on general
jurisdiction or ex parte communications for Judges at the National
Judicial College, or a similar course approved in advance by the
Commission chair.

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1 4. Respondent agrees further that he shall not engage in
2 any retaliatory conduct with regard to any person known or
3 suspected to have cooperated with the Commission, named as a
4 potential witness in this matter, or otherwise associated with
5 this proceeding.

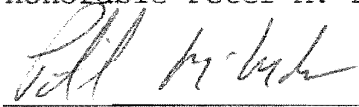
6 5. In accepting this stipulation, the Commission takes
7 into account Respondent's acknowledgment of the violations and his
8 disciplinary history, and the unintentional nature of the alleged
9 ex parte contact.

10 6. Respondent states that he has consulted with counsel
11 of his choosing regarding this stipulation and proceeding.
12 Respondent voluntarily enters into this stipulation.

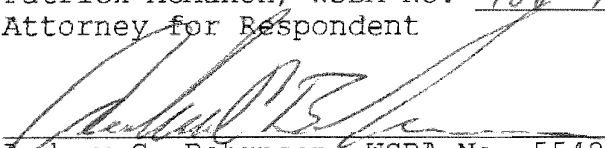
13 7. Respondent agrees that by entering into this
14 Stipulation and Agreement he hereby waives his procedural rights
15 and appeal rights pursuant to the Commission on Judicial Conduct
16 Rules of Procedure and Article IV, Section 31 of the Washington
17 State Constitution in this proceeding.

18 
19 Honorable Peter M. Lukevich, Respondent

5-9-02
Date

20 
21 Patrick McMahon, WSBA No. 18809
22 Attorney for Respondent

5-9-02
Date

23 
24 Andrew C. Bohrsen, WSBA No. 5549
25 Disciplinary Counsel for
26 Commission on Judicial Conduct

5-9-02
Date

27
28
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ORDER AND ADMONISHMENT

Based on the above Stipulation and Agreement, the Commission on Judicial Conduct hereby ORDERS, and Judge Peter M. Lukevich, Respondent, is hereby ADMONISHED for violation Canons 1, 2 and 3(A) (4) of the Code of Judicial Conduct. Respondent shall fulfill the terms of the agreement as above set forth.

DATED this 9th day of May, 2002.

Margo T. Keller

Margo T. Keller, Chair
Commission on Judicial Conduct

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