

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

In Re the Matter of

The Honorable Michael J. Imboden
Judge of the Cowlitz County
District Court

NO. 9906-F-197

**STIPULATION, AGREEMENT
AND ORDER OF CENSURE**

The Commission on Judicial Conduct and Judge Michael J. Imboden stipulate and agree as follows. 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 has been represented in these proceedings by its Executive Director, J. Reiko Callner, and Judge Imboden has represented himself.

I. STIPULATED FACTS

A. Judge Michael J. Imboden (“Respondent”) is now and was at all times referred to in this document a judge of the Cowlitz County District Court. Respondent has served in that capacity since January 2019.

B. On Friday, April 17, 2020, at approximately 10:30 p.m., Respondent was arrested in Kelso, Washington for Driving under the Influence of Alcohol and/or Drugs (DUI). The arresting officers stated in their report that Respondent referenced his judicial position during his encounter with the police and indicated that an arrest would damage his professional career. Respondent disputes that he identified himself as a judge, but he acknowledges he asked the officers if they knew what an arrest would do to his career. After he was arrested, Respondent declined to submit to a breath test to determine the level of alcohol in his system, as is his legal right to do.

C. Respondent pleaded guilty to an amended charge of Reckless Driving on November 19, 2021. Based upon his plea, a Clark County District Court judge¹ imposed a sentence that included community work service, a fine, and court costs. The sentence imposed was consistent with sentences for convictions for a first offense Reckless Driving. Respondent promptly satisfied all terms of his sentence.

D. Respondent contacted the Commission on Judicial Conduct the Monday following his arrest. He has remained consistently cooperative with the Commission as his underlying case proceeded to resolution.

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, 1.2, and 1.3 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.” Rule 1.3 provides, “A judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others.”²

3. Respondent agrees that he violated Rules 1.1 and 1.2 of the Code by committing the criminal offense of Reckless Driving. Respondent maintains that he did not seek preferential treatment from the arresting officers, and he was not given any preferential treatment. Respondent is acutely aware of the impropriety of invoking his judicial status in order to avoid negative legal consequences and maintains he would never consciously do so. Respondent

¹ Because Respondent is a Cowlitz County judge, his case was transferred to Clark County to avoid conflicts of interest.

² Comment [1] to Rule 1.3 explains, “It is improper for a judge to use or attempt to use his or her position to gain personal advantage or deferential treatment of any kind. For example, it would be improper for a judge to allude to his or her judicial status to gain favorable treatment in encounters with traffic officials.”

acknowledges, however, he has no reason to doubt the officers' veracity and he recognizes that his comments about the impact an arrest would have on his career could create a reasonable appearance to the officers that he was implicitly seeking favorable treatment in violation of Rule 1.3.

B. Imposition of Sanction

1. 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).

(a) Characteristics of the Misconduct. Reckless Driving is a serious offense that can result in great bodily injury. Both Reckless Driving and DUI are types of cases over which Respondent frequently presides as a judge. The public has a reasonable expectation that judges will comply with the criminal laws they enforce upon others. Respondent's actions undermine public respect for him and the judiciary as a whole. This is, however, an isolated incident. Respondent has no prior judicial misconduct history. The misconduct occurred outside the courtroom, in Respondent's private life, and there is no basis to conclude Respondent intentionally violated his oath of office.

(b) Service and Demeanor of the Judge. Respondent has acknowledged the acts occurred and, by entering into this agreement and having pleaded guilty to the underlying criminal offense of Reckless Driving, he has accepted responsibility for his conduct and has evidenced an effort to avoid repeating the behavior that led to this disciplinary action. Respondent promptly self-reported this incident and has cooperated with the Commission throughout these proceedings. In the relatively short time Respondent has served as a judge, he has developed a reputation as a fair and conscientious judicial officer.

2. The Commission's cases in recent years sanctioning judges arrested for or convicted of similar offenses, who have not already resigned or agreed to step down from the

bench, have generally resulted in the sanction of reprimand. In those cases, the Commission has noted that additional aggravating factors, such as an abuse of judicial office, could result in a higher sanction. As noted, Respondent maintains that he did not intentionally seek preferential treatment from law enforcement during his encounter in this matter. He acknowledges, however, his words and conduct created an appearance of an abuse of office. 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 censure. A "censure" is a written action of the Commission that requires Respondent to appear personally before the Commission and that finds that Respondent's conduct violates a rule of judicial conduct, detrimentally affects the integrity of the judiciary, and undermines public confidence in the administration of justice. A censure may include a recommendation to the state supreme court for suspension or removal. In this case, the parties agree no such recommendation is warranted.

3. Respondent agrees he will strictly comply with all the terms of his probation in Clark County District Court Cause No. XZ0358728, and promptly provide proof of compliance to the Commission.

4. Respondent agrees to complete the following remedial measures.

(a) Public Presentations. In further pursuit of the goal of regaining the trust and confidence of the public, within three years from the date this stipulation is filed, Respondent shall participate as a speaker in no less than three public appearances on matters related to his stipulated misconduct, presented either to community organizations or to Washington judicial associations and provide proof to the Commission of having done so. 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.

(b) 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 attesting to having done so.

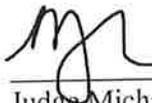
C. Standard Additional Terms of Commission Stipulation

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 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.

3. Respondent has represented himself in this disciplinary proceeding. He affirms he enters into this stipulation after having an opportunity to consult with counsel.

4. 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.



Judge Michael J. Imboden
Respondent

April 19, 2022

Date



J. Reiko Callner
Executive Director
Commission on Judicial Conduct

April 19, 2022

Date

ORDER OF CENSURE

Based upon the above stipulation and agreement, the Commission on Judicial Conduct hereby orders Respondent, Michael J. Imboden, CENSURED for violating Canon 1, Rules 1.1, 1.2, and 1.3 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 22nd day of April, 2022.



Robert Alsdorf, Chair
Commission on Judicial Conduct