BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE

STATE OF NEVADA

FILED
PUBLIC
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NEVADA COMMISSION ON JUDICIAL DISCIPLINE
Clerk

In the Matter of the

HONORABLE REESE F. MELVILLE,
Justice of the Peace,
Eastline Township Justice Court,
County of Elko, State of Nevada,

Respondent.

CASE NO. 1201-1133

AMENDED
FINDINGS OF FACT, CONCLUSIONS OF LAW AND CONSENT ORDER IMPOSING DISCIPLINE

Pursuant to prior written notice, the above-entitled matter came on for public (formal) hearing in Las Vegas, pursuant to NRS 1.467(3) and Commission Rule 18 on March 30, 2012, before the Nevada Commission on Judicial Discipline. Mary Boetsch, Esq. served as Special Counsel to the Commission and she participated via telephone from her Reno office. The Respondent, the Honorable Reese Melville (hereinafter referred to as the "Respondent"), appeared and was represented by counsel, Sherburne Macfarlan, Esq. The Respondent and Mr. Macfarlan participated via telephone from Mr. Macfarlan's Elko office.

At the hearing, the Special Counsel and the Respondent's counsel presented a Stipulation regarding disposition of a complaint against the Respondent. The Stipulation was signed by Ms. Boetsch, Mr. Macfarlan, Mr. Macfarlan's partner, David Lockie, Esq., and the Respondent. The Stipulation eliminates the need for a Formal Statement of Charges and a contested hearing.

A. Preface.

The Respondent stipulated to the following substantive provisions:

1. He agreed to the acceptance of a public admonishment by the Commission, a form of discipline authorized by Article 6, Section 21(5)(a) of the Nevada Constitution and NRS 1.4677.

2. He agreed that the evidence available to the Commission could establish by clear and convincing proof that he violated any individual canon or combination of canons, as follows:

. . .

a. That by stating in the presence of witnesses that "I am going to nail [Joel Torres's] ass to the wall," or words to that effect, upon learning that his former bailiff, Joel Torres, was the subject of a criminal complaint for domestic violence, the Respondent violated former Canons 2(A) and 2(B) and 3B(5) of the Nevada Code of Judicial Conduct in effect during early July, 2008, when the statement was made; and

b. That on or about September 5, 2008, by initiating ex parte contact with Larry Dunn, Esq., the attorney for Joel Torres in the aforementioned domestic violence case, and directing Mr. Dunn to alter a pleading Mr. Dunn had filed on behalf of Mr. Torres on September 4, 2008, which was denominated a Motion for Change of Venue to Elko Justice Court, in Case Number CR-08-1348, so as to remove the following language from the document: "that your Affiant believes the trial should be transferred to avoid any potential bias against [Joel Torres] because the Judge hearing the matter has a personal relationship with the alleged victim's family pursuant to NRS 174.455," the Respondent violated former Canon 3(B)(7) of the Nevada Code of Judicial Conduct then in effect; and

c. That on or after January 19, 2010, by failing to disqualify himself in a case in which Joel Torres was once again a litigant in the Respondent's court and was also the target of a search warrant application considered by the Respondent, even though the Respondent felt sufficiently conflicted because of Joel Torres' former status as a bailiff in the Respondent's court that the Respondent had decided it was necessary to disqualify himself in the aforementioned 2008 case, CR-08-1348, in which Mr. Torres was a defendant, the Respondent violated Rules 2.2, 2.3 and 2.11(a) of current Canon 2 of the Nevada Code of Judicial Conduct.[1]

3. The Respondent agreed to waive the filing of a formal Statement of Charges, his right to file an answer to the charges, and a formal contested hearing.

The Commission has considered the Stipulation and respective statements proffered by the Special Counsel and counsel for the Respondent at the public hearing. After being fully

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[1] The Commission notes that the Stipulation contained a mistaken "effective date" for the current code provisions, that is, January 1, 2010, rather than the correct date, January 19, 2010. It is obvious that the third offense was charged under the current code and the Respondent intended to so stipulate.

advised of its obligations and duties, the Commission specifically finds that the hearing was conducted according to the statutes, rules and procedures required by law. The Commission hereby issues the following Findings of Fact, Conclusions of Law and Consent Order Imposing Discipline pursuant to Commission Rules 27 and 28; and NRS 1.4673 and 1.4677.

Following private deliberations, the Commission announced its decision as the appropriate sanctions to be imposed, which are consistent with the terms of the agreement.

B. Findings of Fact.

The Commission finds that the Stipulation establishes by clear and convincing proof each of the following facts.

1. The Respondent was, at all times applicable to the events in this case, a Justice of the Peace in the Eastline Township Justice Court, located in Elko County, Nevada.[2] Therefore, the Respondent was a judicial officer whose conduct was subject to the provisions of the Nevada Code of Judicial Conduct (hereinafter the "Code").

2. The Respondent violated the provision of the former Canons and current Canons as specified in the Stipulation and as specified in paragraph A(2), above.

C. Conclusions of Law.

The Commission has both personal jurisdiction over the Respondent and subject matter jurisdiction over the violations of Code at issue in this case.

The Commission unanimously concludes that the Stipulation suffices as proof of violations of former Canons and current Canons, in effect early July, 2008, on September 5, 2008, and on and after January 19, 2010, respectively.

D. Imposition of Discipline.

The Commission concludes that the appropriate discipline under Commission Rule 28 as to said violations shall be as follows:

. . .

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[2] Respondent serves as a Municipal Court Judge in the City of West Wendover and as the Eastline Township Justice Court Judge. The violations to which the Respondent has stipulated occurred while he served as a justice of the peace. Therefore, the caption in this case has been amended to reflect only that office.

By unanimous vote of the Commission, pursuant to Subsections 5(a) and (b) of Article 6, Section 21 of the Constitution of the State of Nevada, the version of NRS 1.4653(2) in effect on the dates in question, and Commission Rule 28, the Respondent shall be and hereby is: (1) publicly admonished for having committed the acts as specified in the Stipulation, and as fully set forth above. Additionally, the Respondent shall, no later than November 1, 2012 attend, in person and at his own expense, a course on judicial ethics offered by the National Judicial College (NJC) in Reno, Nevada. Respondent's enrollment in said course shall be approved in advance by the Commission and the Respondent shall complete the enrollment and payment process no later than May 15, 2012 if he is allowed to do so by the authorities at the NJC , or on the earliest possible date they allow him to enroll if said date is later than May 15, 2012.

E. Order.

IT IS HEREBY ORDERED by the unanimous vote of Commissioners Karl Armstrong, Doug Jones, Mary Lau, Gary Vause, Rodney Burr, and Janiece Marshall that the Respondent should be and hereby is publicly admonished for violations of former Canons 2(A), 2(B), 3(B)(5) and 3(B)(7), and current Rules 2.2, 2.3 and 2.11(a) of the current Canon 2, of the respective versions of the Nevada Code of Judicial Conduct .[3]

IT IS HEREBY ORDERED by unanimous vote that the chairman is authorized to sign this document on behalf of all voting commissioners.

IT IS HEREBY ORDERED, pursuant to the consent of the Respondent, that the Executive Director of the Judicial Discipline Commission take the necessary steps to file this document in the appropriate records of the Commission and with the clerk of the Nevada Supreme Court.

IT IS HEREBY ORDERED that the Clerk's Certificate of Mailing, found below, shall constitute the notice of entry of this document pursuant to Commission Rule 34; and the clerk shall promptly serve it on the Respondent's counsel and the Special Counsel.

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[3] The Northern Nevada attorney assigned to be a primary Commissioner, James Beasley, was not able to attend the hearing. His alternate, Wayne Chimarusti, was also unable to attend. Therefore, there were only six votes but that number constitutes a quorum for voting on imposition of discipline.

F. Notice.

NOTICE is hereby tendered to the Special Counsel and the Respondent pursuant to NRAP 3D, an appeal may be taken by the filing of a notice of appeal with the clerk of the Commission, and serving such notice on the Special Counsel within fifteen (15) days of service of this document by the clerk of the Commission.

IT IS SO ORDERED.

DATED this 16th day of April, 2012.

NEVADA COMMISSION ON
JUDICIAL DISCIPLINE
P. O. Box 48
Carson City, NV 89702
(775) 687-4017

Douglas W. Jones

DOUGLAS W. JONES, Commission Chairman

CERTIFICATE OF MAILING

I hereby certify that I am an employee of the Nevada Commission on Judicial Discipline and that on the 17th day of April, 2012, I served the foregoing AMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW AND CONSENT ORDER IMPOSING DISCIPLINE by placing a copy of said document in the United States Mail, postage pre-paid, addressed to the undersigned:

David B. Lockie, Esq.
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Lockie & Macfarlan, Ltd.
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Eva Crouch
Clerk of the Commission