

FILED
SEP 24 2010
COMMISSION ON JUDICIAL CONDUCT

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

In re the Matter of,

The Honorable Michael Heavey,

Judge of the King County Superior Court.

NO. 5975-F-145

STIPULATION, AGREEMENT, AND
ORDER OF ADMONISHMENT

The Commission on Judicial Conduct (hereinafter "the Commission") and Michael J. Heavey, Judge of the King County Superior Court (hereinafter "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.

I. STIPULATED FACTS

1. Respondent is now, and was at all times referred to in this document, a judge of the King County Superior Court. Respondent has served in that capacity since September 16, 2000.
2. On January 23, 2009, the Commission received a letter from Respondent, identified as a "Self-

Report of Judicial Misconduct.” In his self-report, Respondent detailed his activities concerning the case of Amanda Knox, an American student on trial for murder in Italy.

3. In his self-report, Respondent described utilizing court staff to write to members of the Italian judicial system regarding the Knox case using official court stationery. Respondent explained that by so writing he attempted to improve the fairness of the proceedings in the Knox case, but he also recognized that he had attempted to advance Knox' private interests as well. Respondent recognized that because this was not court business, he should not have utilized court staff. Finally, Respondent indicated that by utilizing his judicial stationery, he lent the prestige of his judicial office. Respondent assured the Commission he would not do so in the future.

4. Also in his Self-Report, Respondent described speaking publicly on several occasions about Knox' case. Respondent recognized that when he became a judge, he could no longer seek to influence a legal proceeding as he could do as a lawyer. Respondent assured the Commission he would stop speaking publicly about this matter.

5. After an independent investigation, the Commission commenced initial proceedings in April 2009 by contacting Respondent and serving him with a Statement of Allegations. The Commission alleged that Respondent had violated the Code of Judicial Conduct by writing three letters, on his judicial stationery, to officials in Italy, including members of the Italian judicial system, on behalf of the Amanda Knox; utilizing court staff to type those letters; and speaking publicly on several occasions about that same pending criminal case in an attempt to influence the proceeding. Respondent submitted a response to the Statement of Allegations on May 4, 2009. As in the self-report, Respondent admitted the conduct underlying the complaint and that some of the conduct violated portions of the Code of Judicial Conduct. In his defense, Respondent described what he perceived as

the "great injustice being perpetrated on" Knox and acknowledged that his compulsion to right what he perceived as a wrong overcame his better judgment.

6. Respondent and Commission staff engaged in discussions regarding possible resolutions. Respondent submitted an Amended Response to the Statement of Allegations on December 8, 2009. At the request of the Commission, Respondent's Counsel and Disciplinary Counsel submitted briefing to the Commission on legal issues raised in Respondent's Amended Response.

7. At its May 14, 2010, meeting, the Commission found probable cause existed to believe Respondent violated the Code of Judicial Conduct. The Commission issued a Statement of Charges on June 3, 2010.

II. AGREEMENT

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

1. Based on the foregoing stipulated facts and as described below, Respondent and the Commission agree that Respondent violated Canons 1, 2(A), and 2(B).

2. Canon 2(B) states that judges should not lend the prestige of judicial office to advance the private interests of the judge or others. By lending the prestige of judicial office to advance the private interest of another, a judicial officer necessarily also violates Canons 1 and 2(A). These Canons 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 integrity and impartiality of the judiciary.

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 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 Rule 6(c) of its Rules of Procedure.

a. Characteristics of the Misconduct.

The conduct giving rise to this discipline was not isolated in the sense that Respondent actively engaged in it for three months. However, the conduct also cannot fairly be described as a pattern, as it all was in regard to one unusual and specific situation. The nature of the misconduct was the use of Respondent's status as a judge to attempt to influence a criminal proceeding in another country, thereby exploiting his judicial office for the specific benefit of another. Although this violation occurred outside the courtroom, in Respondent's private life, the use of judicial letterhead created at least the appearance that he was acting in his official capacity. There is no indication that Respondent flagrantly or intentionally violated the oath of office. There is no basis to conclude whether Respondent's acts have been injurious to any persons. However, by lending his prestige of office on behalf of a person's private interest, Respondent has negatively affected the integrity of and respect for the judiciary.

b. Service and Demeanor of Respondent.

Respondent self-reported this conduct to the Commission. He acknowledges that the acts occurred and that they violated the Code of Judicial Conduct and were inappropriate as a result. Respondent has been a judicial officer since September 16, 2000, and has had no prior disciplinary actions against him. Since this incident was reported to the Commission, Respondent has refrained from any further similar activity. Additionally, Respondent has, prior to contact with the Commission, reimbursed King County Superior Court for court staff's time and has written to the same officials in Italy, on personal letterhead, to apologize and clarify that his previous missives were not meant to speak

for the King County Superior Court nor the State of Washington.

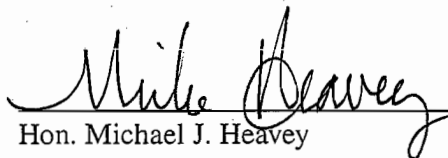
3. Based upon the stipulated facts, upon consideration and balancing of the above factors, Respondent and the Commission agree that Respondent's stipulated misconduct shall be sanctioned by the imposition of an admonishment. An "admonishment" is a written action of the Commission of an advisory nature that cautions a respondent not to engage in certain proscribed behavior. An admonishment may include a requirement that the respondent follow a specified corrective course of action. Admonishment is the least severe action available to the Commission.

C. Standard Additional Terms of Commission Stipulation

1. Respondent agrees he will not retaliate against any person known or suspected to have cooperated with the Commission, or otherwise associated with this matter; that he will not repeat such conduct in the future; and that he will promptly read and familiarize himself with the Code of Judicial Conduct in its entirety.

2. Respondent has been represented in these proceedings by attorney Cassandra L. Stamm. Respondent affirms he is entering this agreement after consultation with his attorney. Respondent voluntarily enters into this stipulation. Respondent understands and agrees that his assent to this Stipulation, once signed by him, is not revocable unless the Stipulation is rejected by the Commission on Judicial Conduct.

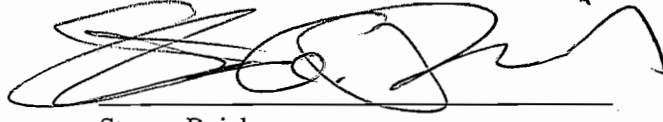
3. Respondent further agrees that by entering into this stipulation and agreement he hereby waives his procedural rights and appeal rights pursuant to the Commission on Judicial Conduct Rules of Procedure and Article IV, Section 31 of the Washington State Constitution in this proceeding.


Hon. Michael J. Heavey

July 29, 2010
Date


Cassandra L. Stamm
Counsel for Hon. Michael J. Heavey

07.29.10
Date

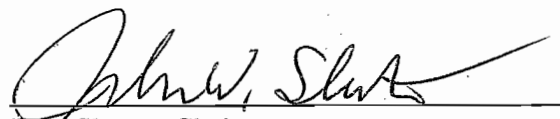

Steven Reisler
Disciplinary Counsel
Commission on Judicial Conduct

7-29-10
Date

ORDER OF ADMONISHMENT

Based on the above Stipulation and Agreement, the Commission on Judicial Conduct hereby orders Respondent, Judge Michael J. Heavey, admonished for the above set forth violations 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 24 day of SEPTEMBER, 2010.


John Sleeter, Chair
Commission on Judicial Conduct