

FILED
JUN 08 2010
COMMISSION ON JUDICIAL CONDUCT

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

In Re the Matter of)
The Honorable Michael Heavey,)
Judge of the King County Superior Court)

No. 5975-F-145

STATEMENT OF CHARGES

Pursuant to authority granted in Washington State Constitution, Article IV, section 31, the Revised Code of Washington, Chapter 2.64, and the Commission on Judicial Conduct Rules of Procedure ("CJCRP"), 17(d)(4)(C), the Commission on Judicial Conduct orders this Statement of Charges filed alleging violations of the Code of Judicial Conduct by Judge Michael Heavey.

I. BACKGROUND

Judge Michael Heavey ("Respondent") is now, and was at all times referred to in this document, a King County Superior Court Judge, having been sworn to that position on September 16, 2000. On April 16, 2009, the Commission on Judicial Conduct ("Commission") commenced initial disciplinary proceedings against Respondent, by serving him with a Statement of Allegations. Respondent submitted a response to the Statement of Allegations on May 4, 2009. Respondent and Commission staff engaged in discussions regarding possible resolutions. Respondent, through counsel Tom Fitzpatrick, submitted an Amended Response to the Statement of Allegations on December 8, 2009. Mr. Fitzpatrick and disciplinary counsel, Steven Reisler, submitted briefing to the Commission on legal issues raised in the Amended Response. At its May 14, 2010 meeting, the Commission found probable cause exists to believe Respondent violated the Code of Judicial Conduct and authorized the issuance of this Statement of Charges.

1 **II. CONDUCT GIVING RISE TO CHARGES**

2 Respondent is charged with violating Canons 1, 2(A) and 2(B) of the Code of
3 Judicial Conduct by writing letters on official court stationary to Nicola Mancino, Judge
4 Claudia Matteini, and Giuliano Mignini (members of the Italian judicial system) on behalf
5 of criminal defendant Amanda Knox; utilizing court staff to type those letters; and speaking
6 publicly on several occasions about that same pending criminal case in an attempt to
7 influence the proceeding.

8 **III. BASIS FOR COMMISSION ACTION**

9 On May 14, 2010, the Commission determined that probable cause exists to believe
10 that Respondent has violated Canons 1, 2(A) and 2(B) of the Code of Judicial Conduct.
11 These sections of the Code state:

12 **CANON 1**

13 **Judges shall uphold the integrity and
14 independence of the judiciary.**

15 An independent and honorable judiciary is indispensable to justice in
16 our society. Judges should participate in establishing, maintaining and
17 enforcing high standards of judicial conduct, and shall personally observe
those standards so that the integrity and independence of the judiciary will be
preserved. The provisions of this Code are to be construed and applied to
further that objective.

18 ***Comment***

19 *Deference to the judgments and rulings of courts depends upon public confidence in the integrity and*
20 *independence of judges. The integrity and independence of judges depends in turn upon their acting without*
21 *fear or favor. Although judges should be independent, they must comply with the law, including the provisions*
22 *of this Code. Public confidence in the impartiality of the judiciary is maintained by the adherence of each*
judge to this responsibility. Conversely, violation of this Code diminishes public confidence in the judiciary
and thereby does injury to the system of government under law.

23 **CANON 2**

24 **Judges should avoid impropriety and the appearance of impropriety
25 in all their activities.**

26 **(A)** 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.

27 **(B)** Judges should not allow family, social, or other relationships to
28 influence their judicial conduct or judgment. Judges should not lend the prestige
of judicial office to advance the private interests of the judge or others; nor

1 should judges convey or permit others to convey the impression that they are in
2 a special position to influence them. Judges should not testify voluntarily as
character witnesses.

3 *Comment*

4 *Maintaining the prestige of judicial office is essential to a system of government in which the judiciary*
5 *functions independently of the executive and legislative branches. Respect for the judicial office facilitates the*
6 *orderly conduct of legitimate judicial functions. Judges should distinguish between proper and improper use of*
7 *the prestige of office in all of their activities.*

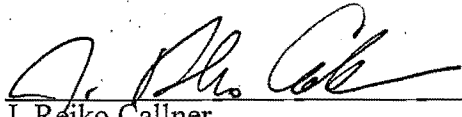
8 *The testimony of judges as character witnesses injects the prestige of their office into the proceeding in*
9 *which they testify and may be misunderstood to be an official testimonial. This canon however, does not afford*
10 *judges a privilege against testifying in response to a subpoena.*

11 **IV. RIGHT TO FILE A WRITTEN ANSWER**

12 In accordance with CJCRP 20(a), Respondent shall file a written answer to this
13 Statement of Charges with the Commission and serve a copy on disciplinary counsel Steven
14 Reisler, 4500 Sand Point Way NE, Ste 250, Seattle, Washington, 98105-3941, within
15 twenty-one (21) days after the date of service of the Statement of Charges. Pursuant to
16 CJCRP 21(a), failure to answer the written charges shall constitute an admission of the
17 factual allegations.

18 DATED this 3rd day of June 2010.

19 COMMISSION ON JUDICIAL CONDUCT
20 OF THE STATE OF WASHINGTON

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23 Executive Director
24 P.O. Box 1817
25 Olympia, WA 98507
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