

FILED
OCT - 9 2014
COMMISSION ON JUDICIAL CONDUCT

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

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In Re the Matter of:)
) CJC No. 7554-F-161
The Honorable Michael J. Sullivan)
Judge of the Superior Courts of)
Pacific and Wahkiakum Counties) **STIPULATION, AGREEMENT**
) **AND ORDER OF ADMONISHMENT**
)

The Commission on Judicial Conduct and Michael J. Sullivan, Pacific and Wahkiakum County Superior Court Judge, do hereby stipulate and agree as provided for herein. This stipulation is entered pursuant to Rule 23 of the Commission on Judicial Conduct Rules of Procedure.

The Commission has been represented in these proceedings by its Executive Director, J. Reiko Callner, and Judge Sullivan represented himself.

I. STIPULATED FACTS

A. Judge Michael J. Sullivan ("Respondent") was at all times discussed herein a judge of the Superior Courts for Pacific and Wahkiakum Counties. Respondent has served in that capacity since October of 2005.

B. On October 8, 2012, in the case *Rodahl vs. Golf Ranch A.S.K., LLC*, Wahkiakum County Superior Court Case No. 12-2-00022-0, a hearing was held on defendant's Motion for Entry of Order. Following the hearing, Respondent took the matter under advisement. By letter dated October 23, 2013, Respondent was reminded that the parties were awaiting a decision.

C. On September 9 and October 21, 2013, in the case *AMEK Revocable Trust vs. Elliott*, Wahkiakum County Superior Court Case No. 13-2-00044-9, hearings were held on Defendant's Motion for Summary Judgment. Following the second hearing, Respondent took the matter under advisement.

D. On January 13, 2014, a bench trial was held in the case of *McNeff vs. Joyce*, Wahkiakum County Superior Court Case No. 12-2-00025-4. Respondent took the matter under advisement.

1 E. On March 4, 2014, the Commission received a complaint concerning Respondent's failure
2 to issue timely decisions. Following an independent investigation, the Commission commenced
3 disciplinary proceedings on May 14, 2014, by serving Respondent with a Statement of Allegations.
4 The Statement of Allegations alleged Respondent failed to enter timely decisions in the cases listed
5 above and thereby violated Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rule 2.5(A)) of the Code of
6 Judicial Conduct.

7 F. Respondent answered the Statement of Allegations by letter dated May 23, 2014, and
8 admitted that he had failed to timely issue decisions in the three matters listed. Respondent included
9 in his response to the Commission copies of the decisions he entered on the foregoing cases, all
10 dated May 15, 2014. Respondent further indicated that he had experienced some health problems,
11 for which he was seeking treatment, which might have contributed to but does not excuse the delay
12 in these matters.

13 G. The time it took Respondent to issue decisions in the above matters exceeded the limits
14 established by RCW 2.08.240 and the Washington State Constitution, Article 4, Section 20, which
15 require a decision be issued within ninety days from final submission to the court.¹
16

17 II. AGREEMENT

18 A. *Grounds for discipline.*

19 1. Based upon the above stipulated facts, Respondent agrees that his failure to timely
20 decide the cases listed above violated Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rule 2.5(A)) of the
21 Code of Judicial Conduct.

22 2. Rules 1.1 and 1.2 require judges to respect and comply with the law and to act at
23 all times in a manner that promotes public confidence in the independence, integrity, and impartiality
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25 ¹The W.A. Const., art. IV, § 20 provides, "Every cause submitted to a judge of a superior court for his decision shall be
26 decided by him within ninety days from the submission thereof; Provided, That if within said period of ninety days a rehearing shall
have been ordered, then the period within which he is to decide shall commence at the time the cause is submitted upon such a
hearing."


27 RCW 2.08.240 uses nearly identical language and provides, "Every case submitted to a judge of a superior court for his
28 or her decision shall be decided by him or her within ninety days from the submission thereof: PROVIDED, That if within said period
of ninety days a rehearing shall have been ordered, then the period within which he or she is to decide shall commence at the time
the cause is submitted upon such rehearing, and upon willful failure of any such judge so to do, he or she shall be deemed to have
forfeited his or her office."

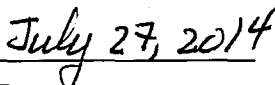
1 of the judiciary, and to avoid impropriety and the appearance of impropriety. Rule 2.5(A) requires
2 that "A judge shall perform judicial and administrative duties competently and diligently."
3 Comment 3 to Rule 2.5(A) states that: "Prompt disposition of the court's business requires a judge
4 to devote adequate time to judicial duties, to be punctual in attending court and expeditious in
5 determining matters under submission, and to take reasonable measures to ensure that court officials,
6 litigants, and their lawyers cooperate with the judge to that end." The Commission has referred to
7 the time limits established under the Washington Constitution and RCW 2.08.240 when applying
8 the Code of Judicial Conduct in cases involving decisional delay.

9 B. *Sanction.*

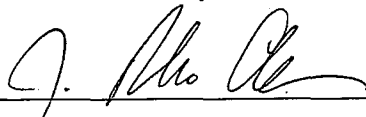
10 1. In accepting this stipulation, the Commission takes into account those factors
11 listed in CJCRP 6(c). The nature of this type of misconduct – decisional delay – is inherently
12 problematic because it potentially deprives litigants of timely justice, which often cannot be
13 remedied through the appellate process. Accordingly, the Commission consistently enforces Canon
14 2, Rule 2.5(A). In mitigation, Respondent has no history of discipline and was fully cooperative with
15 the Commission investigation and proceeding.

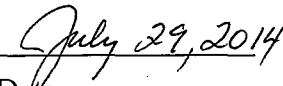
16 2. Respondent and the Commission agree that a written admonishment as described
17 in RCW 2.64.010(1) and the Commission's rules of procedure is the appropriate level of sanction
18 to impose in this matter. Respondent has been unrepresented in these proceedings. He affirms that
19 he has had an opportunity to consult with an attorney and voluntarily chooses to represent himself
20 in this matter and enter into this agreement. Respondent further affirms that he will not repeat such
21 conduct in the future.

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24 _____
25 Hon. Michael J. Sullivan, Respondent



Date

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J. Reiko Callner, Executive Director
Commission on Judicial Conduct



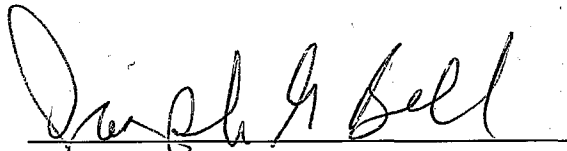
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III. ORDER OF ADMONISHMENT

Based upon the above stipulation and agreement, the Commission on Judicial Conduct hereby orders Respondent Michael J. Sullivan ADMONISHED for violating Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rule 2.5(A)) of the Code of Judicial Conduct.

DATED this 3 day of October, 2014.



Joseph G. Bell, Chair
Commission on Judicial Conduct