

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

FILED
SEP 29 2017
COMMISSION ON JUDICIAL CONDUCT

In Re the Matter of:)
)
The Honorable Mary E. Roberts) CJC No. 8222-F-171
Judge of the King County Superior Court)
) **STIPULATION, AGREEMENT**
) **AND ORDER OF CENSURE**
_____)

The Commission on Judicial Conduct and King County Superior Court Judge Mary Roberts stipulate and agree as follows. This stipulation is submitted pursuant to Commission on Judicial Conduct Rule of Procedure 23, and becomes effective when approved and filed by the Washington Commission on Judicial Conduct.

I. STIPULATED FACTS

A. Judge Mary Roberts (“Respondent”) is now, and was at all times referred to herein, a King County Superior Court Judge. Respondent has been a superior court judge since 2003.

B. In July 2016, the Commission received a complaint alleging Respondent had failed to render a decision in a dissolution case (Cause Number 14-3-03942-9 SEA) for over four and a half months after the conclusion of the trial. That complaint also alleged Respondent took more than fourteen months to rule on a motion in a prior, unrelated civil case in 2014 (Cause Number 12-2-03549-1 KNT). The Commission received an additional complaint in December 2016, alleging Respondent failed to issue decisions in other civil cases in a timely manner.

C. An independent preliminary investigation of these two complaints identified eight instances of potential decisional delay by Respondent in civil and family law cases over which she presided from 2013 - 2016. In addition to the two matters referenced above, investigation revealed that Respondent took approximately nine months to enter final orders following trial in a dissolution case (Cause Number 11-3-08713-5 SEA); took six months to rule on a summary judgment motion in a breach of contract case and, in the same case, took nearly ten months to rule on a post trial

motion (Cause Number 13-2-19125-3 SEA); took nine months to rule on motions for a stay and for declaratory relief in a personal injury case (Cause Number 15-2-01791-8 SEA); took nine months to decide a motion for reconsideration of a denial of injunctive relief (Cause Number 15-2-28794-0 SEA); took over ten months to decide an appeal from a lower court (Cause Number 15-2-18085-1 SEA); and failed to decide a motion to determine the reasonableness of a proposed settlement, which the parties withdrew after approximately six months (Cause Number 14-2-32078-7 SEA).

D. Based on its investigation, the Commission initiated disciplinary proceedings by serving Respondent with a Statement of Allegations on January 20, 2017. The Statement of Allegations alleged Respondent failed to dispose promptly of the business of the court in violation of Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rule 2.5) of the Code of Judicial Conduct as evidenced by the above-referenced eight cases.

E. Respondent did not answer the Statement of Allegations.

F. The Commission filed a Statement of Charges on March 8, 2017, publicly charging Respondent with violating Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rule 2.5) of the Code of Judicial Conduct. (The Commission's Statement of Charges is attached.)

G. Respondent, through counsel, answered the Statement of Charges on March 24, 2017. Respondent acknowledged she failed to issue timely decisions in some or all of the matters identified by the Commission and stated she accepted responsibility for her conduct. Respondent wrote that "during some or all of the periods at issue" in this matter, she had "family and personal problems which, while not excusing the delays, may explain them." (Respondent's Answer to the Statement of Charges is attached.)

H. After the Statement of Charges was issued, the Commission learned from a third party of another case of decisional delay (Cause Number 16-2-01305-8 SEA), wherein Respondent held a motion for reconsideration under advisement from January 2017 until June 22, 2017.

I. The time Respondent took to issue each decision in the cases identified in this matter exceeded the 90-day limit established by Article IV, Section 20 of the Washington Constitution, and

section 2.08.240 of the Revised Code of Washington.¹

II. AGREEMENT

A. Grounds for Discipline.

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

2. Rules 1.1 and 1.2 require judges to respect and comply with the law and to act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and to avoid impropriety and the appearance of impropriety. Rule 2.5(A) requires judges “perform judicial and administrative duties competently and diligently.” Comment 3 to Rule 2.5 states that: “Prompt disposition of the court’s business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under submission . . .” The Commission typically refers to the time limits established under the Washington Constitution and RCW 2.08.240 when evaluating the Code of Judicial Conduct in cases involving decisional delay.

B. Sanction.

1. In determining the appropriate level of discipline, the Commission considers the non-exclusive factors set out in CJCRP 6(c).

a. Characteristics of Misconduct. Respondent’s misconduct was not isolated, but represents a pattern of behavior. The instances of unjustified decisional delay involve

¹ The Washington Constitution, art. 4, sec. 20 provides, “Every cause submitted to a judge of a superior court for his decision shall be 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 rehearing.”

RCW 2.08.240 uses nearly identical language and provides, “Every case submitted to a judge of a superior court for his decision shall be 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 rehearing, and upon wilful failure of any such judge so to do, he shall be deemed to have forfeited his office.”

a variety of cases over the course of three years. In several cases the length of delay was significant. Respondent was repeatedly reminded by attorneys and her judicial colleagues of concerns about these cases being delayed. One example of delay occurred after the Commission had contacted Respondent. While the misconduct did not necessarily occur in the courtroom, the nature of this type of misconduct – decisional delay – involves a failure to perform core judicial duties. As the Commission has previously pointed out, this type of misconduct is inherently problematic because it potentially deprives litigants of timely justice, which often cannot be remedied through the appellate process. This inherent concern was manifest here. Several witnesses interviewed during the investigation phase of this disciplinary matter described how Respondent’s inaction resulted in actual injury to individuals. They noted litigants endured added stress waiting for closure of their cases and incurred additional unnecessary fees and costs associated with having to press Respondent for a decision. In a couple of cases, Respondent’s inaction interfered with a party’s ability to resolve the litigation short of trial. These witnesses described being particularly frustrated by Respondent’s non-responsiveness to their inquiries regarding the status of their pending matters, and that this seeming indifference further undermined their respect for Respondent’s integrity and professionalism.

b. Service and Demeanor of the Judge. In her Answer to the Statement of Charges, Respondent acknowledged that the acts occurred and stated a commitment to modify her behavior to avoid future transgressions of this type. She has disclosed extenuating personal circumstances she experienced that were not of her making, but which contributed to these delays. Respondent states she is addressing those personal circumstances therapeutically. She has also described organizational and processing procedures she has put into place to assure timely decision making. Respondent has been a judge for 14 years and has no prior public disciplinary history. Since retaining counsel, Respondent has been cooperative in this proceeding. However, initially Respondent did not provide the Commission with information in response to its inquiries and, as noted, she did not respond in writing to the Statement of Allegations. Respondent has explained that

because she knew she had in fact been slow in making decisions, she was unsure what to do until she obtained counsel. She recognizes that in the event of any future inquiries from the Commission, she needs to provide timely responses, whether personally or through counsel.

2. Weighing and balancing the above factors, Respondent and the Commission agree that the appropriate level of discipline to impose in this matter is a "censure" as described in RCW 2.64.010(2) and in the Terminology section of the CJCRP. The Commission will not, however, recommend to the State Supreme Court that Respondent be suspended or removed from office.

3. Respondent agrees that she will exercise caution to avoid repeating the violations in the future. She will diligently maintain a list of matters pending decision so that those matters will be regularly brought to her attention. For a two year period following entry of this stipulation, Respondent will affirm in writing to the Commission every three months that she has no matters with decisions pending beyond ninety days.

4. Respondent agrees she will read the Code of Judicial Conduct in its entirety within two weeks of the date this stipulation is entered, and will certify in writing to the Commission that she has done so.

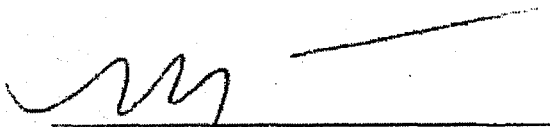
5. Respondent agrees further that she shall not engage in any retaliatory conduct with regard to any person known or suspected to have cooperated with the Commission or who was otherwise associated with this proceeding.

6. In accepting this stipulation, the Commission takes into account Respondent's acknowledgment of the violations, and her initiation of a workplace system that engages the assistance of coworkers to avoid future instances of decisional delay.

7. Respondent has been represented in these proceedings by attorney Kurt Bulmer. Respondent affirms she enters into this agreement after having an opportunity to fully consult with her attorney.

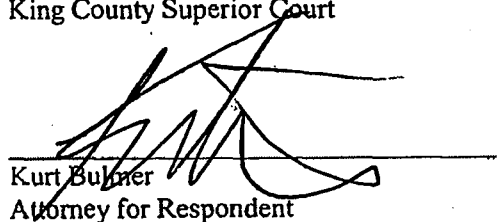
8. Respondent agrees that by entering into this Stipulation and Agreement she

hereby waives her procedural rights and appeal rights pursuant to the Commission on Judicial Conduct Rules of Procedure and Article IV, Section 31 of the Washington State Constitution in this proceeding.



Honorable Mary E. Roberts
King County Superior Court

09/11/2017
Date



Kurt Bulmer
Attorney for Respondent

9/11/17
Date



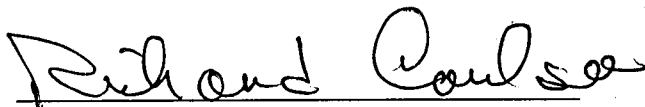
J. Reiko Callner
Executive Director
Commission on Judicial Conduct

9/26/17
Date

ORDER OF CENSURE

Based upon the above stipulation and agreement, the Commission on Judicial Conduct hereby orders Respondent, Judge Mary E. Roberts, CENSURED for violating Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rule 2.5) of the Code of Judicial Conduct. Respondent shall not engage in such conduct in the future and shall fulfill all the terms of the agreement as above set forth.

DATED this 29th day of September, 2017.


Richard Carlson, Chair
Commission on Judicial Conduct

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COMMISSION ON JUDICIAL CONDUCT

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

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In Re the Matter of
THE HONORABLE MARY E. ROBERTS,
Judge of the King County Superior Court

CJC No. 8222-F-171
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 Mary E. Roberts.

I. BACKGROUND

1. Mary Roberts ("Respondent") is a King County Superior Court Judge and was serving in that capacity at all times relevant herein.
2. Pursuant to CJCRP 17(c), after independently investigating a complaint concerning allegations that Respondent failed to issue decisions in numerous cases in a timely manner, the Commission on Judicial Conduct initiated disciplinary proceedings against Respondent by serving her with a Statement of Allegations on January 20, 2017.
3. Respondent did not file an answer to the Statement of Allegations.
4. At its executive session on February 24, 2017, the Commission on Judicial Conduct made a finding that probable cause exists to believe that the Respondent violated Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rule 2.5) of the Code of Judicial Conduct.

II. CONDUCT GIVING RISE TO CHARGES

Respondent is charged with failing to issue decisions in several cases in a timely manner, and thus failed to comply with the law (Washington Constitution, article 4, section 20, RCW 2.08.240) and failed to dispose promptly of the business of the court in violation of Canon 1 (Rules 1.1 and

1 1.2) and Canon 2 (Rule 2.5) of the Code of Judicial Conduct. Examples of such decisional delay
2 include, but are not limited to, the following civil and family law cases, King County Superior Court
3 cause numbers 14-3-03942-9 SEA; 12-2-03549-1 KNT; 14-2-32078-7 SEA; 15-2-01791-8 SEA; 11-
4 3-08713-5 SEA; 13-2-19125-3 SEA; 15-2-28794-0 SEA; and 15-2-18085-1 SEA.

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6 **III. BASIS FOR COMMISSION ACTION**

7 On February 24, 2017, the Commission determined that probable cause exists to believe that
8 Respondent has violated Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rule 2.5) of the Code of Judicial
9 Conduct. These sections of the Code state:

10
11 **CANON 1**

12 **A Judge shall uphold and promote the independence, integrity, and impartiality of the**
13 **judiciary, and shall avoid impropriety and the appearance of impropriety.**

14
15 **Rule 1.1**

16 **Compliance with the Law**

17 A judge shall comply with the law, including the Code of Judicial Conduct.

18
19 **Rule 1.2**

20 **Promoting Confidence in the Judiciary**

21 A judge shall act at all times in a manner that promotes public confidence in the independence,
22 integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of
23 impropriety.

24
25 **CANON 2**

26 **A Judge should perform the duties of judicial office impartially, competently, and diligently.**

27

28

1 **Rule 2.5**

2 **Competence, Diligence, and Cooperation**

3 (A) A judge shall perform judicial and administrative duties, competently and diligently.

4 (B) A judge shall cooperate with other judges and court officials in the administration of court
5 business.

6

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

8 In accordance with CJCRP 20, Respondent may file a written answer to this Statement of
9 Charges with the Commission within twenty-one (21) days after the date of service of the Statement
10 of Charges. CJCRP 21 provides that failure to answer shall constitute an admission of the factual
11 allegations. In the event respondent fails to answer within the prescribed time, the statement of
12 charges shall be deemed admitted. The commission shall proceed to determine the appropriate
13 discipline.

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DATED this 3rd day of March 2017.

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COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

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J. Reiko Callner
Executive Director
P.O. Box 1817
Olympia, WA 98507

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MAR 24 2017

COMMISSION ON JUDICIAL CONDUCT

BEFORE THE
COMMISSION ON JUDICIAL CONDUCT
OF THE
STATE OF WASHINGTON

In Re the Matter of) CJC No. 8222-F-171
THE HONORABLE MARY E. ROBERTS) ANSWER
Judge of the King County Superior Court.)

COMES NOW, The Honorable Mary E. Roberts, Answering the Statement of Charges filed in this matter on March 8, 2017.

I. BACKGROUND

1. Paragraph numbered 1 of the Background Section of Statement of Charges - Admitted that Judge Roberts is a King County Superior Court Judge and was serving at all relevant times.

2. Paragraph numbered 2 of the Background Section of Statement of Charges - Admitted that Judge Roberts was served with a Statement of Allegations on January 20, 2017. Judge Roberts believes the rest of this paragraph is correct but lacks personal knowledge as to the Commission's actions so is not in a position to ether admit or deny them.

1 3. Paragraph numbered 3 of the Background Section of Statement of Charges – Judge
2 Roberts admits that she did not file an answer to the Statement of Allegations.

3 4. Paragraph numbered 4 of the Background Section of Statement of Charges – Judge
4 Roberts presumes the Commission’s recitation of action taken in executive session on February
5 24, 2017, is correct but lacks personal knowledge so is not in a position to either admit or deny
6 this paragraph.

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

8 5. Unnumbered Paragraph – Judge Roberts admits she failed to issue one or more
9 decisions in a timely manner. She is unable to admit or deny as to any specific decision within
10 the cases listed in this paragraph as there are no details as to which decision(s) within any one
11 case are at issue or when such decision(s) was/were first due and then filed. While admitting
12 that she failed to issue one or more decisions in a timely manner Judge Roberts reserves the
13 right to contest whether that happened in any specific case and puts the Commission to its
14 proof on each of the cases cited. By answering in this manner Judge Roberts wants the
15 Commission to know that she acknowledges she has failed to issue timely decisions and that
16 she must accept responsibly for those but at the same time in a vacuum of specific information
17 other than a listing of cases she is not in a position to simply make a blanket admission to every
18 case listed in the charges.

19 6. By way of mitigation Judge Roberts, during some or all of the periods at issue, had
20 family and personal problems which, while not excusing the delays, may explain them.

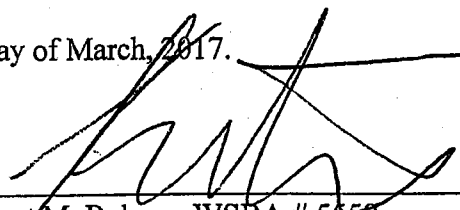
21 **III. BASIS FOR COMMISSION ACTION**

22 7. Unnumbered Paragraph - Judge Roberts presumes the Commission’s recitation of
23 the probable case determination made on February 24, 2017, is correct but lacks personal
24 knowledge so is not in a position to either admit or deny this paragraph. Judge Roberts
25 acknowledges that she has been charged with violations of the provisions listed.

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

2 8. Unnumbered Paragraph – This procedural notice does not require an answer.

3
4 Dated this 24th day of March, 2017.

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6 _____
7 Kurt M. Bulmer, WSBA # 5559
8 Attorney for Judge Mary E. Roberts