

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

FILED
APR 22 2011
COMMISSION ON JUDICIAL CONDUCT

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2
3 In Re the Matter of:)
4)
5 The Honorable Jerry A. Votendahl)
6 Walla Walla County District Court Judge)
7)

NO. 6517-F-151

**STIPULATION, AGREEMENT AND
ORDER OF ADMONISHMENT**

8 The Commission on Judicial Conduct and Jerry A. Votendahl, retired Walla Walla County
9 District Court Judge, do hereby stipulate and agree as provided for herein. This stipulation is
10 entered pursuant to Rule 23 of the Commission on Judicial Conduct Rules of Procedure.
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12 The Commission is represented in these proceedings by its Executive Director, J. Reiko
13 Callner, and former Judge Votendahl is representing himself.

14 **STIPULATED FACTS**

15 1. Former Judge Jerry A. Votendahl ("Respondent") was at all times discussed herein a
16 part-time judge of the Walla Walla County District Court. Prior to retiring on January 10, 2011,
17 Respondent had served as a full and part-time district court judge for 20 years.
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19 2. While still a judicial officer, Respondent wrote a Letter to the Editor, published in the
20 *Walla Walla Union-Bulletin* on September 21, 2010, expressing his support for Bill White, a
21 candidate for Walla Walla County Sheriff in the November 2010 election. In this Letter to the
22 Editor, Respondent explained why he was supporting Mr. White and not his opponent, and opined
23 that Mr. White "was well deserving of our vote" and was "in fact the only qualified candidate for
24 sheriff." (A copy of the subject Letter to the Editor is attached as "Exhibit 1.")
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26 3. Respondent acknowledged the foregoing facts when he was contacted by the
27 Commission in this matter. He was at all times cooperative with the Commission, and explained
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1 that he did not engage in the proscribed behavior with bad intent. Respondent mistakenly believed
2 that since he had publicly announced his impending retirement at the time he wrote and submitted
3 the subject letter, the Code did not apply to this conduct, and in any event, he believed that a
4 provision of the Code that allows judges to “engage in activities to improve the law, the legal
5 system and the administration of justice” permitted him to write the letter. Upon further reflection,
6 Respondent acknowledges his reasoning in both regards was in error.
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8 AGREEMENT

9 1. *Jurisdiction.* The Commission has jurisdiction in this matter. Although Respondent is
10 currently retired from judicial office, he was still a judicial officer performing judicial duties part-
11 time when he wrote and publicized the subject letter. The Commission has continuing jurisdiction
12 over former judges regarding allegations of misconduct occurring during service as a judge.
13 CJCRP 2(b).
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15 2. *Grounds for discipline.* The Code of Judicial Conduct prohibits judges from “publicly
16 endor[s] a nonjudicial candidate for public office” and from “lend[ing] the prestige of judicial
17 office to advance the private interest of the judge or others.” Canons 1, 2(B) and 7(A)(1)(b) of the
18 Code of Judicial Conduct.¹ Based upon the above stipulated facts, Respondent agrees that his
19 Letter to the Editor constituted a “public endorsement” of a non-judicial candidate for public office
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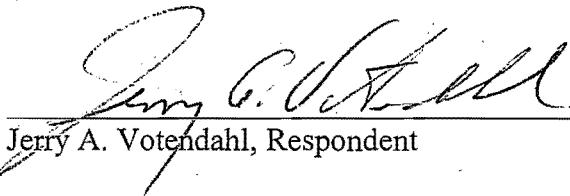
24 1/ Canon 1 expresses the overarching principles of the Code of Judicial Conduct that judges should
25 uphold the integrity and independence of the judiciary by observing high standards of ethical conduct. Canon
26 2 instructs judges to avoid impropriety and the appearance of impropriety in all their activities, with Canon 2(B)
27 specifying in part, “Judges should not lend the prestige of judicial office to advance the private interests of the
28 judge or others.” Canon 7 directs judges to refrain from political activity inappropriate to their judicial office,
with Canon 7(A)(1)(b) specifying in relevant part, “Judges or candidates for election to judicial office shall not
make speeches for a political organization or nonjudicial candidate or publicly endorse a nonjudicial candidate
for public office.” Each of these provisions apply equally to part-time judges as to full time judges. (See
Application section 1(A) of the Code of Judicial Conduct.)

1 in violation of Canons 1, 2(B), and 7(A)(1)(b) of the Code of Judicial Conduct.²

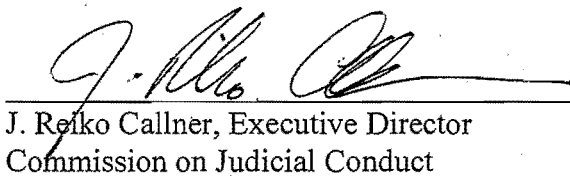
2 3. *Sanction.* Respondent and the Commission agree that a written admonishment as
3 described in RCW 2.64.010(1) and the CJCRP is the appropriate level of sanction to impose in this
4 matter. In accepting this stipulation, the Commission takes into account those factors listed in
5 CJCRP 6(c), particularly Respondent's cooperation with the Commission's investigation and the
6 fact that, unrelated to this proceeding, he has retired from judicial office.

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13 Jerry A. Votendahl, Respondent

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15 4/7/11
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17 Date

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21 J. Reiko Callner, Executive Director
22 Commission on Judicial Conduct

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24 4/20/11
25 _____
26 Date

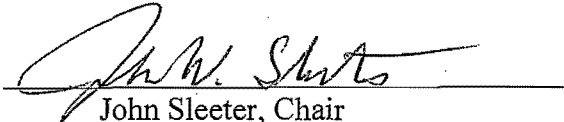
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28 _____
29 2/ By Order of the Washington State Supreme Court, a new Code of Judicial Conduct was adopted in
30 September 2010 and became effective on January 1, 2011. Because the conduct at issue here occurred prior
31 to the operative date of the new Code, the prior Code governs. Under the new Code, Respondent's actions
32 would be prohibited by Canon 4, Rule 4.1(A)(3), which provides in relevant part, "... a judge or a judicial
33 candidate shall not publicly endorse or oppose a nonjudicial candidate for any public office. . . ." The comment
34 to Rule 4.1 explains, "Paragraphs (A)(2) and (A)(3) prohibit judges and judicial candidates from making
35 speeches on behalf of political organizations or publicly endorsing or opposing candidates for nonjudicial
36 office, respectively, to prevent them from abusing the prestige of judicial office to advance the interests of
37 others."

ORDER OF ADMONISHMENT

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Based upon the above stipulation and agreement, the Commission on Judicial Conduct hereby orders Respondent Jerry A. Votendahl ADMONISHED for violating Canons 1, 2(A), and 7(A)(1)(b) of the Code of Judicial Conduct.

DATED this 22 day of April, 2011.


John Sleeter, Chair
Commission on Judicial Conduct

LETTERS TO THE EDITOR - Bill White has earned our support

WALLA WALLA UNION-BULLETIN

In my 43 years in the criminal justice system as a defense lawyer, prosecutor and judge, every elected sheriff during that time came up through the ranks.

During the past 23 years or so we have been blessed with two exceptional sheriffs, Mike Humphreys, the current sheriff, and Bill Jackson before him.

Bill White is cut from the same cloth. He, too, has come up from the ranks. First as a line/patrol deputy, driving our roads and protecting our persons and properties, to captain in charge of all criminal investigations. Bill has also taken on more administrative duties, including scheduling of staff assignments, working on the budget and writing grants.

Bill White has served us well for 30 years, trained under the best and is well deserving of our vote. Bill White is in fact the only qualified candidate for sheriff. That is why both Mike Humphreys and Bill Jackson, as well as the great majority of police officers and deputy sheriffs, are all supporting Bill White.

Giving my support to Bill White is easy because I know Bill White. But who is John Turner? We do know that Mr. Turner hit Walla Walla like a whirlwind. Overnight hundreds of his signs appeared all over the county at homes and businesses that probably do not even know who he is.

Well he has certainly proven himself to be an exceptional politician, articulate, flamboyant in his presentation, educated and obviously convincing.

But for Walla Walla, which has always been a close knit community and one which awards its own, it is amazing that Mr. Turner was able to obtain 54 percent of the primary vote over a local citizen who served us so well for the past 30 years and has earned our support.

The only work that I'm aware of that Mr. Turner has done in Walla Walla County is the approximately three years with Ash Hollow Vineyard and Winery.

How did he do there and why did he leave? That's debatable!

**Jerry Votendahl
Walla Walla**

EXHIBIT NO. 1