

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

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COMMISSION ON JUDICIAL CONDUCT

In Re the Matter of

The Honorable Terry Jurado
Judge of the Renton Municipal Court

NO. 9440-F-188

**STIPULATION, AGREEMENT
AND ORDER OF REPRIMAND**

The Commission on Judicial Conduct and Terry Jurado, Judge of the Renton Municipal Court, 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 Terry Jurado represented himself.

I. STIPULATED FACTS

A. Judge Terry Jurado (“Respondent”) was at all times discussed herein a judge of the Renton Municipal Court, having served in that position since 1999.

B. On April 16, 2019, in Renton Municipal Court Case No. 9Z0213639, defendant BJB was before the judge for a pre-trial hearing on charges of 4th Degree Assault, a gross misdemeanor. BJB was also before the court for an alleged probation violation in a conviction for Theft and Harassment. BJB told the judge he wished to represent himself even though his court-appointed attorney was present. When the judge asked him why, BJB--who holds idiosyncratic beliefs about the court system, including the irrational belief that he is not subject to the court’s jurisdiction because of his personal heritage and religion-- recited some statutes that have no actual legal relevance to the court’s jurisdiction. Judge Jurado at first said he would look up the statutes that BJB referenced but then, after a few more exchanges, said, “We have business to conduct here

today, okay? And you can either participate in this process or you cannot. If you do not wish to participate in this process, you can just leave.” The following exchange then took place:

BJB: I do not wish to participate.

Judge: Then you can just leave. And I’m going to order a bench warrant for your arrest when you do.

BJB: You will order a bench warrant if you’re telling me to leave?

Judge: I’m not going to argue with you.

BJB: I’m asking you a question.

Judge: I am not going to argue with you.

BJB: I’m not trying to argue.

Judge: Leave.

BJB: Argument is... [unintelligible]

Judge: Go.

BJB: You’re telling me to leave?

Judge: I’m telling you to leave.

BJB: Ok, fine. For the record, this is being recorded, so for the record, and on the record, you’re telling me to leave?

Judge: Oh, you recorded my voice without my permission?

Despite BJB saying he was not recording, Judge Jurado claimed that BJB admitted to recording the conversation and said that he was going to have BJB arrested for recording his voice without permission.¹ To that end, the judge can be heard instructing someone to call the police and told BJB he “might want to leave before the cops get there.” As BJB was on his way out of the courtroom, he said “You see this, brother. That’s what I’m talking about brother. I need that FARA² bro.” After he left, Judge Jurado said, “Bro.” And then, “What the heck is up with that?”

¹ This stipulation does not address whether the judge correctly stated that BJB could be arrested for recording a courtroom conversation without permission. RCW 9.73.030 makes it a misdemeanor to electronically record *private* conversation without the permission of all parties to the conversation.

² FARA: Foreign Agent Registration Act, one of the many things BJB referenced during this hearing.

He did exactly what he wanted to do. And I don't play those games." At that point, Judge Jurado granted the public defender's motion to withdraw from representing BJB.

At the end of the calendar, Judge Jurado ordered a warrant for BJB's arrest, stating BJB had "constructively failed to appear," was disruptive and contemptuous, and admitted to tape recording the judge's voice "in violation of the law." BJB turned himself in on the warrant on May 1st and was taken into custody. He appeared before a pro tem judge on May 2nd, who set bail and continued the hearing so Judge Jurado could preside. The next hearing was on May 8, 2019. At that hearing, Judge Jurado recused himself from BJB's case, which caused the matter to be set over again. At the next hearing, on May 14th, a pro tem judge lowered the bail, which BJB was able to post, after having spent 14 days in jail on the warrant that Judge Jurado issued.

C. The Commission received a complaint regarding this matter on April 24, 2019. Following a confidential preliminary investigation, the Commission initiated disciplinary proceedings by serving Respondent with a Statement of Allegations on August 1, 2019. The Statement of Allegations alleged his conduct during the hearings at issue violated Canon 1 (Rules 1.1, and 1.2) and Canon 2 (Rule 2.2) of the Code of Judicial Conduct.

D. Respondent answered the Statement of Allegations by letter dated August 22, 2019. He supplemented his response on September 4, 2019. In his answer, Judge Jurado denied violating the Code, saying that BJB was disrespectful to the court in the manner in which he pursued his idiosyncratic legal theories, and presented a potential physical threat, based on his conduct in court and his prior criminal history, which includes multiple violent offenses. Judge Jurado explained to the Commission that, in the April 16th hearing, he had appropriately exercised his judicial discretion by issuing a warrant for BJB, after telling BJB to leave the court multiple times. In his answer, Respondent wrote: "I made a specific finding in the moment that the defendant constructively failed to appear for his hearing by not participating in the pretrial hearing and by acting in a disruptive and contemptuous manner that obstructed this judges' calendar and created a potential for violence." The audio recording of the proceeding does, in fact, reflect that

Respondent found on the record, after the defendant left, that the defendant “constructively failed to appear,” was disruptive and contemptuous, and admitted to tape recording the judge’s voice “in violation of the law.” He did not, however, make any findings on the record that the defendant’s actions obstructed the calendar, nor that BJB’s actions created the potential for violence.

E. The Commission considered Judge Jurado’s responses at their November 2019 meeting and declined Judge Jurado’s request to dismiss the complaint. Further discussion between Judge Jurado and Commission staff led to this stipulation.

II. AGREEMENT

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

1. Based upon the above stipulated facts, Respondent agrees that his conduct described above violated Canon 1 (Rules 1.1, and 1.2) and Canon 2 (Rule 2.2) 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 2.2 requires that a “judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.” All manner of individuals are required to appear in criminal courts – many of them with idiosyncratic beliefs, mental health issues, and/or violent criminal histories. It is frustrating for the most patient judicial officer to contend with spurious pseudo-legal theories, particularly when they are presented in an angry and condescending fashion, but it is the judge’s primary duty to exercise their judicial power within the bounds of the law. Judge Jurado may have reasonably believed he had a basis to hold BJB in contempt, but he did not follow any of the legal requirements of RCW 7.21 to hold someone in contempt.³ He also could have reset the hearing

³ In addition, “constructive failure to appear” is not a concept recognized in law.

for another day, if he felt the defendant was volatile or presented some kind of threat of physical disruption. Instead, he ordered BJB, multiple times, to leave the courthouse, while in the next breath informing BJB that he would issue a warrant for leaving. Directly ordering a defendant to take an action while promising to order the defendant incarcerated for complying with that order creates an impossible dilemma, and is an abuse of power. The judge's actions in this situation created the appearance that the judge was acting from anger or frustration instead of law, resulting in BJB's incarceration that lasted for 14 days.

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 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. Respondent believes that this was an isolated incident, and the Commission's investigation did not reveal additional instances of abuse of power or improper demeanor. While Respondent accepts, through the course of discussion with Commission staff, that his actions violated the Code, he has stated that he acted in good faith, and without the intention of committing a Code violation. His sense that those present in the courtroom, including other litigants, onlookers and staff, were afraid was not something that was captured by the record, but he has also consistently maintained that he was, in fact, concerned, and trying not to escalate a situation with an insistent and irrational defendant. Regardless of Respondent's subjective intent, abuse of power that results in incarceration is serious misconduct. The nature of the misconduct was significant - as the Commission has noted in prior cases, appropriate use of judicial power and judicial

demeanor play an important role in the public's perception of justice. 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. There is an enormous power disparity between a judge and others in the courtroom. Creating a situation where a defendant cannot comply with the judge's directives and then jailing the defendant as a consequence, without following the lawful requirements of due process, is an abuse of judicial power. Because of the judge's directive, issuance of a warrant, and subsequent recusal, BJB spent 14 days in jail, which is a significant deprivation of liberty.

b. Service and Demeanor of Respondent. This circumstance by no means defines Respondent's service or general character. Over the course of a lengthy career, Respondent has presided fairly and appropriately over thousands of cases, including one wherein a defendant with a violent history threatened to kill him. Respondent has been rated as "exceptionally well qualified" in bar polls during contested elections, and has been a contributing citizen on and off the bench. On the whole, he has served honorably and thoughtfully. Nonetheless, the Commission is bound to address the complaints brought to it fairly and consistently on their particular merits. As noted earlier, litigants who invent or adopt fake legal theories and insist on pursuing them in court, confronting judges' proper authority and the dignity of the courtroom, are aggravating and consume a disproportionate amount of time on crowded court calendars. Still, a judge has the responsibility in each case to be patient, dignified and courteous and, above all, to follow the law. Respondent has been a judicial officer for over twenty years and has no prior disciplinary history. Respondent has fully cooperated with the Commission's investigation and proceedings and, as evidenced by this agreement, has accepted that his conduct was inappropriate.

C. 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.

D. Respondent agrees that he will read and familiarize himself with the Code of Judicial Conduct in its entirety and provide written confirmation of that fact within 30 days of entry of this stipulation.

E. Respondent shall show proof of completion of at least two hours of training in appropriate courtroom demeanor, not at Commission expense. This training must be approved in advance by the Commission Chair or her designate.

F. 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.

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

Honorable Terry Jurado
Renton Municipal Court

11/18/2020
Date



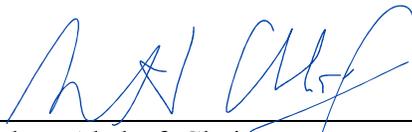
J. Reiko Callner
Executive Director
Commission on Judicial Conduct

11/19/20
Date

ORDER OF REPRIMAND

Based upon the above stipulation and agreement, the Commission on Judicial Conduct hereby orders Respondent Terry Jurado Reprimanded for violating Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rule 2.2) 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 20th day of November, 2020.



Robert Alsdorf, Chair
Commission on Judicial Conduct