

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

In Re the Matter of:)
)
The Honorable Douglass A. North) CJC No. 8583-F-174
Judge of the King County Superior Court)
) **STIPULATION, AGREEMENT**
) **AND ORDER OF ADMONISHMENT**
)
_____)

The Commission on Judicial Conduct and Douglass A. North, King 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 North represented himself.

I. STIPULATED FACTS

A. Judge Douglass A. North ("Respondent") was at all times discussed herein a judge of the King County Superior Court. Respondent has served in that capacity since 2000.

B. On May 25, 2017, the Commission received a complaint concerning Respondent's comments during an evidentiary hearing in a criminal case. Specifically, the complaint alleged that on October 21, 2015, in a murder trial involving two defendants,¹ Respondent presided over a hearing (outside the presence of the jury) to determine whether certain text messages found on the victim's phone from a person known only as "Charisma" would be admitted. Their relevance and admissibility turned, in part, on whether "Charisma" was a gang member and likely to carry out the threat in the text messages. During the course of this hearing, Respondent said: "But we don't have any information, of course, about Mr. Charisma, so we don't know whether he's some white guy like

¹ Superior Court Case Nos. 12-1-01374-4 SEA and 12-1-04437-2 SEA.

me making a threat or somebody who's actually, you know, more likely to be a gangster." No objection was made at the time, and the comment was not remarked upon at any point during the trial.

C. Following an independent investigation, the Commission commenced disciplinary proceedings on August 10, 2017, by serving Respondent with a Statement of Allegations. The Statement of Allegations alleged the comments quoted above violated Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rule 2.3(B)) of the Code of Judicial Conduct.

D. Respondent answered the Statement of Allegations by letter dated August 28, 2017, and admitted that his statement violated the Code in that it manifests bias in suggesting a connection between race and the likelihood that someone is a gangster. Respondent immediately acknowledged and understood the basis of the Commission's inquiry, and stated, in his response, "Unfortunately, at the time, I did not realize the inappropriate nature of my words because all of my concentration was upon the evidentiary issue being argued to me." Respondent also acknowledged his awareness of implicit bias as an issue that can affect the justice system and described both training in the area he has already undertaken and his willingness to engage in future training.

Lawyers who have practiced in front of Respondent for years, including attorneys highly active in minority bar associations, told the Commission that Respondent has a reputation for being a fair and thoughtful judge, and one who is even-handed and equally respectful to the wide diversity of people who he encounters professionally.

II. AGREEMENT

A. *Grounds for discipline.*

1. Based upon the above stipulated facts, Respondent agrees that his comment listed above violated Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rule 2.3(B)) of the Code of Judicial Conduct.

2. Rules 1.1 and 1.2 require judges to respect and comply with the law and to

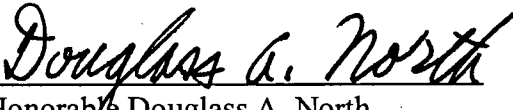
act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and to avoid impropriety and the appearance of impropriety. Rule 2.3(B) requires that "A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so." Comment [2] to Rule 2.3 states that: "Examples of manifestations of bias or prejudice include but are not limited to epithets; slurs; demeaning nicknames; negative stereotyping; attempted humor based upon stereotypes; threatening, intimidating, or hostile acts; suggestions of connections between race, ethnicity, or nationality and crime; and irrelevant references to personal characteristics. Even facial expressions and body language can convey to parties and lawyers in the proceeding, jurors, the media, and others an appearance of bias or prejudice. A judge must avoid conduct that may reasonably be perceived as prejudiced or biased."

B. Sanction.

1. In accepting this stipulation, the Commission takes into account those mitigating and aggravating factors listed in CJCRP 6(c). Investigation showed the misconduct was an isolated incident, and not part of a pattern. The nature of the misconduct – expressions of racial bias – diminishes public confidence in the independence and fairness of the judiciary. This is so even though all the evidence and Respondent's answer show that he did not consciously intend to use language that expressed racial bias. The incident took place on the bench; not in Respondent's private life. The people immediately exposed to the comment either did not notice it or did not complain of it at the time. There is no evidence Respondent exploited his official capacity to satisfy personal desires. He openly acknowledged the acts when contacted, and immediately volunteered efforts to address the conduct through training. Respondent has served in judicial office for 17 years, and has an exemplary record for judicial competence, hard work, and fairness. There has been no prior discipline against Respondent, and he has been entirely cooperative with the Commission proceeding. The career-long excellence demonstrated by Respondent and overwhelming evidence


indicate that the racial bias evinced in the statement was unintentional. The nature of implicit bias, however, is precisely that it is unintended. Even if one consciously disbelieves in racial stereotypes, those stereotypes can influence one's behavior without the actor's awareness or intent. Here, all indications are that Respondent consciously strives to be courteous, impartial and fair to all in his judicial office. It is an important mitigator that Respondent immediately and without defensiveness recognized the nature of the conduct and welcomes the opportunity to obtain training to address this issue.

2. Weighing and balancing the above factors, Respondent and the Commission agree that an admonishment is the appropriate level of sanction to impose in this matter. An "admonishment" is a written action of the Commission of an advisory nature that cautions a respondent not to engage in certain proscribed behavior. Admonishment is the least severe disciplinary action available to the Commission. Respondent agrees to seek and complete training in implicit or unintended bias within a year of entry of this stipulation. The training shall be pre-approved by the Chair of the Commission or his designate, and will not be at Commission expense. Respondent has been unrepresented in these proceedings. He affirms that he has had an opportunity to consult with an attorney and voluntarily chooses to represent himself in this matter and enter into this agreement. Respondent further affirms that he will not repeat such conduct in the future.



Honorable Douglas A. North
King County Superior Court

11/22/17
Date



J. Reiko Callner
Executive Director
Commission on Judicial Conduct

11/27/17
Date

ORDER OF ADMONISHMENT

Based upon the above stipulation and agreement, the Commission on Judicial Conduct hereby orders Respondent, Judge Douglass A. North, ADMONISHED for violating Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rule 2.3(B)) of the Code of Judicial Conduct.

DATED this 5th day of December, 2017.



Richard Carlson, Chair
Commission on Judicial Conduct