

IN THE SUPREME COURT OF THE STATE OF NEVADA

In the Matter of the)
HONORABLE DONALD M. MOSLEY,)
District Court Judge, County)
of Clark, State of Nevada,)
Respondent.)
_____)

No. 39336

FILED

MAR 12 2002

MARIE M. BLOOM
CLERK OF SUPREME COURT
MAR 12 2002

CERTIFIED COPY OF FINDINGS OF FACT,
CONCLUSIONS OF LAW, DECISION
AND IMPOSITION OF DISCIPLINE

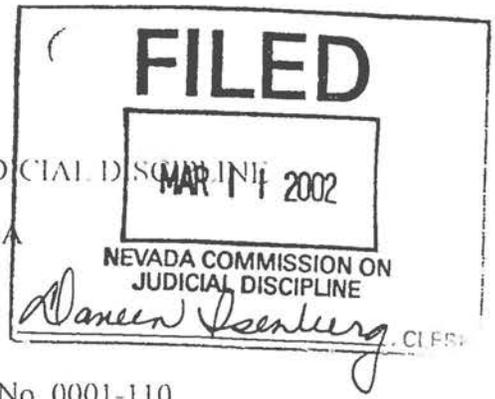
I hereby certify that the documents attached hereto are true and correct copies of the FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION AND IMPOSITION OF DISCIPLINE adopted and filed by the Nevada Commission on Judicial Discipline on March 11, 2002.

DATED this 12th day of March, 2002.

NEVADA COMMISSION ON
JUDICIAL DISCIPLINE
P.O. Box 48
Carson City, NV 89702

Daneen Isenberg
Daneen Isenberg, Commission Clerk

BEFORE THE COMMISSION ON JUDICIAL DISCIPLINE
STATE OF NEVADA



Case No. 0001-110

1 In the Matter of the)
2)
3)
4)
5 HONORABLE DONALD M. MOSLEY,)
6 District Court Judge, County of Clark)
7 State of Nevada,)
8)
9 Respondent.)

FINDINGS OF FACT, CONCLUSIONS OF LAW AND IMPOSITION OF DISCIPLINE

10 Pursuant to prior notice, the above-entitled matter came on for public (formal) hearing
11 pursuant to NRS §1.467(3)(c) and Commission Rule 18 (hereinafter referred to as the "Hearing")
12 on February 25-28, 2002 before the Nevada Commission on Judicial Discipline (hereinafter referred
13 to as the "Commission"). Mary E. Boetsch, Esq. appeared as Special Prosecutor for the
14 Commission. Thomas Pitaro, Esq. and Dominic P. Gentile, Esq. appeared as attorney for the
15 Honorable Donald M. Mosley (hereinafter referred to as the "Respondent").

16 After hearing the allegations, positions and proof of the parties, the arguments of counsel
17 and having carefully considered the evidence introduced by both parties, including substantial
18 witness testimony, and after being fully advised of its obligations and duties, the Commission
19 specifically finds that the Hearing was conducted according to the statutes, rules and procedures
20 required by law and hereby issues the following Findings of Fact, Conclusions of Law and
21 Imposition of Discipline pursuant to Commission Rules 27 and 28; and, NRS §1.4673 and §1.4677:

22 A. Findings Of Fact

23 The Commission finds that the legal evidence presented by the Special Prosecutor at the
24 Hearing clearly and convincingly established each of the following facts:

25 1. Respondent was, at all times applicable to the allegations contained in the Formal
26 Statement of Charges, a District Court Judge for the Eighth Judicial District located in the County
27 of Clark, State of Nevada and Respondent was a judicial officer whose conduct was subject to the
28 provisions of the Nevada Code of Judicial Conduct (hereinafter the "Code").

1 2. That the factual allegations contained in Charge 1 (which are specifically referenced in
2 Paragraph 1 of the Formal Statement of Charges) regarding the use of court stationery by Respondent
3 in sending a letter dated August 25, 1999 with regard to a personal matter had been established by
4 the required standard of proof.

5 3. That the factual allegations contained in Charge 2 (which are specifically referenced in
6 Paragraph 2 of the Formal Statement of Charges) regarding the use of court stationery by Respondent
7 in sending a letter dated February 17, 1999 [erroneously stated on the letter as 1998] with regard to
8 a personal matter had been established by the required standard of proof.

9 4. That the factual allegations contained in Charge 3 (which are specifically referenced in
10 Paragraph 3 of the Formal Statement of Charges) regarding an *ex parte* conversation or
11 conversations Respondent had with a long-time friend Barbara Orcutt concerning the arrest and
12 release of a particular defendant Robert D'Amore then pending sentencing before another judicial
13 officer had been established by the required standard of proof.

14 5. That the factual allegations contained in Charge 4 (specifically referenced in Paragraph
15 4 of the Formal Statement of Charges) regarding an *ex parte* request concerning the arrest and release
16 of a particular defendant Robert D'Amore then pending sentencing before another judicial officer,
17 and without notification to the District Attorney's Office, had been established by the required
18 standard of proof.

19 6. That the factual allegations contained in Charge 6 (specifically referenced in Paragraph
20 6 of the Formal Statement of Charges) regarding Respondent having an *ex parte* meeting and
21 conversations in Respondent's chambers with Catherine Ann Woolf, Esq., an attorney representing
22 defendant Joseph McLaughlin in a criminal case then assigned to Respondent for sentencing, had
23 been established by the required standard of proof.

24 7. That the factual allegations contained in Charge 7 (specifically referenced in Paragraph
25 7 of the Formal Statement of Charges) regarding the attendance, conversation and participation of
26 Respondent at an *ex parte* meeting in Respondent's attorney's law offices with Catherine Ann
27 Woolf, Esq., Carl Lovell, Esq., defendant Joseph McLaughlin (then pending sentencing before
28 Respondent) and his wife regarding a case then assigned to Respondent had been established by the

1 required standard of proof.

2 8. That the allegations contained in Charge 8 (specifically referenced in Paragraph 8 of the
3 Formal Statement of Charges) regarding the failure by Respondent to timely submit his recusal
4 between approximate dates of August 12, 1997 and October 10, 1997 in the case known as State v.
5 Joseph McLaughlin after ample and sufficient grounds for recusal were apparent under the Code
6 during said period, had been established by the required standard of proof.

7 9. That the allegations contained in Charges 5, 9, 10 and 11 (each specifically referenced in
8 the corresponding Paragraphs 5, 9, 10 and 11 of the Formal Statement of Charges) had not been
9 established by the necessary standard or, if they were initially established, were deemed not
10 actionable in light of adequate evidence of mitigation as described below.

11 **B. Conclusions of Law**

12 The Commission finds, as follows:

13 As To Charge 1: A violation of Canon 2B of the Code occurred and to unanimously impose
14 discipline under Commission Rule 28 regarding Charge 1 contained in
15 Paragraph 1 of the Formal Statement of Charges.

16 As To Charge 2: A violation of Canon 2B of the Code occurred and to unanimously impose
17 discipline under Commission Rule 28 regarding Charge 2 contained in
18 Paragraph 2 of the Formal Statement of Charges.

19 As To Charge 3: A violation of Canons 1, 2, 2A, 2B and 3B(7) of the Code occurred and to
20 impose discipline under Commission Rule 28 regarding Charge 3 contained
21 in Paragraph 3 of the Formal Statement of Charges. The decision carried
22 with six Commissioners voting aye and one Commissioner voting nay.

23 As To Charge 4: A violation of Canons 1, 2, 2A and 2B of the Code occurred and to
24 unanimously impose discipline under Commission Rule 28 regarding Charge
25 4 contained in Paragraph 4 of the Formal Statement of Charges.

26 As To Charge 5: Pursuant to Commission Rule 27, to unanimously dismiss Charge 5 contained
27 in Paragraph 5 of the Formal Statement of Charges.

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- 1 As To Charge 6: A violation of Canon 3B(7) of the Code occurred and to impose discipline
2 under Commission Rule 28 regarding Charge 6 contained in Paragraph 6 of
3 the Formal Statement of Charges. Decision carried with six Commissioners
4 voting aye and one Commissioner voting nay.
- 5 As To Charge 7: A violation of Canon 3B(7) of the Code occurred and to unanimously impose
6 discipline under Commission Rule 28 regarding Charge 7 contained in
7 Paragraph 7 of the Formal Statement of Charges.
- 8 As To Charge 8: A violation of Canons 1, 2, 2A and 2B of the Code occurred and to
9 unanimously impose discipline under Commission Rule 28 regarding Charge
10 8 contained in Paragraph 8 of the Formal Statement of Charges.
- 11 As To Charge 9: Pursuant to Commission Rule 27, to unanimously dismiss Charge 9 contained
12 in Paragraph 9 of the Formal Statement of Charges due to a specific finding
13 of a sufficient mitigating factor as allowed by said Rule. The mitigating factor
14 being that Respondent's intervention may have been required as a result of
15 Mr. McLaughlin's personal safety being in question.
- 16 As To Charge 10: Pursuant to Commission Rule 27, to unanimously dismiss Charge 10
17 contained in Paragraph 10 of the Formal Statement of Charges as previously
18 requested by the Special Prosecutor.
- 19 As To Charge 11: Pursuant to Commission Rule 27, to unanimously dismiss Charge 11
20 contained in Paragraph 11 of the Formal Statement of Charges.

21 **C. Imposition of Discipline.**

22 With regard to Charges 1, 2, 3, 4, 6, 7 and 8 in which the Commission found a violation of the Code,
23 the Commission finds that the appropriate discipline imposed under Commission Rule 28 as to said
24 charges shall be, as follows:

25 As To Charges 1 and 2: Respondent shall arrange and attend the first available general ethics
26 course, at his own expense, at the National Judicial College in Reno
27 and file proof of attendance with the Clerk of the Commission. No
28 Administrative Office of the Court/Supreme Court funds are to be

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As To Charges 3 and 4:

utilized for attendance at this course. The decision carried with five Commissioners voting aye and two Commissioners voting nay.
By unanimous vote of the Commission, Respondent shall herewith receive a strongly worded censure stating that the judicial officer did not follow the proper practice under the Code which requires that all parties be notified of such meetings and have an opportunity to attend and be present and that Respondent should conform his conduct to the Code in the future.

As To Charge 6:

By unanimous vote of the Commission, Respondent shall herewith receive a strongly worded censure stating that the judicial officer did not follow the proper practice under the Code which requires that all parties be notified of such meetings and have an opportunity to attend and be present and that Respondent should conform his conduct to the Code in the future.

As To Charge 7:

By unanimous vote of the Commission, Respondent shall arrange and attend the first available general ethics course, at his own expense, at the National Judicial College in Reno and file proof of attendance with the Clerk of the Commission. No Administrative Office of the Courts/Supreme Court funds are to be utilized for attendance at this course.

As To Charge 8:

By unanimous vote of the Commission, Respondent shall be required to pay within fifteen (15) days of the entry of this decision a fine pursuant to NRS §1.4677(1) of Five Thousand Dollars (\$5,000.00) with said payment directed to the Clark County Law Library or related library foundation.

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1 DATED this 5th day of March, 2002

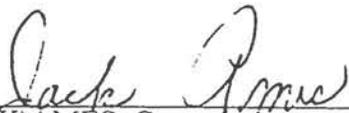
2 *NEVADA COMMISSION ON JUDICIAL DISCIPLINE*
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4 
5 FRANK BRUSA, Commissioner and Chairman

6 
7 STEVE CHAPPELL, Commissioner and
8 Vice Chairman

9 
10 DAVEEN NAVE, Commissioner

11 
12 CONNIE STEINHEIMER, Commissioner and
13 Presiding Officer

14 
15 JACK AMES, Commissioner
16

17 
18 KARL ARMSTRONG, Commissioner

19 
20 WAYNE CHIMARUSTI, Commissioner
21

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CERTIFICATE OF MAILING

I hereby certify that on the 5th day of March, 2002, I placed the above-referenced FINDINGS OF FACT, CONCLUSIONS OF LAW AND IMPOSITION OF DISCIPLINE in the United States

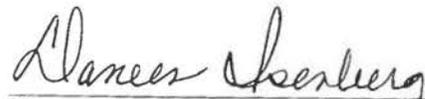
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Dancien Isenberg, Commission Clerk