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BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

FILED
APR - 8 2005
COMMISSION ON JUDICIAL CONDUCT

In re the Matter of) No. 4072-F-109
RICHARD B. SANDERS,) **MINORITY**
Justice, Washington Supreme Court) **OPINION**

We agree with the majorities' Finding of Fact in this case. We do not agree these circumstances warrant any sanctions for Justice Sanders.

The preamble to the CJC reads in part as follows:

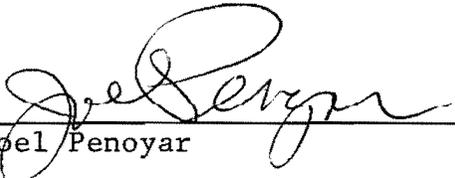
"It is not intended, however, that every transgression will result in disciplinary action. Whether disciplinary action is appropriate, and the degree of discipline to be imposed, should be determined through a reasonable and reasoned application of the text and should depend on such factors as the seriousness of the transgression, whether the activity was inadvertent, unintentional or based on a reasonable but mistaken interpretation of obligations under the Code, whether there is a pattern of improper activity and the effect of the improper activity on others or on the judicial system".

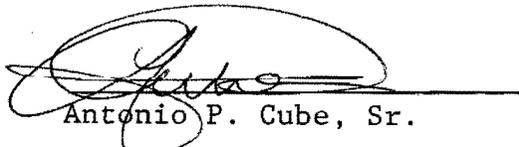
Here it is unlikely that Justice Sanders' actions have created a general public perception that he would not be impartial in cases involving the SCC. The crux of the problem is that he personally met with persons who were likely to have cases before him and asked some of them to make comments related to a legal issue pending before his court. This conduct was inappropriate and would raise reasonable concerns for the attorneys involved in these cases. On the other hand, there is no indication that Justice Sanders solicited or received comments directly on the legal issues before the Supreme Court or that Justice Sanders' position on Supreme Court cases was affected by his visit.¹

¹ Justice Sanders also unexpectedly received written materials from inmates. These documents should have been returned to prison staff. If they weren't returned, Justice Sanders should have

1 Thus, we would find that Justice Sanders' conduct in this case was inappropriate
2 consistent with the majorities' findings. However, we recognize that Judges are and should
3 be encouraged to visit institutions and that little in the way of ethical guidelines have been
4 available for such visits. We also recognize that Justice Sanders' mistakes here were
5 arguably minimal. We would therefore not support any sanctions for this conduct.

6 Dated this 22 day of March, 2005.

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Joel Penoyar

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Antonio P. Cube, Sr.

26 reviewed them or had them reviewed so that he could make appropriate disclosure to any counsel
involved.