

DEC 03 2021

COMMISSION ON JUDICIAL CONDUCT

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

In Re the Matter of

The Honorable Darvin Zimmerman,
Former Judge of the Clark County District
Court

NO. 10260 -F-193

STATEMENT OF CHARGES

Pursuant to authority granted in Article IV, Section 31 of the Washington State Constitution, the Revised Code of Washington, Chapter 2.64, and the Commission on Judicial Conduct Rules of Procedure (“CJCRP”), 17(d)(4)(C), the Commission on Judicial Conduct orders this Statement of Charges filed alleging violations of the Code of Judicial Conduct by former Judge Darvin Zimmerman.

I. BACKGROUND

A. Darvin Zimmerman (Respondent) was a judge of the Clark County District Court from 1986 – 2021.

B. On March 10, 2021, the Commission was made aware that, after the end of court proceedings on March 9, 2021, a conversation between Respondent and a fellow judicial officer was inadvertently broadcast live via YouTube, which the Clark County District Court was using during the pandemic in order to maintain public access to the court. The Commission was further made aware that Respondent made racially inflammatory statements about the fatal shooting of a Black man by local law enforcement during the conversation. Respondent gave the impression he had special access to ongoing police investigations because he had a relative in local law enforcement.

1 C. In the days and weeks that followed, the Commission received dozens of
2 complaints about this incident, including a self-report from Respondent, received on March 15,
3 2021. Following an independent confidential investigation, the Commission served Respondent
4 with a Statement of Allegations in May 2021. The Statement of Allegations alleged that the
5 comments made by Respondent during the March 9, 2021 conversation, widely disseminated on
6 YouTube, appeared to violate Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.2, 2.3(A), 2.4
7 and 2.10) of the Code of Judicial Conduct. The Commission alleged Respondent's comments
8 displayed overt racial bias, indicated a lack of impartiality, and implied that Respondent has a
9 personal channel of communication with the Sheriff's Department regarding pending and
10 impending cases.

11 D. Respondent retired from judicial office effective June 30, 2021.

12 E. Respondent, through counsel, submitted a written response to the Statement of
13 Allegations on July 23, 2021. In his answer, Respondent denied that his conduct violated the
14 Code.

15 F. At its executive session on November 19, 2021, the Commission on Judicial
16 Conduct made a finding that probable cause exists to believe that the Respondent violated Canon
17 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.2, 2.3(A), 2.4 and 2.10) of the Code of Judicial
18 Conduct.

19 II. CONDUCT GIVING RISE TO CHARGES

20
21 It is alleged that Judge Darvin Zimmerman, formerly of the Clark County District Court,
22 violated Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.2, 2.3(A), 2.4 and 2.10) of the Code
23 of Judicial Conduct on March 9, 2021, by making comments about a controversial incident and
24 the related impending case(s) that displayed racial bias, indicated a lack of impartiality, and
25 implied that he had a personal channel of communication with the Sheriff's Department
26 regarding pending and impending cases.

1 **III. BASIS FOR COMMISSION ACTION**

2 On November 19, 2021, the Commission on Judicial Conduct made a finding that
3 probable cause exists to believe that the Respondent violated Canon 1 (Rules 1.1 and 1.2) and
4 Canon 2 (Rules 2.2, 2.3(A), 2.4 and 2.10) of the Code of Judicial Conduct. These sections of
5 the Code state:

6
7 **CANON 1**

8 A Judge shall uphold and promote the independence, integrity, and impartiality of the
9 judiciary, and shall avoid impropriety and the appearance of impropriety.

10 **Rule 1.1**

11 **Compliance with the Law**

12 A judge shall comply with the law, including the Code of Judicial Conduct.

13 **Rule 1.2**

14 **Promoting Confidence in the Judiciary**

15 A judge shall act at all times in a manner that promotes public confidence in the
16 independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the
17 appearance of impropriety.

18 **CANON 2**

19 A Judge should perform the duties of judicial office impartially, competently, and
20 diligently.

21 **Rule 2.2**

22 **Impartiality and Fairness**

23 A judge shall uphold and apply the law, and shall perform all duties of judicial office
24 fairly and impartially.

25 **Rule 2.3**

26 **Bias, Prejudice, and Harassment**

1 (A) A judge shall perform the duties of judicial office, including administrative duties,
2 without bias or prejudice.

3 **Rule 2.4**

4 **External Influences on Judicial Conduct**

5 (B) A judge shall not permit family, social, political, financial, or other interests or
6 relationships to influence the judge's judicial conduct or judgment.

7 **Rule 2.10**

8 **Judicial Statements on Pending and Impending Cases**

9 (A) A judge shall not make any public statement that would reasonably be expected to
10 affect the outcome or impair the fairness of a matter pending or impending in any
11 court, or make any nonpublic statement that would reasonably be expected to
12 substantially interfere with a fair trial or hearing.

13 (B) A judge shall not, in connection with cases, controversies, or issues that are likely to
14 come before the court, make pledges, promises, or commitments that are inconsistent
15 with the impartial performance of the adjudicative duties of judicial office.

16 (C) A judge shall require court staff, court officials, and others subject to the judge's
17 direction and control to refrain from making statements that the judge would be
18 prohibited from making by paragraphs (A) and (B).

19 (D) Notwithstanding the restrictions in paragraph (A), a judge may make public
20 statements in the course of official duties, may explain court procedures, and may
21 comment on any proceeding in which the judge is a litigant in a personal capacity.

22 (E) Subject to the requirements of paragraph (A), a judge may respond directly or through
23 a third party to allegations in the media or elsewhere concerning the judge's conduct
24 in a matter.

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IV. RIGHT TO FILE A WRITTEN ANSWER

In accordance with CJCRP 20 and 21, Respondent may file a written answer to this Statement of Charges with the Commission within twenty-one (21) days after the date of service of the Statement of Charges; failure to answer the formal charges shall constitute an admission of the factual allegations therein and the Statement of Charges will be deemed admitted.

DATED this 23rd day of November, 2021.

COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON



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