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APR 19 2024

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

COMMISSION ON JUDICIAL CONDUCT

In Re the Matter of

The Honorable Thomas D. Brown
Former Judge of the Ferry County
District Court

CJC No. 11478-F-212

**STIPULATION, AGREEMENT
AND ORDER OF CENSURE**

The Commission on Judicial Conduct (“Commission”) and Former Ferry County District Court Judge Thomas D. Brown (“Respondent”) stipulate and agree as provided herein. This stipulation is submitted pursuant to Article IV, Section 31 of the Washington Constitution and Rule 23 of the Commission’s Rules of Procedure and shall not become effective until approved by the Washington Commission on Judicial Conduct.

The Commission has been represented in these proceedings by its Executive Director, J. Reiko Callner, and Respondent represented himself.

I. STIPULATED FACTS

A. Respondent was the judge of the Ferry County District Court from 2010 until he resigned effective August 8, 2023.

B. On May 20, 2023, the Commission received a complaint concerning Respondent’s conduct while presiding over a hearing regarding a potentially dangerous dog citation. The hearing took place on May 5, 2023. An audio recording of that hearing indicates that after the prosecutor and S.D., who owned the dog, presented their respective cases, Respondent began to rule. At that point, S.D., who is African-American, asked the judge to recuse himself, noting Respondent was the judge on S.D.’s other cases and that there was “racial bias.” S.D. was referring to two prior cases presided over by Respondent where S.D. was called the N word by the opposing party, but before he could finish Respondent replied, “shut your mouth.” When S.D. attempted to finish his

sentence, Respondent repeated that S.D. should shut his mouth or Respondent would take him into custody for contempt of court. Respondent then told S.D. he had a “big mouth” and that “You expect to come in here and just run your mouth and say your dog’s not dangerous and say I’m biased against you because every time you come in here, you’ve screwed up. You’re a screw up, plain and simple.” Respondent also accused S.D. of “mad dogging”¹ him. At the end of the hearing, Respondent mocked S.D., who was not represented by a lawyer, for asking Respondent to recuse while he was ruling on the matter by saying in a condescending tone, “It has to be before the hearing starts, smart guy. You think you’re so smart, keep on running your mouth.”

C. Following its confidential preliminary investigation, the Commission initiated disciplinary proceedings by serving Respondent with a Statement of Allegations on January 30, 2024. The Statement of Allegations alleged Respondent violated Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.3 and 2.8) of the Code of Judicial Conduct by making the comments referenced in the preceding paragraphs to an African-American litigant, S.D. These comments were impatient, undignified and discourteous and appeared to demonstrate bias.

D. Respondent timely answered the Statement of Allegations. He acknowledged making “statements that were impatient, undignified, and discourteous.” Further, the former judge wrote that: “I was contentious, argumentative, angry, and when I left the bench, I was immediately ashamed of my actions. ... My words, my demeanor, were inappropriate toward any human being. ... I was clearly wrong in my behavior towards [S.D.]. I deeply regret it. I do hope my stipulations, and acknowledgment of disgraceful behavior, might grant [S.D.] some measure of relief. ... Whether I ‘appeared to demonstrate bias’, I cannot say. I don’t believe I did; however, the other allegations are egregious and embarrassing enough. The [Statement of Allegations] stated explicitly that the complainant was African American, as if race played a part in this incident. Maybe it does appear that way, though I never in any way intended it to be so.” Respondent also

¹ Noun. mad dog (plural mad dogs) A rabid dog. (figuratively, by extension) Someone who is aggressive and fanatical; an aggressor who cannot be reasoned with. mad dog - Wiktionary, the free dictionary.

described multiple devastating personal challenges that may have contributed to his difficulty on the bench and ultimately to his “disastrous interaction with” S.D.

II. AGREEMENT

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

1. Respondent agrees his conduct described above violated Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rule 2.8(B)) of the Code of Judicial Conduct, and, whether intentionally or not, created at minimum the appearance of violating Rule 2.3(B). Canon 1 states the overarching principles of the Code and emphasizes that judges are held to a high standard of conduct and must always act in a manner that promotes public confidence in their integrity and impartiality. Rules 1.1 and 1.2 require judges to uphold the integrity of the judiciary by avoiding impropriety and the appearance of impropriety and by acting at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary.² Rule 2.3(B) requires judges to avoid words or conduct that manifest bias or prejudice, and to refrain from engaging in harassment.³ Rule 2.8(B) requires judges to maintain appropriate courtroom decorum, and to be patient, dignified and courteous to all persons with whom they deal in their official capacity.

² Canon 1 of the Code of Judicial Conduct states that a judge shall uphold and promote the independence, integrity and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety. Rule 1.1 specifies, “A judge shall comply with the law, including the Code of Judicial Conduct.” Rule 1.2 provides, “A judge shall act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.”

³ Canon 2, Rule 2.8(B) states, “A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials and others subject to the judge’s direction and control.” Canon 2, Rule 2.3(B) provides, “A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, and shall not permit court staff, court officials, or others subject to the judge’s direction and control to do so.” Comment [2] to Rule 2.3 explains, “Examples of manifestations of bias or prejudice include but are not limited to epithets; slurs; demeaning nicknames; negative stereotyping; attempted humor based upon stereotypes; threatening, intimidating, or hostile acts . . .”

2. Regardless of Respondent's intentions, the impact of his comments was hurtful and demeaning, created an appearance of prejudice and partiality and detracted from the dignity of judicial office.

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 public's confidence in the integrity of the judiciary and sufficient to deter 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. While this stipulation centers on one hearing, the Commission's investigation revealed additional incidents of intemperance. Because Respondent had left the bench, those incidents were not further investigated, however, the conduct here cannot properly be considered an isolated incident, although it is the most egregious instance and the only one which was racially charged. The misconduct occurred in the courtroom during a proceeding presided over by Respondent in his official capacity. Respondent's comments created an appearance of impropriety that could have undermined the public's confidence in his impartiality. Respondent's treatment of S.D. was traumatizing to S.D. and may have signaled to others who viewed the conduct, including law enforcement officers present in the courtroom, that S.D. was somehow deserving of such disrespect and led them to believe they could also treat him poorly.

While Respondent expressed deep remorse for his conduct toward S.D., Respondent has consistently stated he did not consciously intend to express bias toward S.D. based on race. A reasonable person in S.D.'s position, however, would experience Respondent's comments toward him as biased. According to Washington State's Employment Security Department's 2021 profile of Ferry County, the African American population there was .8%. Respondent angrily criticized and demeaned S.D. when he tried to reference a separate incident where the judge did not take into

STIPULATION, AGREEMENT AND ORDER OF CENSURE - 4

account that S.D. had been called by the N word. Instead, Respondent cut S.D. off before he could fully explain. Respondent berated S.D. for suggesting Respondent was racially biased, expressing angry hyper-reactivity that S.D. would even voice the possibility. While Respondent may well consider himself free of any racial animus, his reaction from the bench on this occasion was to insult and demean S.D. for even speaking of the bias S.D. experienced. The nature of inherent, unconscious bias requires the actor to consider the impact of their actions and not just their subjective intent. Conduct such as this is detrimental to the integrity of and respect for the judiciary.

b. Service and Demeanor of Respondent. Respondent served as a district court judge for over 13 years. Immediately following the hearing at issue here, Respondent recognized that his conduct had been so inappropriate that he should no longer be a judicial officer. He helped to prepare the court for his departure, and resigned from the bench effective August 8, 2023. Moreover, Respondent has resigned from the Washington State Bar Association and indicated to the Commission that he will no longer practice law nor attempt to serve in any judicial capacity. He has had no other public disciplinary history and has been cooperative in these proceedings. When contacted by the Commission, Respondent immediately acknowledged and recognized that his conduct violated the Code. Finally, by entering into this stipulation, Respondent has further demonstrated responsibility for his behavior.

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 Censure.

D. Respondent agrees he will not seek judicial office or service in any judicial capacity.

E. Respondent has represented himself in these proceedings. Respondent affirms he enters into this agreement after having had an opportunity to consult with an attorney.

F. Standard Additional Terms and Conditions

1. By entering into this stipulation and agreement, Respondent waives his procedural rights and appeal rights in this proceeding pursuant to the Commission on Judicial Conduct Rules of Procedure and Article IV, Section 31 of the Washington State Constitution.

2. Respondent further agrees that he will not retaliate against any person known or suspected to have cooperated with the Commission, or otherwise associated with this matter. Because Respondent has already resigned his judicial office and agrees to permanently remain off the bench, this stipulation requires no further corrective measures.



Honorable Thomas D. Brown
Respondent

04/11/2024

Date

J. Reiko Callner
Executive Director
Commission on Judicial Conduct

Date


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Honorable Thomas D. Brown
Respondent

Date




J. Reiko Callner
Executive Director
Commission on Judicial Conduct

April 11, 2023
Date

ORDER OF CENSURE

Based upon the above stipulation and agreement, the Commission on Judicial Conduct hereby orders former Judge Thomas Brown CENSURED for violating Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.3(B) and 2.8(B)) 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 19 day of April, 2024.



Ramon Alvarez, Vice-Chair
Commission on Judicial Conduct