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AUG 4 2006
COMMISSION ON JUDICIAL CONDUCT

**BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON**

In The Matter Of:

The Honorable Beverly G. Grant,
Pierce County Superior Court Judge

CJC No. 4952-F-131

**STIPULATION, AGREEMENT
AND ORDER OF ADMONISHMENT**

The Commission on Judicial Conduct ("Commission") and the Honorable Beverly Grant, Judge of the Pierce County Superior Court ("Respondent"), stipulate and agree as provided herein. This stipulation is submitted pursuant to Article IV, Section 31 of the Washington Constitution and Rule 23 of the Commission's Rules of Procedure and shall not become effective until approved by the Washington Commission on Judicial Conduct.

I. STIPULATED FACTS

1. Respondent is now, and was at all times referred to in this document, a judge of the Pierce County Superior Court. Respondent has been a superior court judge since April 2003.

2. On Friday, February 3, 2006, Respondent presided over a sentencing hearing in a criminal case (No. 05-1-00673-2).¹ The defendant in that case had

^{1/} The hearing on February 3, 2006, was the second time Respondent held a sentencing hearing for this case. The first hearing was held on January 17, 2006. Shortly after the original sentencing hearing, Respondent vacated the proceeding and sentence upon learning the defendant's family members were prevented from attending the hearing due to space limitations of the courtroom used for the hearing.

1 pleaded guilty to charges of first degree manslaughter and unlawful possession of a
2 firearm. These charges stemmed from his having shot and killed a man during a
3 struggle outside a tavern in Milton, Washington, on February 5, 2005. Approximately
4 100 people, mostly family and friends of the defendant and the decedent, were in
5 attendance for this sentencing hearing.

6 3. As Respondent entered the courtroom to begin the sentencing hearing,
7 the record indicates she made the following remarks which form the basis of this
8 disciplinary action:

9
10 Good afternoon, everyone. Before you sit down and I
11 know this is rather unusual, but we have a great football
12 team today and I just wanted you to give one holler for the
13 Seahawks. So let's just say, "Go Seahawks." I am going
to say on one, two, three: "Go Seahawks." You can do
better than that. Let's try it again. One, two, three: "Go
Seahawks."

14 I know that's a little abnormal, but I think it is appropriate.
15 Now, have a seat and just in case you are wondering, we
16 were under – our County Executive, John Ladenburg,
17 sent an e-mail and I was supposed to have some sort of
18 dress like a Seahawk and I didn't do it so this is my way
19 of getting close to that mandate. We're here on the
20 matter of [case number 05-1-00673-2] and I wanted to
21 make a few prefatory statements. First, I wish to
apologize to both . . . families for the circumstances that
necessitated that this matter by rescheduled and that a
new sentencing would have to take place. The
perceptions of the courts is that it should be a place of
equity and it should be a place of fairness and more
importantly that the public have access to it.

22 Respondent then proceeded with the hearing by receiving comments from the
23 prosecuting attorney, the decedent's stepmother and his younger brother, as well as
24 the defendant's attorney, the defendant, the defendant's older brother and his older
25 sister. After considering their statements, Respondent adopted the parties' joint
26 sentencing recommendation and imposed a sentence of thirteen and one-half years
27 imprisonment with additional standard conditions and obligations.

1 4. Respondent's comments received widespread media attention.
2 Newspapers across the country and globe ran wire service stories about the incident.
3 It was reported that the sheriff's deputies and the prosecuting attorney present at the
4 hearing were stunned and embarrassed by Respondent's actions. The prosecutor
5 was quoted as saying: "One family is seeing a son go off to prison, and one family
6 is here to find justice for their loved one who was murdered. It's important to them.
7 Do you think they want to root for the Seahawks?" The decedent's stepmother was
8 reported to be offended by Respondent's actions, explaining that Super Bowl Sunday
9 was the one-year anniversary of the day her stepson was murdered. She was quoted
10 as saying: "[T]his was kind of an important day for us. Cheering for the Seahawks
11 with [the defendant] in the room, I didn't think it was appropriate." It was further
12 reported that after the hearing, Respondent explained her invitation to cheer the
13 Seahawks was designed to alleviate the tension in the courtroom. Respondent was
14 also quoted as saying in response to criticism of her behavior: "If the prosecutor and
15 the others look at it that way, as far as I'm concerned, it's trite." While Respondent's
16 strong position is that she was speaking to the reporter about a different aspect of the
17 hearing, she understands her comments as reported conveyed the impression she
18 was insensitive to the prosecutor's and victim's stepmother's concerns quoted above.

19 5. On Monday, February 6, 2006, Respondent issued a public apology.
20 Her apology read:

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22 I humbly apologize for any hurt and pain that my
23 comment has caused. I take full responsibility,
24 particularly as my actions impacted the [decedent's]
25 family, the judiciary system and others. I have
26 consistently tried to treat everyone in my court with
27 dignity, fairness and respect. The sole purpose of this
28 second hearing was to ensure that all parties were fairly
 heard. My sincere regrets to all.

27 6. On February 8, 2006, Respondent contacted the Commission of her

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1 own volition to self-report the above-described incident. She subsequently filed a
2 formal complaint with the Commission. In her complaint, she described in detail the
3 underlying case and the events before, during and after the sentencing hearing at
4 issue here. She explained:

5
6 As I entered the courtroom, I recognized that the
7 courtroom was extremely tense. I was fearful that a
8 violent disruption would occur as the stares and looks
9 were very piercing. There were over eight armed officers
10 present in the courtroom. The victim's family, friends and
11 supporters were on the right side and the defendant's
12 relatives, friends and supporters were on the left. The
13 courtroom which is the largest in the courthouse was
14 more than half full.

15 Although my intentions were to diffuse the courtroom
16 situation, I realize now the inappropriateness of my
17 opening comments. . . . I was attempting to get the
18 people to find a way of releasing their tension without
19 taking it out on each other. . . . My invitation to salute the
20 Seahawks was misplaced and under the circumstances
21 made me appear insensitive to the victim's family, friends
22 and supporters.

23 Respondent concluded her complaint to the Commission by reiterating:

24 Again, I humbly apologize for my comments. I could
25 understand that the [decedent's] family was offended. It
26 certainly was not my intention to bring any pain to the
27 victim's family or to impugn the integrity of the court.

28 II. AGREEMENT

1. Based upon the foregoing stipulated facts, Respondent and the
Commission agree Respondent violated Canons 1, 2(A), 3(A)(2) and 3(A)(3) of the
Code of Judicial Conduct.²

^{2/} Canon 1 of the Code of Judicial Conduct provides, "Judges shall uphold the integrity . . . of the judiciary." Canon 2 provides, "Judges should avoid impropriety and the appearance of impropriety in all their activities," and Canon 2(A) specifies, "Judges should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." Canon 3 provides, "Judges shall perform the duties of their office impartially and diligently;" Canon 3(A)(2) provides, "Judges should maintain order and decorum in proceedings before them;" and Canon 3(A)(3) specifies, "Judges should be patient, dignified and courteous to litigants, . . . lawyers and others with whom judges deal in their official capacity. . . ."

1 the dignity of the judicial position. The sanction should also seek to protect the public
2 by assuring that Respondent and other judges will refrain from similar acts of
3 misconduct in the future.

4 2. In entering this stipulation and determining the appropriate level of
5 sanction, the Commission takes into account the factors set out in CJCRP 6(c).

6 A. Characteristics of Respondent's Misconduct. Respondent's
7 actions occurred in her official capacity and in the courtroom. Her conduct drew
8 widespread negative attention to the State of Washington's judiciary in large part
9 because of the media coverage this incident received. These factors tend to
10 aggravate the level of sanction. Public and media attention were drawn to the
11 peculiar nature of Respondent's misstep. This should not end the analysis, as that
12 dissemination was beyond Respondent's control. The remaining factors the
13 Commission must consider strongly favor a mitigated sanction.

14 Respondent's actions were spontaneous and constitute an
15 isolated instance of misconduct that was motivated by legitimate concerns – her
16 consistent position has been that the intent of her actions was to diffuse a very tense
17 courtroom situation. Respondent did not flagrantly or deliberately violate the Code of
18 Judicial Conduct. Significantly, her comments were not directed at a particular person
19 or group and did not create an appearance of bias or partiality toward a party or an
20 issue. In other words, Respondent's actions, while showing poor judgment, did not
21 prejudice the administration of justice in the case before her.

22 B. Service and Demeanor of Respondent. Respondent has had no
23 prior disciplinary actions brought against her during her three years on the bench.
24 She self-reported her conduct and has fully cooperated with the Commission's
25 investigation. As indicated above, the media reported that Respondent's reaction to
26 criticism of her "Go Seahawks" remarks was to minimize the problem. However, she
27 thereafter quickly and publicly apologized for her actions and acknowledged they were
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1 inappropriate. Respondent has publicly expressed remorse for causing pain or
2 offense to anyone involved in the matter and for impugning the integrity of the court.
3 The Commission finds her response on this occasion to be indicative of her remorse
4 and her commitment to refrain from injudicious behavior in the future.

5 3. Based upon the stipulated facts, upon consideration and balancing of
6 the above factors and Respondent's desire to resolve this matter, Respondent and
7 the Commission agree that Respondent's stipulated misconduct shall be sanctioned
8 by the imposition of an admonishment. An "admonishment" is a written action of the
9 Commission of an advisory nature that cautions a respondent not to engage in certain
10 proscribed behavior and may include a requirement that the respondent follow a
11 specified corrective course of action. An "admonishment" is the least severe
12 disciplinary action available to the Commission.

13 4. Respondent agrees that she will not repeat such conduct in the future.
14 She is mindful of the potential threat any repetition of her conduct poses to public
15 confidence in the integrity and impartiality of the judiciary and to the administration of
16 justice.

17 5. Respondent agrees that she will promptly read and familiarize herself
18 again with the Code of Judicial Conduct in its entirety.

19 Standard Additional Terms and Conditions

20 6. Respondent represents she had an opportunity to consult with counsel
21 of her choosing regarding this stipulation and disciplinary proceeding. Respondent
22 voluntarily enters into this stipulation.

23 7. Respondent agrees that by entering into this stipulation and agreement,
24 she waives her procedural rights and appeal rights in this proceeding pursuant to the
25 Commission on Judicial Conduct Rules of Procedure and Article IV, Section 31 of the
26 Washington State Constitution.

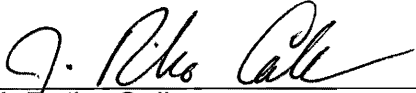
27 8. Respondent further agrees that she will not retaliate against any person
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1 known or suspected to have cooperated with the Commission, or otherwise
2 associated with this matter.

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Honorable Beverly G. Grant

Date



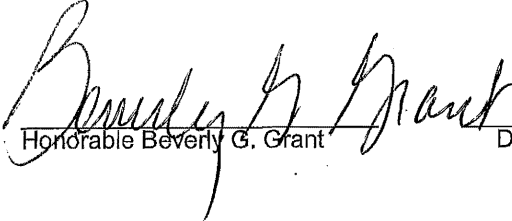
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J. Reiko Callner
Executive Director of the
Commission on Judicial Conduct

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5  8/2/00
6 Honorable Beverly G. Grant Date

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9 J. Reiko Callner _____ Date _____
10 Executive Director of the
11 Commission on Judicial Conduct

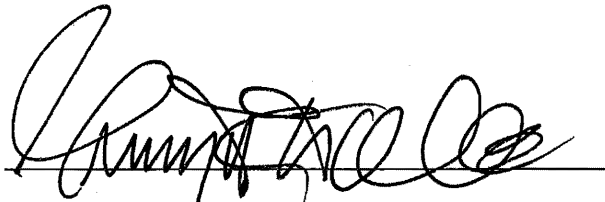
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ORDER OF ADMONISHMENT

Based on the above Stipulation and Agreement, the Commission on Judicial Conduct hereby orders Respondent, Beverly G. Grant, admonished for the above set forth conduct that violated of the Code of Judicial Conduct. Respondent shall not engage in such conduct in the future and shall fulfill all of the terms of the Stipulation and Agreement as set forth therein.

DATED this 4TH day of AUGUST, 2006



Greg Dallaire, Chairperson
Commission on Judicial Conduct