

FILED
MAY 14 2010
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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The Honorable John R. Henry,)
Judge of the Garfield County)
District Court)
)
)
_____)

CJC No. 5850-F-147

**STIPULATION, AGREEMENT
AND ORDER OF REPRIMAND**

The Commission on Judicial Conduct and the Honorable John R. Henry, Judge of the Garfield County District Court, stipulate and agree as follows.

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

STIPULATED FACTS

1. The Honorable John R. Henry, Respondent, is now, and was at all times referred to herein, a Washington State judicial officer. Respondent has served as a superior court commissioner for Asotin, Garfield and Columbia Counties since January 2007. He was appointed to the Garfield County District Court bench in January 2009, and was elected to that position in November 2009.

2. In July 2008, Respondent had a conversation with a female attorney ("Attorney A") in the Asotin County Superior Court judge's chambers. Respondent has known Attorney A for many years in a professional capacity. During this conversation, the topic of camping arose. Attorney A recalls that she casually told Respondent that she did not enjoy camping and that he replied, "Oh, if I got you stripped naked in the lake and soaped you down, you'd like it." Respondent does not recall his comment exactly this way, but he acknowledges that

1 Attorney A is credible and knows of no reason that she would fabricate or distort a
2 recollection. Respondent insists that he did not intend for his remark to have inappropriate
3 connotations, but he recognizes his remark was incautious and, as reasonably understood,
4 was sexually suggestive and unbecoming a judicial officer. Attorney A stated she has not
5 been addressed by Respondent in this fashion before or since this incident. Later that
6 month, during the lunch hour, Respondent took a different female attorney ("Attorney B") for
7 a ride on his motorcycle. While driving his motorcycle, Respondent patted or clutched the
8 attorney's lower leg on several occasions. Attorney B recalls that, during a break in the ride,
9 while parked at a rural, remote location, Respondent asked if he could kiss her, which she
10 declined. Respondent does not recall asking that, but acknowledges that he is responsible
11 for poor judgment in taking her, alone, to an isolated location, and recognizes that, whatever
12 his intent, his words and actions reasonably led Attorney B to believe that he was making a
13 sexual advance toward her.
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16 Prior to these two incidents, both of these attorneys regularly appeared before
17 Respondent in court and had good professional working relationships with the judge.

18 AGREEMENT

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20 1. Based upon the stipulated facts, Respondent agrees he violated Canons 1,
21 2(A) and 3(A)(3) of the Code of Judicial Conduct by engaging in conduct that was reasonably
22 perceived to be offensive and unwelcome. Canons 1 and 2(A) require judges to uphold the
23 integrity of the judiciary by avoiding impropriety and the appearance of impropriety in all their
24 activities. Canon 3(A)(3) requires judges to be dignified and courteous to all persons with
25 whom they deal in their official capacity. Judicial officers are held to a high standard of
26 conduct and must be scrupulous and cautious in their interpersonal conduct towards
27 attorneys who practice in their court.
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1 2. Respondent and the Commission agree that the appropriate level of discipline
2 to impose in this matter is a written reprimand as described in RCW 2.64.010(6) and in the
3 Terminology section of the CJCRP.

4
5 3. In determining the appropriate level of discipline, the Commission considers
6 the factors set out in CJCRP 6(c). For purpose of this rule, the following factors are noted:

7 There were two instances of misconduct within a 30 day period. One incident occurred in
8 judicial chambers and one in an isolated rural location. Attorney B is a young lawyer who
9 regarded the Respondent as a mentor. As such, Respondent's conduct represented a
10 significant breach of trust and was emotionally harmful. These two incidents appear to be
11 uncharacteristic. There are no prior disciplinary actions concerning Respondent.
12 Respondent has cooperated with the investigation. His response to this matter, and
13 recognition of the inappropriateness of his conduct, demonstrates Respondent takes this
14 matter seriously and is committed to not repeating the behavior.

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16 4. Respondent agrees that he will exercise caution to avoid engaging in similar
17 conduct in the future.

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19 5. Respondent will participate at his own expense in training or counseling that
20 focuses on harassment prevention. This remedial training or counseling must be approved
21 in advance by the Commission's Chair, or the Chair's designee. Any evaluation for
22 counseling shall commence within 60 days of filing of this stipulation and order. Respondent
23 will provide proof of satisfactory completion within one year from the date this stipulation is
24 entered.

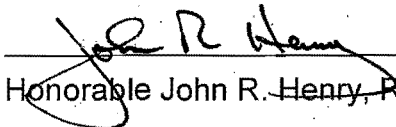
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26 6. Respondent agrees he will read the Code of Judicial Conduct in its entirety
27 within two weeks of the date this stipulation is entered, will certify in writing to the
28 Commission that he has done so and will fully honor its provisions.

1 7. Respondent agrees further that he shall not engage in any retaliatory conduct
2 with regard to any person known or suspected to have cooperated with the Commission or
3 who was otherwise associated with this proceeding.

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5 8. In accepting this stipulation, the Commission takes into account Respondent's
6 cooperation with the Commission's investigation and his acknowledgment of the canon
7 violations.

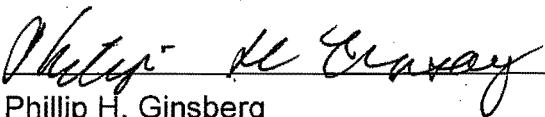
8 9. Respondent has been unrepresented in these proceedings. He affirms that
9 he has had an opportunity to consult with an attorney and voluntarily chooses to represent
10 himself in this matter. He further affirms that he voluntarily enters into this agreement.

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

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20  _____
Honorable John R. Henry, Respondent

04/14/2010

Date

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22  _____
23 Phillip H. Ginsberg
24 Disciplinary Counsel
25 Commission on Judicial Conduct

4/21/2010

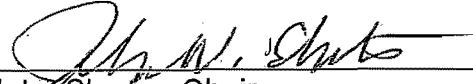
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ORDER OF REPRIMAND

Based upon the above stipulation and agreement, the Commission on Judicial Conduct hereby ORDERS, and Judge John R. Henry, Respondent, is hereby REPRIMANDED for violating Canons 1, 2(A) and 3(A)(3) of the Code of Judicial Conduct. Respondent shall fulfill the terms of the agreement as above set forth.

DATED this 14 day of MAY, 2010.



John Sleeter, Chair
Commission on Judicial Conduct