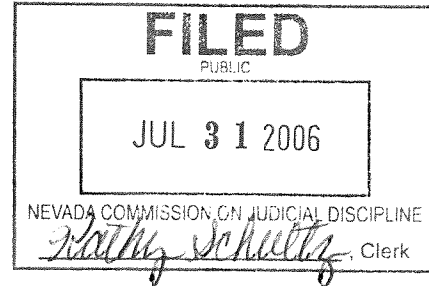


1 BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE

2 STATE OF NEVADA



3
4 In the Matter of the)
5 HONORABLE SYLVIA BELLER,)
6 Hearing Master, Family Court & Services)
7 Center, County of Clark, State of Nevada,)
8 Respondent.)

CASE NO. 0503-977

9
10 **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND IMPOSITION OF DISCIPLINE**

11 Pursuant to prior written notice, the above-entitled matter came on for public (formal)
12 hearing in Las Vegas pursuant to NRS §1.467(3)(c) and Interim Commission Rule 18
13 (hereinafter referred to as “the hearing”) on June 15, 2006, before the Nevada Commission on
14 Judicial Discipline (hereinafter referred to as the “Commission”).¹ Attorney Mary Boetsch acted
15 as the Special Counsel and prosecuted the case against the Respondent, Clark County Hearing
16 Master Sylvia Beller. The Respondent was present and represented by counsel, William B.
17 Terry.

18 After being fully advised of its obligations and duties, the Commission specifically finds
19 that the hearing was conducted according to the statutes, rules and procedures required by law.
20 The Commission hereby issues the following Findings of Fact, Conclusions of Law and
21 Imposition of Discipline pursuant to Commission Interim Rules 27 and 28; and NRS §1.4673
22 and §1.4677.

23 After receiving evidence regarding whether a violation or violations occurred, as well as
24 evidence in extenuation and mitigation of punishment, the Commission deliberated in private.
25 Thereafter, the Commission announced on the record its decision that the Special Counsel had

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28 ¹ The following Commissioners participated in the hearing: Chairman Steve Chappell, Vice-Chairman Daveen Nave, Greg Ferraro, Judge Richard Wagner (sitting as an alternate for Judge Mark Denton, who recused himself), Judge Jerome Polaha, James Beasley, and William Hoffman (sitting as an alternate for attorney Karl Armstrong, who was unavoidably absent). The seven attendees constituted a quorum, pursuant to Commission Interim Rule 3(4). A copy of the transcript of the proceedings is on file with the Clerk of the Commission.

1 established the existence of a willful violation of the Nevada Code of Judicial Conduct. It also
2 announced on the record that the Respondent would be subject to public reprimand.

3 The votes as to both the violation and the appropriate discipline were unanimous. The
4 instant order constitutes the Commission's final, dispositive ruling and this written order will
5 supersede any oral pronouncements issued at the conclusion of the hearing.²

6 **A. Findings of Fact.**

7 1. The Respondent was, at all times applicable to the allegations contained in the Formal
8 Statement of Charges, a Hearing Master in the Clark County Family Court. She still serves in
9 that capacity. Therefore, the Respondent was and still is a judicial officer whose conduct was
10 and is subject to the provisions of the Nevada Code of Judicial Conduct.

11 2. The Commission finds that the Special Counsel established by the required standard of
12 proof, to wit, clear and convincing evidence, that the Respondent willfully violated Canon 3B(4)
13 of the Nevada Code of Judicial Conduct, as set forth in the charging document which is
14 recounted verbatim immediately below.

15 3. The only count in the formal charging document states in its entirety:

16 1. That on or about August 6, 2004, a juvenile appeared
17 before you in your capacity as a Hearing Master for a dispositional
18 hearing in his case number J85738; that the juvenile was wearing a
19 T-shirt with the inscription "G Unit"; that you questioned him as to
20 the meaning of the term "G Unit", asking if it referred to girls; that
21 you were then advised that it referred to rap music and that the
22 probation officer had told him the shirt was not appropriate.

23 2. That you then indicated that the juvenile was not
24 supposed to have the shirt on, that the shirt was to be removed and
25 that the juvenile could walk out without a shirt; that when the shirt
26 was lifted up revealing the fact that the juvenile's pants were
27 sagging, you said that he could pull the pants up or let them fall
28 down and then directed him to pull the pants up.

3. That you then stated that you were continuing the
dispositional hearing and placing the juvenile in custody until the
next week; that you ordered the bailiff to take the shirt stating that
the juvenile could go back there without a shirt; that you then
ordered that the juvenile's belt be removed and let his pants fall off
as the belt would be taken from him anyway; that the bailiff asked

² On July 5, 2006, the Chairman extended the time for filing this disposition document due to the lack of a transcript of the hearing and the impending absence of the Executive Director on medical leave. The Executive Director returned on Monday, July 17, 2006.

1 you if you wanted him to take the belt; that you advised that you
2 wanted the belt removed, stating that the juvenile could hold up his
3 pants; that when the bailiff stated that the juvenile could not hold
4 up his pants as he was being placed in handcuffs, you replied "Oh
5 well."

6 4. That the bailiff followed your order and removed the
7 belt in the courtroom; that the juvenile's pants did fall down below
8 his knees; that the bailiff removed the juvenile while holding up his
9 pants.

10 5. That your conduct as described herein constitutes
11 violations of Canons 3B(2) and 3B(4) of the Nevada Code of
12 Judicial Conduct.

13 4. The Respondent filed a formal answer denying the allegations. The gist of the
14 Respondent's factual defense to the charge is that she didn't have the intent to hurt the juvenile
15 nor did she intend for his pants to fall down, even when she recognized the obvious possibility
16 that his pants could fall down when his belt was removed. The Respondent testified that she was
17 trying to be tough although she admitted that "the result wasn't good" and that "it comes off
18 badly." Indeed, the Respondent further admitted that it was "unfortunate" that the juvenile's
19 pants fell down in the courtroom. She candidly stated in response to a question by Commissioner
20 Ferraro that she would "totally treat it differently" if she encountered a similar situation again.

21 5. The Commission viewed the videotape of the incident and is fully cognizant of the
22 circumstances surrounding the incident. By requiring the juvenile to remove his shirt and by
23 requiring the staff to remove his belt, thereby causing the juvenile's pants to fall down in court
24 while others were present, the Respondent humiliated the boy. The rapid escalation of events in
25 court on the day of the incident, during the Respondent's brief encounter with the juvenile,
26 demonstrated a lack of control on her part. She failed to recognize that her "tough" behavior
27 would be seen by an objective observer as both disrespectful and discourteous. Even though the
28 juvenile arguably should not have worn the shirt in question or baggy pants to the important court
proceeding over which the Respondent presided, the Commission believes there were no
extenuating factual factors that would excuse the Respondent's actions.

6. The Commission is specifically not discouraging the Respondent from maintaining
adequate control of courtroom participants. Likewise, the Commission does not intend to
discourage the judiciary from enforcing minimum standards of appropriate courtroom attire.

1 Finally, this decision is not intended to be an assessment of the correctness of the Respondent's
2 decision to further incarcerate the juvenile pending a final adjudication, once she determined that
3 he arrived at court with the wrong attitude.

4 **B. Conclusions of Law.**

5 1. The Commission has both subject matter jurisdiction over the case and personal
6 jurisdiction over the Respondent.

7 2. The Commission is guided by Nevada Supreme Court precedent, which requires
8 application of the "objective reasonable person standard" when applying the canons that
9 comprise the Nevada Code of Judicial Conduct. *Mosley v. Nevada Commission on Judicial*
10 *Discipline*, 102 P. 3d 555, 560 (Nev. 2004).

11 3. The proof adduced at the hearing was insufficient to prove a violation of Canon 3B(2).

12 4. An objective reasonable person would conclude that the Respondent's behavior was
13 unethical. The proof adduced at the hearing was sufficient to prove a violation of Canon 3B(4).

14 In short, as was stated by Commissioner/Presiding Officer Polaha at the conclusion of the
15 hearing, making a child in court partially disrobe is a violation of Canon 3B(4). It is an act
16 against the dignity of the individual litigant and an affront to the dignified process that a court
17 proceeding is designed to be.

18 **C. Imposition of Discipline.**

19 The Commission concludes the appropriate discipline to be imposed under Commission
20 Interim Rule 28 as to one violation shall be as follows:

21 By unanimous vote of the Commission, pursuant to Subsections 5(a) and (b) of Article 6,
22 Section 21 of the Constitution of the State of Nevada, Nevada Revised Statute §1.4653(2), and
23 Commission Interim Rule 28, the Respondent shall be and hereby is publicly reprimanded.

24 In assessing the appropriate penalty, the Commission took into account the fact that the
25 Respondent's immediate supervisor, Judge Jones, the Presiding Judge of the Family Court, took
26 immediate action against her and imposed significant sanctions on her. He placed her on
27 probation for a six-month period of time, during which she was subject to immediate summary

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1 dismissal for any infractions whatsoever. He transferred her to duties related to child support
2 enforcement, when her preferred assignment was in juvenile court.

3 In terms of monetary loss, he required her to attend between twenty to forty hours of
4 additional ethics training at her own expense. He suspended her for four weeks without pay,
5 during which she could not take either sick leave or regular leave. During her suspension, she
6 did not accrue any type of leave, longevity credits, or retirement credits. She did not receive a
7 merit pay increase. In total, the Respondent estimated her total monetary loss at approximately
8 \$13,000. Despite this substantial loss, the Respondent characterized Judge Jones as “probably
9 the greatest mentor I’ve had in the last two years.”

10 The Commission believes that the Respondent is truly remorseful for her behavior. It is
11 unlikely that she will repeat her behavior, in light of the fact that she has demonstrated many
12 positive character traits during her years as a jurist, as well as accomplishments as a lawyer.
13 These include but are not limited to ample education, channeled passion, dedication and
14 commitment to making a positive contribution to the juvenile justice system and the young
15 people who are brought into it.

16 The Commission concludes that the public will not be at risk by the Respondent’s
17 continued participation as a judicial officer in the Clark County Family Court. She has erred and
18 she has paid a steep price, monetary and otherwise, for her brief lapse in judgment. The
19 Commission believes that this public reprimand is fully warranted and yet it is tailored to meet
20 the particular circumstances of this incident. It is imposed in full recognition of the
21 Respondent’s long tenure as a judge and the other facts she presented in mitigation of
22 punishment, and in consideration of the Special Counsel’s determination not to ask for additional
23 punishment beyond that imposed by Respondent’s superior.

24 **D. Order.**

25 IT IS HEREBY ORDERED that the Chairman is authorized by all the members to sign
26 this decision for all members. The signature pages for the other members shall be retained in the
27 Commission file.

28 . . .

1 IT IS HEREBY ORDERED that the Executive Director of the Judicial Discipline
2 Commission is to take the necessary steps to file this document in the appropriate records of the
3 Commission and with the Nevada Supreme Court.

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

7 **E. Notice.**

8 Notice is hereby tendered to the Special Counsel and the Respondent that pursuant to
9 NRAP 3D, an appeal may be taken by filing a notice of appeal with the Clerk of the Commission
10 and serving such notice on opposing counsel within fifteen (15) days of service of this document
11 by the clerk of the commission.

12 DATED this 31st day of July, 2006.

13 NEVADA COMMISSION ON
14 JUDICIAL DISCIPLINE
15 P.O. Box 48
16 Carson City, NV 89702
17 (775) 687-4017

18 By: Steve Chappell
19 Steve Chappell, Chairman
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CERTIFICATE OF MAILING

I hereby certify that I am an employee of the Nevada Commission on Judicial Discipline and on the 31st day of July, 2006, I placed the above-referenced FINDINGS OF FACT, CONCLUSIONS OF LAW, AND IMPOSITION OF DISCIPLINE in the United States Mail, postage pre-paid, addressed to the undersigned:

Mary Boetsch, Esq.
448 Hill Street
Reno, NV 89501
Special Counsel

William Terry, Esq.
530 South Seventh Street
Las Vegas, NV 89101
Counsel for Respondent.



Kathy Schultz, Commission Clerk