

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

In Re the Matter of)
)
The Honorable A'lan Hutchinson)
Pierce County District Court No. Three)
201 Center Street S.)
P.O. Box 105)
Eatonville, WA 98328-0105)
_____)

No. 93-1652-F-47

STATEMENT OF CHARGES

This Statement of Charges is filed alleging the violation by HON. A'LAN HUTCHINSON of the rules of judicial conduct pursuant to the authority granted in Chapter 2.64 RCW and Chapters 292-08 and 292-12 WAC, and at the order of the Commission on Judicial Conduct, the Commission having determined that probable cause exists to believe that:

I. BACKGROUND

The Honorable A'lan Hutchinson (Respondent herein), is now and was at all times discussed herein a District Court Judge of Pierce County District Court No. Three in Eatonville, Washington.

II. FACTS SUPPORTING CHARGES

A. On August 10, 1993, Respondent conducted a hearing in Cause No. 824-93, Petition for Name Change Submitted by Dominic Scellato, a.k.a. Gina D'Shirico, and Cause No. 825-93, Petition for Name Change Submitted by David C. Pryor, a.k.a. Cathy

Matthews. Respondent declined to grant the Petitions until gender reassignment surgery was completed.

B. On October 26, 1993, Respondent presided over a Motion for Reconsideration. The proceeding's record shows that:

1. Respondent had conducted an ex parte, independent investigation about gender reassignment surgery, including contacting:

- a. the Washington Medical Society;
- b. Washington State [University] Surgery Department;
- c. the American Medical Society; and
- d. the Washington Department of Health, Board of Medical Examiners.

2. During the hearing, Respondent Judge stated that in his personal view, gender reassignment surgery was "immoral"; and "evidence[d] a mentally ill and diseased mind".

C. On March 2, 1994, pursuant to WAC 292-12-020(2), the Commission sent a letter to Respondent informing him that a Verified Statement was filed in accordance with WAC 292-12-010(4), and that the Commission was pursuing Initial Proceedings. Enclosed with the letter was a Statement of Allegations and the Commission's rules. Respondent replied by letter dated April 26, 1994 (received May 3, 1994).

III. BASIS FOR COMMISSION ACTION

The Commission has determined that probable cause exists for believing that Respondent has violated Canons 1, 2(A), 3(A)(3), 3(A)(4) and 3(C)(1)(a) of the Code of Judicial Conduct (CJC), which state:

CANON 1

Judges Should Uphold the Integrity and Independence of the Judiciary

An independent and honorable judiciary is indispensable to justice in our society. Judges should participate in establishing, maintaining, and enforcing, and should themselves observe high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this code should be construed and applied to further that objective.

CANON 2

Judges Should Avoid Impropriety and the Appearance of Impropriety in All Their Activities

(A) Judges should respect and comply with the law and should conduct themselves at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

CANON 3

Judges Should Perform the Duties of Their Office Impartially and Diligently

The judicial duties of a judge take precedence over all other activities. The judge's judicial duties include all the duties of office prescribed by law. In the performance of these duties, the following standards apply:

(A) Adjudicative Responsibilities.

[. . .]

(3) Judges should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom judges deal in their official capacity, and should require similar conduct of lawyers, and of the staff, court officials, and others subject to their direction and control.

(4) Judges should accord to every person who is legally interested in a proceeding, or that person's lawyer, full right to be heard according to law, and, except as authorized by law, neither initiate nor consider ex parte or other communications concerning a pending or impending proceeding. Judges, however, may obtain the advice of a

disinterested expert on the law applicable to a proceeding before them, by amicus curiae only, if they afford the parties reasonable opportunity to respond.

[. . .]

(C) Disqualification.

(1) Judges should disqualify themselves in a proceeding in which their impartiality might reasonably be questioned, including but not limited to instances where:

(a) the judge has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding; [...].

IV. NOTIFICATION OF RIGHT TO FILE WRITTEN ANSWER

In accordance with WAC 292-12-030(5), the Respondent is herewith informed that a written Answer may be filed with the Commission within twenty-one (21) days after the date of service addressing the charges contained in this Statement of Charges. If Respondent does not file a written Answer, a General Denial will be entered on behalf of Respondent. The Statement of Charges and Answer shall be the only pleadings required.

DATED this 8th day of September, 1994.

COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

Sally Carter-DuBois
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