

who recognized him from his prior tenure at juvenile court. While in the secured portion of the detention facility that is not accessible to the public, Respondent asked numerous court and county employees for their written endorsements on forms that he had prepared. Several employees agreed to provide him with endorsements, while some declined and expressed concerns about engaging in political activity during their work hours and while on county property. Respondent left the JJC before 8:30 a.m. Later that day just before noon, Respondent briefly returned to the JJC to seek written endorsements from employees with whom he had not spoken earlier.

II. AGREEMENT

A. Respondent's Conduct Violated the Code of Judicial Conduct.

1. Based upon the foregoing stipulated facts, Respondent agrees he violated Canon 1 (Rules 1.1, 1.2 and 1.3) and Canon 4 (Rule 4.1(A)(9)) of the Code of Judicial Conduct by personally soliciting endorsements for his 2016 judicial campaign from subordinate court and county employees in a non-public area of the Yakima County Juvenile Justice Center during their work hours.

2. Rules 1.1 and 1.2 express the overarching principles of the Code of Judicial Conduct. Those rules 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 1.3 declares it is improper for a judge to "abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so." Rule 4.1(A)(9) prohibits judges from using "court staff, facilities, or other court resources in a campaign for judicial office except as permitted by law."

3. While judges are permitted under Rule 4.2 of the Code to "seek, accept, or use endorsements from any person or organization," the manner and circumstances in which Respondent solicited endorsements here – approaching subordinate employees during their work hours and in a location not generally accessible to the public – could reasonably be perceived as an abuse of his

judicial position and a misuse of court facilities and resources.

B. Sanction.

1. In determining the appropriate level of sanction, the Commission evaluates the characteristics of the misconduct and the service and demeanor of the judge through the factors listed in the Commission's Rules of Procedure (CJCRP) 6(c).

a. The following factors tend to aggravate the sanction in this case. The nature of this misconduct concerns the misuse of the judicial position for personal benefit, which generally undermines public respect for the judiciary. The manner in which a candidate seeks and obtains judicial office reflects both on the individual and on the judiciary as a whole. While the conduct did not occur in the courtroom or involve core judicial functions, there was a clear nexus to Respondent's judicial position. It is because of his judicial position that Respondent had special access to the location (which was not correspondingly available to his non-incumbent challenger), and had access to individuals who, as employees of the court system, are particularly sensitive to the prestige of judicial office and are also vulnerable to pressure (express or implied) to accede to a judge's wishes. Thus, even though Respondent's interactions with these employees was described as polite and casual, this context presents an implicitly coercive situation. Judges must be careful to avoid even the perception of exploiting the power inherent in the judicial office to advance their private interests.¹ Judges are required to avoid not only impropriety, but the appearance of impropriety under the Code (Rule 1.2), and are therefore often said to be held to a higher standard than other public officials or private individuals. Public servants in Washington State government are made very aware of the prohibition against bringing politics into the public workplace. Respondent, however, was initially insensitive to this common standard of public integrity. Though

^{1/} See, e.g., Ethics Advisory Opinion 86-09 and *In re Krouse*, CJC No. 4560-F-117 (2005). EAO 86-09 opines that a judge should not solicit court employees to volunteer for the judge's campaign as such conduct may create an appearance of exploiting the judicial position. In *In re Krouse*, the judge was disciplined, in part, for questioning an attorney's endorsement of the judge's campaign opponent from the bench, which created the perception of exploiting the power of his judicial position to influence the attorney.

understandably reticent to confront the judge with their discomfort, some of the court employees interviewed in the course of the Commission's confidential investigation had responses ranging from discomfort to shock over being importuned for a judicial campaign at the workplace by a sitting judge. Because the conduct was so contrary to norms of judicial campaigning and appropriate workplace boundaries, word of Respondent's actions spread around the courthouse and caused disruption and stress to some staff and judges.

b. In mitigation, Respondent's actions were isolated to a single course of conduct on a particular day. In addition, Respondent plausibly describes that this violation was unintentional. Respondent understood the Code allows judges to solicit campaign endorsements from any person, but he had not considered the overriding effect of his actions and how they could reasonably be perceived as improper. Once concerns about his behavior were brought to his attention, Respondent did not return to the JJC nor further approach subordinate court staff for their written endorsements. In addition, Respondent has cooperated fully with the Commission. By entering into this agreement, he has acknowledged responsibility for his actions, evidenced an understanding of the Commission's concerns and has expressed a genuine commitment not to repeat the conduct that gives rise to this proceeding. Respondent has served as a judicial officer for six years, and has had no prior disciplinary action taken against him.

2. Based upon the stipulated facts, upon consideration and balancing of the factors set out in CJCRP 6(c), Respondent and the Commission agree that Respondent's stipulated misconduct shall be sanctioned by the imposition of a reprimand. A "reprimand" is a written action of the Commission that requires a respondent judge to appear personally before the Commission and that finds that the conduct of the respondent is a violation of the Code of Judicial Conduct, but does not require censure or a recommendation to the supreme court that the respondent be suspended or removed. A reprimand shall include a requirement that the respondent follow a specified corrective course of action. Reprimand is the intermediate level of disciplinary action available to the Commission.

3. Respondent agrees that he will promptly read and familiarize himself with the Code of Judicial Conduct in its entirety and will provide proof by declaration or affidavit within 30 days of the public filing of this stipulation.

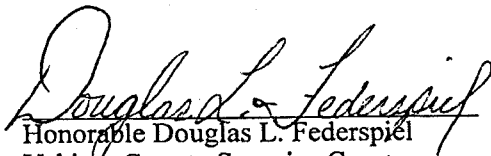
4. Respondent agrees that, within 24 months of the public filing of this stipulation, he will satisfactorily complete at least one hour of training in judicial campaign ethics, not at Commission expense, pre-approved by the Commission Chair or the chair's delegate.

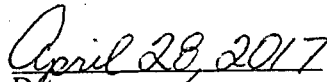
5. Respondent agrees that he will not repeat such conduct in the future, mindful of the potential threat any repetition of his conduct poses to public confidence in the integrity and impartiality of the judiciary and to the administration of justice.


6. Respondent agrees that by entering into this stipulation and agreement, he waives his procedural rights and appeal rights in this proceeding pursuant to the Commission on Judicial Conduct Rules of Procedure and Article IV, Section 31 of the Washington State Constitution.

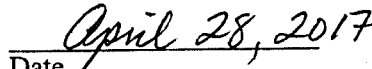
7. Respondent affirms he has consulted with or has had an opportunity to consult with counsel prior to entering into this stipulation.

8. Respondent further agrees that he will not retaliate against any person known or suspected to have cooperated with the Commission, or otherwise associated with this matter.


Honorable Douglas L. Federspiel
Yakima County Superior Court


Date


J. Reiko Callner
Executive Director
Commission on Judicial Conduct


Date

ORDER OF REPRIMAND

Based on the above Stipulation and Agreement, the Commission on Judicial Conduct hereby orders Respondent, Judge Douglas L. Federspiel, reprimanded for violating Canon 1 (Rules 1.1, 1.2 and 1.3) and Canon 4 (Rule 4.1(A)(9)) of the Code of Judicial Conduct. Respondent shall not engage in such conduct in the future and shall fulfill all of the terms of the Stipulation and Agreement as set forth therein.

DATED this 12 day of May, 2017.



Richard Carlson, Chair
Commission on Judicial Conduct