

FILED

JUN 7 2002

COMMISSION ON JUDICIAL CONDUCT

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

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In Re the Matter of)
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Heather K. Van Nuys, Judge of the)
Yakima County Superior Court)
129 N. 2nd Street)
Yakima, WA 98901-2639)

NO. 3754-F-99

**STIPULATION, AGREEMENT,
AND AGREED ORDER OF
ADMONISHMENT**

The Commission on Judicial Conduct and Heather K. Van Nuys, Judge of the Superior Court for Yakima County, do hereby stipulate and agree as provided for herein pursuant to CJCRP 23. This stipulation shall not become effective until approved by the Washington Commission on Judicial Conduct.

I. STIPULATED FACTS

1. Heather K. Van Nuys, Respondent, has served on the Yakima County Superior Court bench since August 1, 1988.

2. The Commission commenced an investigation pursuant to its constitutional authority based on information concerning Respondent. The information, supplemented by Respondent's self-report to the Commission, would support a determination that Respondent violated the Code of Judicial Conduct. Respondent does not dispute that the Commission, if it can establish violations of the Code, can take appropriate action under Article IV, Section 31 of the Washington Constitution.

3. Respondent presided as trial judge in a civil case, 95-2-02772-4, in May and June of 1997. She issued a preliminary letter opinion on December 3,

1 1997. She did not render her final detailed opinion until April 22, 2002, although
2 counsel for the parties sent several letters of inquiry and the Clerk of the Court
3 discussed the need for a resolution of the case with Respondent.
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5 4. While this case was pending, personal events increasingly consumed
6 more of Respondent's attention. Respondent suffered the loss of her stepmother a
7 few weeks after the trial in the civil case. Concurrently, Respondent was attending
8 to the daily living needs of an infirm elderly loved one from the time the case was
9 ready for decision until May 7, 2000, when the loved one died in Respondent's
10 home. During this time period, the necessary level of care steadily increased
11 culminating in intensive hospice care in Respondent's home, and eventually ended
12 in the loved one's death. Over this extended period, the care-giving process was
13 physically exhausting and emotionally draining to Respondent. The eventual death
14 was devastating to Respondent. As a direct result of the care giving and these
15 losses, Respondent became emotionally unable to give the case the concentrated
16 effort necessary to render a final decision until April 22, 2002.
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19 5. In entering this stipulation, the Commission takes into account several
20 pertinent factors:

21 A. Aggravating factors including:

22 (1) The length of service of the judge in a judicial capacity.

23 Respondent has been a judge of the Yakima District Court from January 1983 to
24 August, 1988 when she became a judge of the Yakima County Superior Court.

25 (2) There were, in all, two similar acts involving lengthy delay.

26 B. Mitigating factors including:
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(1) The physical and emotional demands placed on the Respondent associated with in-home hospice care and death, together with related grief and depression coinciding with, and contributing toward, the delay.

(2) Her prompt completion of the civil case No. 95-2-02772-4 after an inquiry by the Commission's staff.

(3) Her immediate self-report of a similar matter (Cause No. 97-2-00957-9), apparently the product of the same emotional demands associated with in-home care of a loved one, and losing track of the case due to her reassignment to juvenile court in 2000 and the refurbishing of her chambers. After locating the case, she promptly completed it, filing her ruling on April 29, 2002.

(4) Her full cooperation with the Commission from the inception of the Commission's contact with her.

(5) Her immediate acceptance of responsibility for her violation of Canons 1, 2(A) and CJC 3(A)(6);

(6) Her demonstration of sincere and substantial remorse reflected in her letters to affected counsel and the Commission's staff;

(7) Her prompt steps to immediately correct and improve her performance including:

- a. Prompt completion of the delayed opinions;
- b. Her enrollment in additional training regarding judicial decision-making at the National Judicial College;

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- c. Her entry into treatment for grief and depression;
- d. Her administrative arrangements for secondary check on pending decisions through her Clerk's Office and independent reporting to her Presiding Judge;
- (8) The impact of her misconduct affected relatively few persons;
- (9) The lack of any personal benefit, criminal conduct or dishonesty in the violations;
- (10) The lack of any prior discipline; and
- (11) Her previous contributions to the judiciary and her reputation as a jurist. See Attachment A.

II. AGREEMENT

1. Based upon the foregoing stipulated facts, Respondent and the Commission agree that if a contested hearing were held on this matter the Commission could find by clear, cogent and convincing evidence that Respondent violated Canons 1, 2(A) and 3(A)(6) of the Code of Judicial Conduct and these findings, with mitigation, could merit a disciplinary sanction for a sitting judge.

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

3. Respondent has enrolled in and agrees to attend the National Judicial College course of "Decision-Making" in 2002. Upon satisfactory completion of that, Respondent shall file a declaration with the Commission that the course was completed.

1 4. Respondent agrees and stipulates that she will continue the
2 counseling she is currently receiving until such time as her therapist and she agree
3 that further counseling is no longer required to assure there will be no similar
4 causes of delay.
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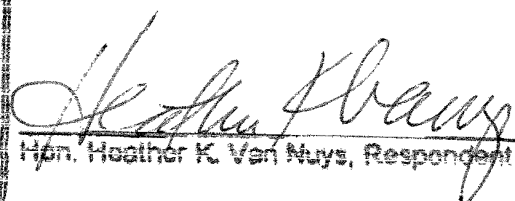
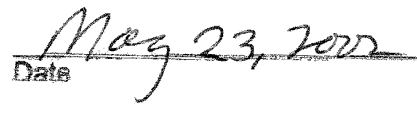
6 5. Respondent agrees she will maintain and report a list of cases taken
7 under submission by her with the Clerk's Office for the Yakima County Superior
8 Court, which may be reviewed by Commission staff. She agrees she will report any
9 case she has pending more than 45 days directly to her Presiding Judge. At the
10 time any case is taken under submission, she agrees she will set a resolution date
11 by order, file the order and provide a copy to the parties
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13 6. Respondent agrees she is voluntarily entering into this stipulation.


14 **STANDARD ADDITIONAL TERMS OF COMMISSION STIPULATION**

15 7. Respondent further agrees that she will not retaliate against any
16 person known or suspected to have cooperated with the Commission, or otherwise
17 associated with this matter.
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19 8. Respondent agrees that by entering into this stipulation and
20 agreement she hereby waives her procedural rights and appeal rights pursuant to
21 the Commission on Judicial Conduct Rules of Procedure and Article IV, Section 31,
22 of the Washington State Constitution in this proceeding.
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27 Hpn. Heather K. Van Nuys, Respondent Date
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John Strait
Counsel for Respondent, WSBA #4776

5/23/2002

Date



David Akana, Executive Director and
Counsel for Commission on Judicial Conduct
WSBA #5523

5/30/2002


Date

III. ORDER OF ADMONISHMENT

Based upon the above stipulation and agreement, the Commission on
Judicial Conduct hereby orders and Judge Heather K. Van Nuys is hereby
ADMONISHED for violating Canons 1, 2(A) and 3(A)(6) of the Code of Judicial
Conduct. Respondent shall fulfill the terms of the agreement as above set forth.

Dated this 7th day of JUNE, 2002.

COMMISSION ON JUDICIAL CONDUCT



Marge T. Keller, Chair
K. COLLINS SPRAGUE, VICE CHAIR

Heather K. Van Nuys
Recent Activities

JUDICIAL EDUCATOR

Washington State Judicial College

- Served as Superior Court Dean of the Washington State Judicial College, 1995 and 2001.
- Faculty for the State Judicial College for many years; Courses have included: Ethics, Family Law, Court Interpreters, Jury Trial, Bias and Fairness Issues in Court

Faculty for Superior Court Spring Conference:

- 2001: Settlement Conference Ethics (AJS Curriculum)
- 2000: Case Settled! (2 ½ day mediation program)
- 1999: Effective Settlement Conferences
- Education Chair, Superior Court Spring Conference, 1993

Faculty for District and Municipal Court Spring Conference:

- Jury Trials (1996)
- Domestic Violence (1993)

Faculty for Washington State Judicial Fall Conference (all court levels):

- "When Judges Speak Up: Ethics, the Public and the Media" (AJS Curriculum), 1998
- Panelist: Interpreters in Rural Courts (2001)

Faculty at the National Judicial College, 1994- 1999, teaching in the General Jurisdiction program.

- Courses include: Ethics; Fair Trial – Free Press; Media and the Courts; Courts and the Community; *Pro Se* Litigants; Using Court Interpreters; Role of Judge. Most recently working with NJC to develop courses for their "distance learning" program, on-line courses (2002).

Other Judicial Teaching:

- Faculty, Regional seminars: Domestic Violence for Rural Courts
- Faculty, District and Municipal Court Manager's Association Regional Seminar: "Ethics and the Court Employee" (2000)
- Panelist, American Bar Association Convention, Judicial Administration Division, "Race and Bias Issues in Courts" (1994)

JUDICIAL BOARDS, COMMISSIONS, and COMMITTEES

- Member, Board for Court Education (BCE) since 2001
- Member, Fall Judicial Conference Planning Committee, 2002, 2003
- Member of Washington Jury Reform Commission, chairing a subcommittee, 1999-2000
- Member, Court Interpreter Commission (since inception, and its predecessor task force since inception); formerly chaired the certification subcommittee; currently chair the judicial education subcommittee
- Original member, Minority and Justice Task Force (predecessor to Minority and Justice Commission)
- Former District Director and member of the Board of Directors, National Association of Women Judges; Served as the education chair for a national conference for the National Association of Women Judges

OTHER SERVICE

- Contributing author, "Rural Courts" chapter, Domestic Violence bench book
- Team member to develop the national bench book *"Immigrants and the Courts"*, American Bar Association, 1997
- Authored *Pro Tem Judges Bench Book* for Yakima County Superior Court
- Presiding Judge, Yakima County Superior Court, 1997
- Participated in producing video tape "Using Court Interpreters" for National Center for State Courts (1995)

Recent Bar-related activities:

- Panelist, "Jury Reform" at Washington State Trial Lawyers Convention, 2001
- CLE Speaker, "Using Interpreters Effectively," Yakima County Bar Association, 2002
- Founding member, John Gavin Inn of Court, Yakima
- *Upcoming:* Access to Justice Conference, June 7-9, 2002; panelist in two sessions: Mediation and Language and Cultural Issues for Serving Ethnically Diverse Communities

Community activities:

- KYVE-TV (PBS station) Advisory Board (approximately 1984 to present; former chairperson of the board)
- Served on Advisory Board of Goodwill Industries
- Served on Board of Directors, Prime Time Camp (summer camp for terminally ill children)