

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

FILED
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COMMISSION ON JUDICIAL CONDUCT

In re the Matter of:)

The Honorable Joseph P. Wilson
Judge of the Snohomish County
Superior Court)

CJC No. 8662-F-178

**STIPULATION, AGREEMENT
AND ORDER OF ADMONISHMENT**

The Commission on Judicial Conduct ("Commission") and Snohomish County Superior Court Judge Joseph Wilson ("Respondent") stipulate and agree as provided herein. This stipulation is submitted pursuant to Article IV, Section 31 of the Washington Constitution and Rule 23 of the Commission's Rules of Procedure and shall not become effective until approved by the Washington Commission on Judicial Conduct.

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

I. STIPULATED FACTS

A. Respondent is now, and was at all times referred to in this document, a judge of the Snohomish County Superior Court. He has served in that capacity since 2010.

B. The Commission initiated a confidential preliminary investigation of complaints received in August 2017, about Respondent's demeanor during a criminal court proceeding that took place on July 10, 2017.

1. The proceeding at issue, Cause Number 16-1-01228-31, was a sentencing hearing for a person who had pleaded guilty to Attempted Residential Burglary, a crime involving domestic violence. The defendant had prior domestic violence-related misdemeanor convictions against the same victim, with whom he has children in common. The plea bargain agreement

between the prosecution and defense was to reduce a charge of Residential Burglary to Attempted Residential Burglary, which had the effect of diminishing the standard sentencing range available to the judge.

2. The proceeding was stenographically recorded. (The transcript of the hearing is attached as Appendix 1.) Investigation revealed that defendant was at all times during the hearing respectful and deferential towards the court. Respondent, after expressing his view that the resolution was too lenient, addressed the defendant in a confrontational and angry tone. He repeatedly called the defendant “an animal,” and at one point near the conclusion of the hearing, refused to let the defendant speak, telling him, “You don’t have the integrity to talk to me.”

C. The Commission served Respondent with a Statement of Allegations on January 23, 2018, alleging his actions during the July 10, 2017 hearing violated Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.2, 2.3(A) and (B), 2.6(A) and 2.8) of the Code of Judicial Conduct.

D. Respondent answered the Statement of Allegations on February 22, 2018. In his answer, Respondent acknowledged: “I did not treat [the defendant] with respect and I addressed him in a manner I should not have. These statements negatively impact the public’s perception of the court and for that I am sorry.” Respondent explained he was “profoundly unhappy with the resolution of this case prior to taking the bench,” adding that he nonetheless recognizes his “personal opinion of what a proper resolution should be should not interfere with [his] duty to be impartial and fair.”

II. AGREEMENT

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

1. Respondent agrees his conduct described above violates Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.2, 2.3, 2.6 and 2.8) of the Code of Judicial Conduct.

a. Rules 1.1 and 1.2 require judges to uphold the integrity of the judiciary by avoiding impropriety and the appearance of impropriety and by acting at all times in a manner that

promotes public confidence in the independence, integrity and impartiality of the judiciary.¹

b. Rules 2.2, 2.3, 2.6 and 2.8 require judges to: perform their judicial functions fairly, impartially and without bias or prejudice; accord every person who has a legal interest in a proceeding the full right to be heard according to law; and maintain appropriate decorum and be patient, dignified and courteous to all persons with whom they deal in their official capacity.²

2. Referring to a defendant as "an animal" and addressing him in an unduly confrontational and harsh manner violates these ethical provisions. Such discourteous, intolerant and derisive behavior by a judicial officer erodes public confidence in the fairness and integrity of the judicial system. It conveys the impression that a ruling is made out of emotion or personal preference, rather than reason and impartial accordance with the law. Intemperate language and behavior by a judge often impairs the right of individuals to be fairly heard by intimidating or discouraging them from fully presenting their positions in court.

B. Imposition of Sanction

1. The sanction imposed by the Commission must be commensurate to the level of Respondent's culpability and must be sufficient to restore and maintain the dignity and honor of the judicial position. The sanction should also seek to protect the public by assuring that Respondent and other judges will refrain from similar acts of misconduct in the future.

2. In determining the appropriate level of discipline to impose, the Commission

¹ Canon 1 of the Code of Judicial Conduct states that a judge shall uphold and promote the independence, integrity and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety. Rule 1.1 specifies, "A judge shall comply with the law, including the Code of Judicial Conduct." Rule 1.2 provides, "A judge shall act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety."

² Canon 2 expresses that "a judge should perform the duties of judicial office impartially, competently, and diligently." Rule 2.2 provides, "A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially." Rule 2.3 (A) and (B) states in part, "A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice [and] shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice[.]" Rule 2.6(A) specifies, "A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law." Rule 2.8 (A) provides, "A judge shall require order and decorum in proceedings before the court." And Rule 2.8(B) states, "A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials and others subject to the judge's direction and control."

considers the factors set out in CJCRP 6(c).

a. Characteristics of Respondent's Misconduct. The misconduct occurred in the courtroom, during court proceedings, and while Respondent was acting in his official capacity. The nature of this misconduct – injudicious demeanor – is serious. As the Commission has noted in prior cases, appropriate judicial demeanor plays an important role in the public's perception of justice. The judge sets the tone for the courtroom experience. The public is more likely to respect and have confidence in the integrity and fairness of a judge's decision if the judge is outwardly respectful, patient and dignified. Because of the power disparity between a judge and others in the courtroom, berating or demeaning a litigant or an attorney is an abuse of judicial power. Here, Respondent's comments, including his statement "You guys unfortunately got the wrong draw on a judge" and outlining his own professional background with Domestic Violence issues, evidenced a personal animus toward the defendant and suggested that his decision resulted from his individual experience and feelings rather than the rule of law. Moreover, by disparaging the defendant, Respondent potentially undermined the rehabilitative goal of sentencing by causing the defendant to feel victimized rather than to reflect on his own responsibility for the criminal act that brought him before the court.

In mitigation, the conduct resulting in this disciplinary matter represents a single incident. The Commission's investigation, however, has revealed Respondent has a reputation for being at times overly harsh and intemperate, suggesting his actions here were not totally out of character. Respondent states his intention was to cause the defendant to consider how his actions affect others, but allowed his frustration with what he perceived to be an overly lenient resolution of a serious domestic violence case to prevail over his ethical responsibilities. Finally, despite his conduct and statements, Respondent ultimately imposed a sentence that was only slightly (.25 months) more than the parties' agreement.

b. Service and Demeanor of Respondent. Respondent has been a judicial officer for nine years. He has had no prior public disciplinary actions imposed against him. He has

fully cooperated with the Commission's investigation, and importantly, has accepted, without reservations, that his conduct was inappropriate. Respondent wrote that prior to being contacted by the Commission, he spoke with several people whose opinion he values about this incident and to reflect on his overall approach to being a judge. Respondent's actions in response to this proceeding, including his readily entering into this stipulation and agreeing to take steps to correct and avoid inappropriate behavior in the future, provide a basis to believe this misconduct will not be repeated.

3. 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.

4. Respondent agrees that he will participate in ethics training focusing on appropriate courtroom demeanor, approved in advance by the Commission Chair or Chair designate. Respondent agrees he will complete one hour of such training (not at Commission expense) and will certify successful completion of such training in writing within one year from the date this stipulation is accepted by the Commission.

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 he will promptly read and familiarize himself with the Code of Judicial Conduct in its entirety and provide written confirmation of that fact within one month of the date this stipulation is accepted.

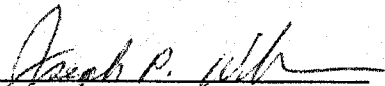
7. Respondent has represented himself in these proceedings. He affirms that he has had an opportunity to consult with an attorney and voluntarily chooses to represent himself in this matter and enter into this agreement.

C. Standard Additional Terms and Conditions

1. By entering into this stipulation and agreement, Respondent waives his

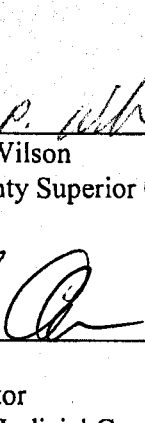
procedural rights and appeal rights in this proceeding pursuant to the Commission on Judicial Conduct Rules of Procedure and Article IV, Section 31 of the Washington State Constitution.

2. 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.



Hon. Joseph P. Wilson
Snohomish County Superior Court

5/10/18
Date



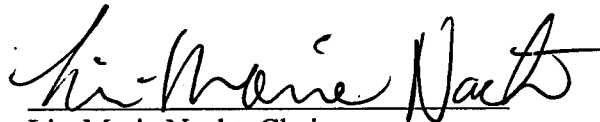
J. Reiko Callner
Executive Director
Commission on Judicial Conduct

5/10/18
Date

ORDER OF ADMONISHMENT

Based upon the above stipulation and agreement, the Commission on Judicial Conduct hereby orders Respondent Joseph P. Wilson ADMONISHED for violating Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.2, 2.3, 2.6 and 2.8) of the Code of Judicial Conduct. Respondent shall not engage in such conduct in the future and shall fulfill the terms of the agreement as set forth above.

DATED this 11th day of May, 2018.


Lin-Marie Nacht, Chair
Commission on Judicial Conduct

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SNOHOMISH

STATE OF WASHINGTON,)	
)	
Plaintiff,)	
)	
vs.)	No. 16-1-01228-31
)	
JEREMY ANDRIOT,)	
)	
Defendant.)	

VERBATIM TRANSCRIPT OF PROCEEDINGS

Heard before the Honorable JOSEPH P. WILSON at Snohomish
County Courthouse, 3000 Rockefeller Avenue, Department 7,
Everett, Washington 98201

A P P E A R A N C E S

For the State:	RACHEL CORMIER-ANDERSON Attorney at Law
For the Defendant:	LOWELL ASHBACH Attorney at Law

DATE: July 10th, 2017

REPORTED BY: Megan R. Swift, CCR, CRR, RPR

1 Everett, Washington; Monday, July 10th, 2017

2 AFTERNOON SESSION - 1:01 p.m.

3 ***

4 THE COURT: Good afternoon. Please be seated.

5 MR. ASHBACH: Hello, Judge.

6 THE COURT: Good afternoon.

7 MS. CORMIER-ANDERSON: Good afternoon, Your Honor.

8 Rachel Cormier-Anderson for the State.

9 Your Honor, we are here this afternoon on the matter
10 of Jeremy Andriot. This is Cause Number
11 16-1-01228-31.

12 Mr. Andriot is present. He is out of custody.
13 He's present today with Mr. Bud Ashbach, though the
14 attorney of record is Brian Ashbach. Your Honor, we
15 are here today for sentencing. Mr. Andriot entered a
16 plea to an amended charge of attempted residential
17 burglary domestic violence on June 5th of this year.

18 Your Honor, for the purposes of sentencing,
19 Mr. Andriot has no prior adult felony convictions. He
20 has nine prior adult misdemeanors. All of those are
21 domestic violence offenses; however, only eight of
22 them count as repetitive domestic violence offenses
23 for the purposes of scoring. That means for this
24 offense, his score is an eight. Residential burglary
25 is an SRA Level IV offense. On the attempted charge,

1 the standard range is 39.75 months to 52.5 months with
2 a maximum of five years and a \$10,000 fine.

3 Your Honor, this was a negotiated plea between myself
4 and Mr. Ashbach, and this is an agreed recommendation
5 of low end of 39 --

6 THE COURT: So what happened? Why did you amend
7 the -- agree to amend the charge?

8 MS. CORMIER-ANDERSON: Your Honor, it was due, in
9 large part, to the wishes of the victim in this case,
10 Ms. Raini Wilson. Ms. Wilson was not enthusiastic
11 about participating in the prosecution of this crime.
12 We did have some issues in communication with both her
13 and the other witness in this case,
14 Ms. Eleanor Wilson. There were also some issues with
15 identification. The timelines between Ms. Raini and
16 Ms. Eleanor Wilson did have some inconsistencies.

17 THE COURT: Oh, you had this guy dead to rights.

18 MS. CORMIER-ANDERSON: Your Honor, while I was
19 confident --

20 THE COURT: So I'm having a hard time, right --

21 MS. CORMIER-ANDERSON: I understand, Your Honor --

22 THE COURT: -- with the level of terrorism that he
23 has visited upon these folks over the years. I'm
24 having a hard time going from an original charge,
25 where the low end is 53 months, to you now

1 recommending the low end of an attempted.

2 MS. CORMIER-ANDERSON: Your Honor, I will let the
3 Court know, while I certainly agree with Your Honor,
4 and I -- I was very hesitant to make this
5 recommendation, Ms. Wilson -- Mr. Andriot and
6 Ms. Wilson have a child in common.

7 THE COURT: I get it.

8 MS. CORMIER-ANDERSON: And she was very opposed
9 to --

10 THE COURT: I don't care about that.

11 MS. CORMIER-ANDERSON: Well, Your Honor, I did --
12 I did have some concerns based on some things she said
13 that there was a possibility that we would not have
14 cooperating witnesses at trial. And I felt that given
15 the fact that Mr. Andriot has never actually served
16 any substantial time for any of his previous DV
17 offenses, that while this is substantially less than
18 what he could have been looking at on a residential
19 burglary, it was a substantial sanction that hopefully
20 will make a difference and get clear to him that he
21 needs to stay away from Ms. Wilson, because what has
22 happened with his misdemeanor charges has clearly not
23 made that clear to him.

24 He's primarily been sentenced to electronic home
25 monitoring and similar sanctions and has not really

1 done a whole lot of actual jail time. So I felt that
2 while I had a good chance to prevail at trial, if I
3 got my witnesses here, that in the interest of their
4 wishes, that this was a fair resolution that would
5 suffer upon him a substantial prison sentence. So
6 while I understand the Court's position, it is the
7 agreement that I negotiated with Mr. Ashbach taking
8 into consideration Ms. Wilson's issues in this case.

9 I can let Your Honor know that when my advocate
10 spoke to Ms. Wilson about sentencing on this case she
11 wanted me to let Your Honor know that she is not in
12 favor of the amount of jail time that Mr. Andriot is
13 facing. She thinks that something more like one to
14 two years is appropriate in this case, and would
15 rather see him. --

16 THE COURT: Yeah, maybe if it was a private matter
17 between them, but, unfortunately, his actions have
18 required the expenditure of County resources, time,
19 money, and effort to get him to behave appropriately.
20 So while witness -- or victims are listened to; in the
21 realm of domestic violence, it's a little more
22 different than that.

23 MS. CORMIER-ANDERSON: And I understand,
24 Your Honor, and I made that clear to Ms. Wilson. I
25 just wanted to let Your Honor know, since she couldn't

1 be present today, what her desires for me to express
2 to the Court are.

3 THE COURT: All right.

4 MS. CORMIER-ANDERSON: She does think Mr. Andriot
5 does need treatment. She hopes that he --

6 THE COURT: For what?

7 MS. CORMIER-ANDERSON: Your Honor, she thinks he
8 has some mental health issues that need to be
9 addressed. She has also expressed to me that she's
10 still hopeful that he can be a positive influence in
11 his children's lives.

12 Your Honor, I am recommending, per the agreement,
13 the low end of 39.75 months. The State is requesting
14 a new five-year no-contact order post-conviction in
15 this case. There are currently orders in place. They
16 are all set to expire prior to five years from today's
17 date. So that is why I'm asking for an additional
18 order. Your Honor, this is not a
19 community-custody-eligible offense, so the State is
20 not recommending community custody in this case.

21 THE COURT: All right. Thank you.

22 Mr. Ashbach?

23 MR. ASHBACH: Now, Judge, I have no problem with
24 the request for a five-year no-contact order from
25 today. And, Judge, I -- if you -- you've got the

1 guilty plea statement in front of you. Actually, my
2 son sent me down to conclude that on the agreed
3 recommendation and basis that the prosecutor and my
4 son had worked out.

5 I'm very -- I'm very mindful of your comments,
6 because it is unusual in that -- you know, there is no
7 prior felony, but he's got a -- he's got a lengthy
8 list of, you know, protection order violations. And
9 those are always problematic, because, you know,
10 that -- that is kind of -- you know, going against
11 governmental authority, you know that, I've been
12 around. But I -- here's where I -- I want to tell you
13 that I'm asking you to follow the agreed
14 recommendation because it was negotiated. I'm -- I'm
15 here -- I never try to come in where there's an
16 agreed --

17 THE COURT: Well, I mean --

18 MR. ASHBACH: I --

19 THE COURT: -- you and I know each other --

20 MR. ASHBACH: I know, yeah.

21 THE COURT: -- I just -- I can't let the comment
22 pass. If, in fact, judges should routinely sign off
23 on negotiated agreements, what's the purpose of having
24 a judge?

25 MR. ASHBACH: Well, Judge, I -- I would tell you

1 that, you know, from my perspective, I never wanted to
2 be a judge. But I -- I think that as a businessman,
3 when the State comes to that with the defendant and it
4 is agreed, unless it's really egregious, if I were a
5 judge, I would follow it. Now --

6 THE COURT: So I'm looking at this case going,
7 "It's really egregious."

8 MR. ASHBACH: Well, his record is. But here's
9 what I'll -- you know, if you follow the agreed
10 recommendation -- I understand he'd spent some time in
11 jail -- he would get credit for that, but even with
12 good time, he's going to be out of commission for --
13 for two years.

14 THE COURT: That's not -- that's not nearly long
15 enough.

16 MR. ASHBACH: Well, that's up to you.

17 THE COURT: Five years, six years, somewhere where
18 I can get these kids to a point -- how old are they;
19 do you know? You don't?

20 How old are your kids?

21 MR. ANDRIOT: My children are four, five, nine,
22 and fourteen.

23 THE COURT: The ones in common with Ms. Wilson?

24 MR. ANDRIOT: Four and five.

25 THE COURT: Yeah.

1 MR. ASHBACH: Well, and --

2 THE COURT: If I get him out six years, I got then
3 10 and 11 year olds, at least where they could have a
4 phone and make a call on their own behalf that their
5 dad is harassing their mother.

6 MR. ASHBACH: Well, and, you know, Judge, I
7 understand what you're saying, but I am also an
8 optimist for the future, and I think that --

9 THE COURT: I am not, not when it comes to
10 domestic violence.

11 MR. ASHBACH: -- he's going to get --

12 THE COURT: You guys unfortunately got the wrong
13 draw on a judge. I was the first male board member of
14 Domestic Violence Services of Snohomish County, the
15 very first male member of domestic violence services,
16 the very first male board member, and I spent ten
17 years on the board. I was the president, vice
18 president, secretary, treasurer. I even was an
19 interim executive director of the organization at one
20 point in time when we lost our executive director, all
21 the while practicing law as a private practitioner.
22 I'm immersed in domestic violence. And I know the
23 lack of success for treatment for domestic violence
24 perpetrators, because it is beyond just a simple
25 explanation. This is about power and control, victim

1 and perpetrator --

2 MR. ASHBACH: Well, I'm not --

3 THE COURT: -- top of the heap and bottom.

4 MR. ASHBACH: I'm not -- you know, I really, in my
5 life, I really don't have any experience in it.

6 THE COURT: And there's really no way to treat it.
7 And study after study after study has shown that all
8 these domestic violence treatment courses are really
9 ineffective in the long run, and their recidivism
10 rates are significantly higher than just the average
11 population, because once an abuser, always an abuser.

12 MR. ASHBACH: Well, Judge, I -- I just -- I'm just
13 telling you that, personally, I'm more optimistic than
14 that. No, I am. And I -- whenever I get involved in
15 a case, I always tell my client that if, you know, "If
16 I get through this and get you the result that -- that
17 we worked out, and if you go out and do it again, then
18 in a very real sense, I've been unsuccessful."

19 So I'm -- I'm asking you to follow that
20 recommendation, knowing that he's going to be out of
21 commission for at least two years, and he's going to
22 learn something. He'll be there long enough. He
23 is -- for 20 years, he's been an ironworker through
24 the union. He's really not had somebody monitor him
25 day to day, which he's going to get. So I -- I always

1 come in here, and I never try to sandbag the
2 prosecutor or the Court, I'm a businessman. And so I
3 would ask you to follow that recommendation, mindful
4 of what you've said. Thank you, Judge.

5 THE COURT: All right. Thank you.

6 Sir, do you have anything you wish to tell me
7 before I impose sentence?

8 MR. ANDRIOT: Yes, I actually do, sir, if I may.
9 You look at me like I'm a -- like I --

10 THE COURT: You're an animal.

11 MR. ANDRIOT: Right. You look at me like I'm an
12 animal.

13 THE COURT: You are an animal.

14 MR. ANDRIOT: Well, hold on. Like I beat on
15 women. I've never put my hands on Ms. Wilson. They
16 were only phone calls to talk to my children.

17 THE COURT: You're an animal.

18 MR. ANDRIOT: How am I --

19 THE COURT: You're an abuser.

20 MR. ANDRIOT: I have never abused her.

21 THE COURT: You're an abuser.

22 MR. ANDRIOT: I -- I'm not -- I'm not that person.
23 I'm sorry.

24 THE COURT: You are.

25 MR. ANDRIOT: I'm not.

1 THE COURT: There's more than one way to abuse a
2 person other than physical abuse.

3 MR. ANDRIOT: I --

4 THE COURT: I would not have this criminal history
5 if you're not an abuser.

6 MR. ANDRIOT: I understand. I mean, I do go to
7 my -- my treatment classes, my DV. I know you said
8 they're ineffective, but I participate 100 percent.
9 I'm the one usually talking. And I -- you can ask
10 my -- my counselor lady, she -- I am the most involved
11 person in speaking and asking questions and talking
12 and helping other people and helping me, and that's
13 what we do, and that's what I liked. And I've only
14 had, like, two or three more classes left. I've only
15 been doing them for a year and a half, over the term
16 that I'm supposed to be doing them. And then when I
17 was speaking to Ms. Wilson, it was only speaking
18 through my children, and I was allowed to speak to my
19 children. I've never put my hands on her. I've never
20 harmed her. I've never controlled her. I've --

21 THE COURT: Why did you break into her house?

22 MR. ANDRIOT: I -- I didn't break into her house.

23 THE COURT: You did.

24 MR. ANDRIOT: Your Honor, I did not.

25 THE COURT: You did.

1 MR. ANDRIOT: No, I didn't. I did not. I had --
2 I don't know what I can say or what I can't say
3 without incriminating myself or anybody else here. I
4 just -- I didn't do it. I didn't do it.

5 THE COURT: Why did you plead guilty to it then?

6 MR. ANDRIOT: Because I would have got more time
7 if I didn't.

8 THE COURT: Oh.

9 MR. ANDRIOT: I'm -- I'm --

10 THE COURT: This is where the -- I've heard enough
11 from you now.

12 MR. ANDRIOT: Okay. I'm sorry. Yes, Your Honor.

13 THE COURT: This is where the rubber meets the
14 road. You only get so much from an abuser about
15 copping to what their actions are. The rest of it is
16 a manipulation, excuses, somebody else's fault, "It
17 wasn't me. I didn't do it." I know exactly who this
18 guy --

19 MR. ANDRIOT: I did do --

20 THE COURT: I don't want to hear from you anymore.

21 MR. ANDRIOT: Yes, Your Honor. I'm sorry.

22 THE COURT: You pled guilty to an attempted, which
23 means that you engaged in the actions that are alleged
24 in the affidavit of probable cause.

25 MR. ANDRIOT: Yes.

1 THE COURT: A door was broken open.

2 MR. ANDRIOT: Yes.

3 THE COURT: You did it. You want to say you
4 didn't do it, that's fine.

5 MR. ANDRIOT: Yes, I know.

6 THE COURT: That just plays right into your --

7 MR. ANDRIOT: Yes, I did --

8 THE COURT: -- victimhood of being an abuser.

9 MR. ANDRIOT: And I'm sorry. If I could get
10 help --

11 THE COURT: You deserve every month of the 70
12 months that were initially recommended in this case
13 before the State allowed you to plead to an amended
14 charge, which now you're telling me you only pled to,
15 not because you did it, because you were looking at
16 extra time, still maintaining your innocence.

17 MR. ANDRIOT: And what is --

18 THE COURT: I've had enough.

19 MR. ANDRIOT: Oh, I was just going to --

20 THE COURT: Hence the reasons for my questions
21 this afternoon about -- absent egregious
22 circumstances, which have now been presented to me.
23 Why should I follow this recommendation? Every fiber
24 in my body tells me no. Every fiber tells me, "Give
25 him the maximum on this particular charge, given his

1 statements to me today"; right? Right.

2 MR. ASHBACH: Well, I -- I -- my answer --

3 THE COURT: Oh, that's enough. I've reached my
4 tipping point.

5 MR. ASHBACH: I was just going to say business.

6 THE COURT: Yeah, I understand, Counsel. I am not
7 a potted plant. They can get a computer to spit out a
8 sentence once everybody makes a recommendation, then I
9 can just stay home. But they -- they call upon judges
10 to review agreed recommendations to find out if
11 they're in line with the values of the community. And
12 when I have somebody in front of me who reached an
13 agreement solely for the purposes of avoiding exposure
14 to additional time and now claims innocence, even on
15 that, it makes me wonder if this agreement comports
16 with the values of my community. It really doesn't.
17 It really doesn't. I have to be honest with you, just
18 looking at it.

19 Anybody sitting here listening to this reading a
20 transcript of this would say, "That judge is crazy,
21 following the recommendation. This guy should go away
22 for the maximum amount that the law allows, given his
23 position." Always makes me wonder.

24 You were right, should have took him to trial.

25 Send out a warrant to get those witnesses here. I'd

1 hold them on material witness warrant. Send this case
2 to trial. You're damn right, I would.

3 That's part of the victimhood is feeling
4 compassion for their abusers. They don't want anymore
5 trouble. "It's going to cause more hassle." That's
6 part of the cycle of being a victim of domestic
7 violence. "Please, don't do anything. Too much time.
8 He needs to have a relationship with your kids."
9 Really? Really? So he can turn them into little
10 abusers themselves, because that's what they're going
11 to learn. And so the cycle continues, another
12 generation, another group of folks I need to talk to
13 about being animals? This is not how we conduct
14 ourselves in society. This is not how we do it.
15 You've got some issues.

16 I don't want to hear from you anymore. Nothing
17 you say -- nothing that you say has any truth
18 associated with it. You don't have the integrity to
19 talk to me. I can see by your history what you are,
20 that's it. That's how you're defined now. That's
21 your life. Congratulations. You pushed the envelope,
22 and now I've got a felony on you.

23 I could leave this bench right now and be very
24 comfortable with the 70 months. I wouldn't lose a bit
25 of sleep on it. I probably would not have accepted an

1 amended information if I was the judge taking a plea.
2 There's something to be said for reaching agreements.
3 God, it just -- they don't pay me enough for this.

4 I'm not going to follow the agreement. This is
5 what I'm going to do. I'm going to get my pound of
6 flesh, I'm going to sentence him to 40 months, .25
7 more than agreed to. Obviously, credit for time
8 served.

9 Restitution will be reserved. State will have 180
10 days to bring that forward. \$500 victim penalty
11 assessment; \$100 DNA fee; \$200 filing fee; and the
12 \$100 domestic violence fee; all other fines, fees,
13 costs, and assessments will be waived. Set payments
14 at \$20 a month. First payment will be due 90 days
15 from date of release, to be paid within 18 months. I
16 will impose the five-year no-contact order.

17 MR. ASHBACH: All right. Judge, I understand, and
18 thank you.

19 THE COURT: Sir, your right to own, possess, and
20 control firearms has now been taken away for life.
21 Your right to vote has been taken away. You'll be
22 required to provide a DNA sample, if you haven't
23 already; okay?

24 Questions? Clarifications?

25 MR. ASHBACH: I don't hear too good.

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THE COURT: Questions? Clarifications?

MR. ASHBACH: No. I appreciate your comments and your decision. Thank you.

THE COURT: Will he waive presence at signing?

MR. ASHBACH: Yeah, we can -- we can -- I can set him over there, and then we can ...

THE COURT: You're going to be taken into custody now.

MR. ASHBACH: No, I got it. We'll work it out, Judge. And thank you. Have a good afternoon.

THE COURT: Thank you. We'll be in recess.

(Whereupon the proceedings concluded.)

CERTIFICATE OF OFFICIAL COURT REPORTER

STATE OF WASHINGTON)
) ss.
COUNTY OF SNOHOMISH)

I, MEGAN R. SWIFT, Certified Court Reporter,
Washington CCR 3398, DO HEREBY CERTIFY that the following is
true and correct:

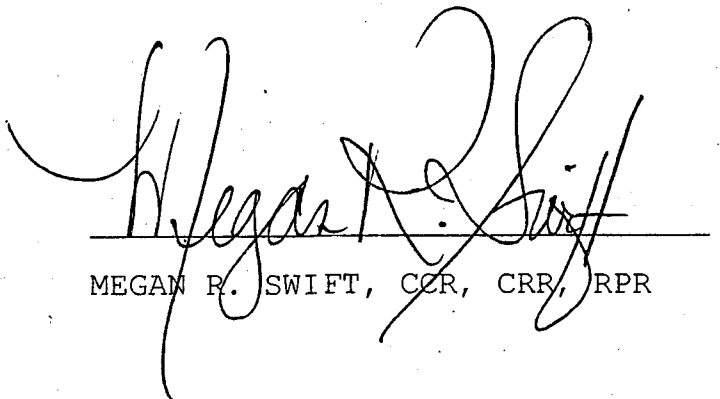
The above-proceedings were reported stenographically by
me and transcribed using computer-aided transcription:

The foregoing pages constitute a full, true, and
correct transcript of said proceedings to the best of my
ability, excepting any changes made by the trial judge
reviewing the transcript;

I am in no way related to or employed by any party or
counsel in this matter;

I have no financial interest in the litigation.

So certified in Everett, Washington.


MEGAN R. SWIFT, CCR, CRR, RPR

Dated: September 15th, 2017