

**BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON**

In Re the Matter of

The Honorable Matthew Antush
Judge of the Spokane Municipal Court

NO. 10192-F-192

**STIPULATION, AGREEMENT
AND ORDER OF ADMONISHMENT**

The Commission on Judicial Conduct and Judge Matthew Antush 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 Antush is represented by himself.

I. STIPULATED FACTS

A. Judge Matthew Antush (“Respondent”) is now and was at all times referred to in this document, a judge of the Spokane Municipal Court. Respondent has served in that capacity since 2018.

B. On November 12, 2020, Respondent presided over a criminal jury trial for Disorderly Conduct and Failure to Disperse. That afternoon, after the prosecution and defense had rested their respective cases, Respondent dismissed the jury for the day, with a plan to resume trial the next morning with closing arguments followed by jury instructions and deliberation. Shortly after everyone but Respondent and two clerks had left the courtroom, Respondent made comments

to the clerks that were critical of the City's decisions to file the case and bring the matter to trial.

Respondent stated:

It's frustrating because I don't think this ever should have been tried. It's a simple misdemeanor. The guy has no record. Best case scenario, he got carried away. I mean this is the best possible case scenario is that he got carried away in the moment. Do you really want to f*** with someone's life like that? Apparently. Worst case scenario ... The thing is, like I didn't hear anybody say they saw the guy throw jack. Did you hear that ... [recording stops].

At the time he made the comments, Respondent reasonably believed he was only in the presence of the two court employees and could only be heard by them. However, the courtroom's audio recording was still activated and being broadcast to the public through the court's live stream YouTube channel.¹

C. The prosecution became aware of Respondent's comments that evening via the broadcast. The following morning, November 13, 2020, prior to reconvening the jury, the City moved for a mistrial based on Respondent's comments. After hearing argument from the parties and reviewing his comments, Respondent agreed with the City that, while judges are human and have opinions, it was wrong for him to verbalize them in a way that undermined public confidence in the fairness and impartiality of the rulings he had made in the case before him. Having immediately acknowledged the legitimacy of the prosecution's concern, Respondent granted the motion for a mistrial and apologized to the parties and expressed his regret for the waste of time and resources.²

D. The Commission received a complaint concerning this matter on December 18, 2020. Following a confidential preliminary investigation, the Commission initiated disciplinary

¹ During the Covid-19 pandemic, the Spokane Municipal Court, like many courts in Washington, has provided live stream coverage of court proceedings to give the public an opportunity to observe open court proceedings from outside the courthouse. The live stream coverage typically ends at the conclusion of the court proceeding(s).

² Approximately a month after the mistrial, the parties reached a plea agreement to resolve the case. The City agreed to dismiss the case after one year if the defendant committed no new offenses and completed 16 hours of community work service.

proceedings by authorizing a Statement of Allegations in April 2021. The Statement of Allegations alleged Respondent violated the Code of Judicial Conduct by making public comments about a pending case over which he was presiding that were critical of the case and the prosecutor's decision to bring the case to trial.

E. Respondent timely responded to the Statement of Allegations and acknowledged that his conduct violated the Code. He explained that at the time he made the comments, he believed the conversation was private and that he did not intend to impair the City's case. Respondent wrote that he nonetheless recognized his actions were careless and did damage to the integrity of the proceedings before him.

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, and Canon 2, Rules 2.2, 2.3 and 2.10, of the Code of Judicial Conduct.

a.) Canon 1 states the overarching principles of the Code of Judicial Conduct. Rules 1.1 and 1.2 require judges comply with the Code, avoid even the appearance of impropriety and "act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary."

b.) Canon 2 addresses conduct in the performance of official duties. Rules 2.2 and 2.3 state that judges must "perform all duties of judicial office fairly and impartially" and "without bias or prejudice." Rule 2.10(A) provides, "A judge shall not make any public statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court or make any nonpublic statement that would reasonably be expected to substantially interfere with a fair trial or hearing."

2. Respondent's comments questioning the merits of a case over which he was presiding and that was pending before a jury -- broadcast to the general public over YouTube --

could reasonably undermine public confidence in his impartiality, fairness, and objectivity. To his credit, Respondent acknowledged his error when it was brought to his attention, recognizing that his comments did “damage to the integrity of the rulings I made previously.” Respondent’s statements criticizing the prosecution for bringing the case to trial also reasonably created an appearance of bias against the City. Finally, Respondent’s actions impaired the outcome of the case by causing a mistrial.

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).

1. Characteristics of the Misconduct. This was an isolated incident. Respondent’s actions were careless, but there is no basis to believe he flagrantly or intentionally violated his oath of office. At the time he made the comments at issue, Respondent was unaware that anyone other than court staff could hear the comments. There are many pressures upon a trial judge, and it is understandable, though ill-advised, for a judge to vent to trusted court associates even in private. Respondent credibly stated that he did not intend to impair the case before him. On the other hand, Respondent revealed his strong opinion about the merits of a case about to go to a jury and that opinion became public (although Respondent did not intend those comments to be public). In this context, presiding over a pending jury trial, Respondent’s comments caused actual injury by affecting the outcome of a criminal case and consequently damaged the perceived integrity of the justice system to anyone who may have heard the comments. Considerable state and personal resources, including time for all concerned, are expended in processing a jury trial, and a judge is responsible to manage and preserve court resources. Judges are the embodiment of the justice system, and they are directed by the Code to “aspire at all times to conduct that ensures

the greatest possible public confidence in their independence, impartiality, integrity, and competence.” (Preamble, paragraph 2.)

2. Service and Demeanor of the Judge. Each of these factors support a mitigated sanction: Respondent has had no prior judicial discipline history, he had been a judge for less than three years when he engaged in the conduct, and he is described by those who know him professionally as a very competent, conscientious, and compassionate jurist. Importantly, his response to this matter, both at the time it was first brought to his attention, and in this disciplinary proceeding, has been exemplary. Respondent acknowledged the acts occurred, immediately recognized his impropriety, and accepted without reservation responsibility for his conduct. Prior to being contacted by the Commission, Respondent apologized to the staff, lawyers, and defendant involved. His actions, then and now, demonstrate a sincere commitment to avoid repeating the behavior that led to this 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 an “admonishment.” An admonishment is a written action of the Commission of an advisory nature that cautions a respondent judge not to engage in certain proscribed behavior. Admonishment is the least severe disciplinary action the Commission can issue. In this instance, an admonishment may help to alert other judges to the risks of unguarded comments damaging public confidence in the impartiality, integrity and independence of the judiciary, at a time when courts are using more varied technological broadcast means than ever before in conducting the courts’ business.

D. 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 indicating he has done so within 30 days of entry of this agreement.

E. 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.

F. Respondent has represented himself in these proceedings. He affirms that he enters into this agreement sincerely and in good faith, after having had an opportunity to consult with his attorney.

G. 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.



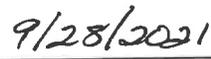
Honorable Matthew Antush
Respondent



Date



J. Reiko Callner
Executive Director
Commission on Judicial Conduct



Date

ORDER OF ADMONISHMENT

Based upon the above stipulation and agreement, the Commission on Judicial Conduct hereby orders Respondent Judge Matthew Antush ADMONISHED for violating Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.2, 2.3 and 2.10) of the Code of Judicial Conduct. Respondent shall not engage in such conduct in the future and shall fulfill all the terms of the Stipulation and Agreement as set forth therein.

DATED this 19th day of November, 2021.



Robert Alsdorf, Chair
Commission on Judicial Conduct