

BEFORE THE COMMISSION ON JUDICIAL CONDUCT  
OF THE STATE OF WASHINGTON

FILED  
DEC - 7 2018  
COMMISSION ON JUDICIAL CONDUCT

In Re the Matter of: )  
 )  
The Honorable Terry M. Tanner )  
Judge of the Benton County District Court )  
 )  
\_\_\_\_\_ )

CJC No. 8889-F-180

**STIPULATION, AGREEMENT  
AND ORDER OF REPRIMAND**

The Commission on Judicial Conduct and Judge Terry M. Tanner hereby stipulate and agree as provided for herein. This stipulation is entered pursuant to Article IV, Section 31(7) of the Washington Constitution and Rule 23 of the Commission on Judicial Conduct Rules of Procedure.

The Commission is represented in these proceedings by its Executive Director, J. Reiko Callner, and Judge Tanner is represented by Attorney Scott Johnson.

**I. STIPULATED FACTS**

A. Judge Terry M. Tanner (“Respondent”) is now, and was at all times referred to in this document, a judge of the Benton County District Court. Respondent has served in that capacity since 2009.

B. On March 6, 2018, Respondent was arrested for Driving Under the Influence (DUI). The investigating officers’ reports indicate that Respondent admitted he had been drinking beer while watching a basketball game at a Kennewick restaurant, after which Respondent attempted to drive home. However, on a road near his house, Respondent failed to negotiate a turn and struck large landscaping rocks which surround a sign indicating the name of the neighborhood. His car came to rest against the rocks and passersby called 911. Respondent was cooperative with the responding officers and made no mention of his judicial status, although the responding officers were independently aware that he was a judge. Respondent was transported to a local medical facility where a blood draw was performed.

C. Respondent was charged with DUI in Benton County District Court but after his initial appearance, the case was transferred to Yakima County. At his first appearance in that court,

and before the blood test results were received, Respondent pled guilty to DUI as charged and was sentenced on April 13, 2018, to serve 15 days of electronic home monitoring, to pay fines, costs and assessments, to complete an alcohol evaluation and comply with any recommended treatment and attend a DUI victim's panel. The prosecution and defense counsel in this case noted to the Commission that the sentence imposed was a typical standard sentence for a first time DUI offender.<sup>1</sup>

D. Through his attorney, Scott Johnson, and then personally, Respondent reported his arrest to the Commission on March 8, 2018.

## **II. AGREEMENT**

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

1. Based upon the above stipulated facts, Respondent agrees that he violated Canon 1, Rules 1.1 and 1.2, of the Code of Judicial Conduct.

2. Rule 1.1 requires judges to "comply with the law, including the Code of Judicial Conduct." Rule 1.2 requires judges 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."

3. Respondent agrees that he violated the foregoing Code provisions by committing the criminal offense of Driving Under the Influence of Alcohol and/or Drugs.

### **B. Imposition of Sanction.**

The sanction imposed by the Commission must be commensurate to the level of Respondent's culpability, sufficient to restore and maintain the public's confidence in the integrity of the judiciary, and sufficient to deter similar acts of misconduct in the future. In determining the appropriate level of discipline to impose, the Commission takes into account those factors listed in CJCRP 6(c).

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<sup>1</sup> The blood test results, when eventually received, indicated a blood alcohol concentration of .20, which is over the legal limit of .08 in Washington State. Because the results had not yet been processed at the time of the plea, the prosecutor and defense stipulated to a guilty plea to DUI without a test result.

1. Characteristics of the Misconduct. This is an isolated incident. Respondent has no prior criminal history and no prior judicial misconduct history. The misconduct occurred outside the courtroom, in Respondent's private life. Driving under the Influence (DUI) is a serious offense that can result in great bodily injury. It is reasonable for the public to expect that judges will comply with the criminal laws they enforce upon others. Respondent's actions undermine public respect for the judiciary as a whole.

2. Service and Demeanor of the Judge. Respondent has acknowledged the acts occurred. By entering into this agreement and having pleaded guilty to the underlying criminal charge of DUI, he has accepted responsibility for his conduct and has evidenced an effort to avoid repeating the behavior that led to this disciplinary action. He promptly self-reported this incident, and has fully cooperated with the Commission throughout these proceedings. The judge has served on the bench for nine years and has no other disciplinary action.

C. Accordingly, weighing and balancing the above factors, 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 judge to appear personally before the Commission and finds that the conduct of the Respondent is a violation of the Code of Judicial Conduct. It requires that the judge follow a specified corrective course of conduct. Reprimand is an intermediate level of discipline.

D. Respondent agrees he will strictly comply with all the terms of his probation in Yakima County District Court Cause No. 8Z0309355, and promptly provide proof of compliance to the Commission.

E. Respondent agrees to complete the following remedial measures.

1. Public Presentations. In further pursuit of the goal of regaining the trust and confidence of the public, within three years from the date hereof, Respondent shall participate, and provide proof thereof to the Commission, as a speaker in no less than five public appearances on matters related to his stipulated misconduct, presented either to community organizations or to

Washington judicial associations. The venue of the presentations must be approved in advance by the Chair of the Commission and the content of the presentation approved afterward in order for Respondent to receive credit for these presentations.

2. Respondent agrees he will promptly read and familiarize himself with the Code of Judicial Conduct in its entirety, and will submit a sworn statement or declaration to the Commission within 30 days of entry of this agreement.

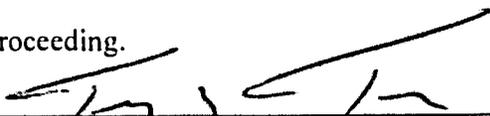
F. Respondent agrees he will not repeat such conduct in the future, mindful of the potential threat any repetition of his conduct poses to public confidence in the integrity and impartiality of the judiciary and to the administration of justice.

G. Respondent is represented in these proceedings; he affirms he enters into this stipulation after consultation with his counsel.

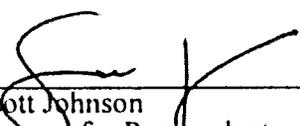
H. Standard Additional Terms of Commission Stipulation

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

2. Respondent agrees that by entering into this stipulation and agreement, he hereby waives his 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.

  
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Honorable Terry M. Tanner  
Respondent

11-28-2018  
Date

 27809  
\_\_\_\_\_  
Scott Johnson  
Counsel for Respondent

11-28-18  
Date

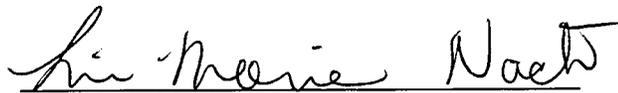
  
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J. Reiko Callner  
Executive Director  
Commission on Judicial Conduct

11-30-18  
Date

## ORDER OF REPRIMAND

Based upon the above stipulation and agreement, the Commission on Judicial Conduct hereby orders Respondent Judge Terry M. Tanner REPRIMANDED for violating Canon 1 (Rules 1.1 and 1.2) 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 7 day of December, 2018.



Lin-Marie Nacht, Chair  
Commission on Judicial Conduct