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IN THE SUPREME COURT OF THE STATE OF NEVADA

FILED
AUG 31 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY _____
CHIEF DEPUTY CLERK

In the Matter of)
)
THE HONORABLE WILLIAM)
KEPHART, Eighth Judicial District)
Court, County of Clark, State of Nevada,)
)
Respondent.)
_____)

Case No.
73880

CERTIFIED COPY OF STIPULATION AND ORDER OF CONSENT
TO PUBLIC REPRIMAND

Pursuant to Commission Procedural Rule 29, I hereby certify that the document attached hereto is a true and correct copy of the STIPULATION AND ORDER OF CONSENT TO PUBLIC REPRIMAND filed with the Nevada Commission on Judicial Discipline on August 31, 2017.

DATED this 31st day of August, 2017.

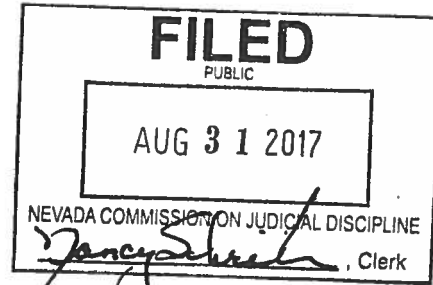
NEVADA COMMISSION ON
JUDICIAL DISCIPLINE
P. O. Box 48
Carson City, NV 89702
(775) 687-4017



PAUL C. DEYHLE
General Counsel and Executive Director
Nevada Bar No. 6954

RECEIVED
AUG 31 2017
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

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7 bhconsultingllc@sbcglobal.net
8 Prosecuting Officer for the Nevada
9 Commission on Judicial Discipline



6 **BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE**

7 **STATE OF NEVADA**

8
9 IN THE MATTER OF THE HONORABLE) CASE NO. 2016-041-P
10 WILLIAM KEPHART, Eighth Judicial District)
11 Court, County of Clark, State of Nevada)
12 Respondent.)

13 **STIPULATION AND ORDER OF CONSENT TO PUBLIC REPRIMAND**

14 In order to resolve the Formal Statement of Charges pending before the Nevada Commission on
15 Judicial Discipline (the "Commission"), the Respondent and the Commission stipulate to the following
16 pursuant to Commission Procedural Rule 29:

17 1. Respondent admits that he committed violations of the Revised Code of Judicial Conduct
18 (the "Code"), Judicial Canon 1, Rule 1.1 (failing to comply with the law, including the Code of
19 Judicial Conduct), Rule 1.2 (failing to act at all times in a manner that promotes confidence in
20 the independence, integrity, and impartiality of the judiciary and avoiding impropriety and the
21 appearance of impropriety); Judicial Canon 2, Rule 2.5(A)(performing judicial and
22 administrative duties competently and diligently), and Rule 2.10 (public statement on a pending
23 or impending case), or any single rule or any combination of these rules, and in his capacity as a
24 district court judge in and for the Eighth Judicial District Court, in Clark County, State of
25 Nevada, by knowingly engaging in an act, a combination of acts, or all of the following acts:

26
27 A. In or about February of 2016, Respondent engaged in an on-camera interview in his
28

1 judicial chambers with an investigative reporter concerning the criminal case of State of
2 Nevada v. Kirstin Lobato. Ms. Lobato is serving time for the July 2001 death and
3 mutilation of Duran Bailey, a homeless man living in Las Vegas at the time of his death.
4 Respondent had been a chief deputy district attorney and had appeared as one of two
5 prosecutors in that case in Clark County in or around 2002 which resulted in Ms.
6 Lobato's conviction for murder and sexual penetration of a dead human body. She
7 received a sentence of 40 to 100 years in prison which was reversed by the supreme court
8 in or about September of 2004. Respondent again appeared as one of two prosecutors on
9 Ms. Lobato's retrial in or around 2006 which resulted in Ms. Lobato's conviction for
10 manslaughter and sexual penetration of a dead human body. She received a sentence of
11 13 to 45 years which was upheld on appeal in or about 2009.

12
13 B. The interview of Respondent appeared in a story presented through television video
14 and in electronic print by KSNV News 3, a Las Vegas NBC media affiliate, on or about
15 February 29, 2016. Respondent was described toward the beginning of the story as a
16 district court judge. The video presentation lasted approximately three minutes and forty
17 seconds, although Respondent's comments and appearance on the video lasted less than
18 thirty seconds. Respondent's comments as they appeared in the news story were
19 substantially as follows:
20

- 21 1. After a brief introduction of the story by the reporter stating that a homeless man
22 was brutally killed, the report shows Respondent stating, "That was the first
23 thought, is oh my god, what happened here?"
- 24 2. After the reporter introduced Respondent as a district court judge and said this
25 was his only post-conviction interview since he prosecuted Lobato's case,
26 Respondent is shown saying, "I'm given a task to present evidence that we have,
27 there's certainly no evidence that was, you know, manufactured or anything like
28 that. We just present what we have to the jury and give the jury an opportunity to
decide."
3. At the end of the story, after the reporter and the context indicated that there
appeared to be questions about Ms. Lobato's guilt, Respondent is shown saying,
"I stand behind what we did. I have no qualms about what happened and how we

1 prosecuted this matter. I believe it was completely justice done.”

2 C. At the time that Respondent was interviewed and the story appeared in the media, the
3 case of Lobato (Kirstin) v. State was pending in the Nevada Supreme Court as case
4 number 58913. This case involved the appeal of Ms. Lobato from a denial of her post-
5 conviction petition for a writ of habeas corpus in the Eighth Judicial District Court in or
6 about June, 2011. The appeal was filed in or about August of 2011 and, as of February
7 of 2016, all briefing had been completed. The Nevada Supreme Court entered its order
8 in November of 2016 affirming in part and reversing in part and remanding the matter to
9 the district court for further proceedings on the post-conviction habeas corpus petition.
10

11 D. At the time that Respondent was interviewed and the story appeared in the media, the
12 case involving the prosecution of Kirstin Lobato had gained significant notoriety through
13 the media and due to the work of various advocacy groups. Respondent’s television
14 interview statements attested to his belief that Ms. Lobato is guilty as he indicated that
15 justice was done, although these comments directly contrast with Ms. Lobato’s claim of
16 actual innocence, which is a subject in the case. Therefore, there was or is a reasonable
17 expectation that Respondent’s interview statements could affect the outcome or impair
18 the fairness of Ms. Lobato’s case.
19

20 2. Respondent admits to all the allegations brought against him in the Charge of Misconduct of
21 the Formal Statement of Charges filed May 9, 2017, and paragraphs (1)(A) through (D) as set
22 forth above.
23

24 3. Respondent agrees to waive his right to present his case and contest the allegations in the
25 information set forth above in a formal hearing pursuant to Commission Procedural Rule 18.

26 Respondent also agrees that this Stipulation and Order of Consent to Public Reprimand
27 (“Order”) takes effect immediately pursuant to Commission Procedural Rule 29. The
28

1 Commission accepts Respondent's waiver of said right and acknowledges and agrees to the
2 immediate effect of this Order. Respondent further agrees to appear before the Commission in a
3 public proceeding to discuss this Order in more detail and answer any questions from the
4 Commissioners related to this case.

5 4. Respondent agrees and acknowledges that this Order will be published on the Commission's
6 website and filed with the Clerk of the Nevada Supreme Court.

7
8 5. Respondent and the Commission hereby stipulate to Respondent's consent to public
9 reprimand pursuant to Rule 29. Respondent stipulates to the following substantive provisions:

10 A. He agrees the evidence available to the Commission would establish by clear and
11 convincing proof that he violated the Code, including Canon 1, Rule 1.1 and 1.2, and
12 Canon 2, Rule 2.5 (A) and 2.10.

13 B. He agrees the discipline of public reprimand is authorized by Article 6, Section 21(1)
14 of the Nevada Constitution and Commission Procedural Rule 29.

15 C. He stipulates to a public reprimand for violations of the Judicial Canons and Rules as
16 set forth above in paragraphs (1) (A) through (D).

17
18 6. The Respondent understands and agrees that, by accepting the terms of this Order, he waives
19 his right to appeal to the Nevada Supreme Court, pursuant to Rule 3D of the Nevada Rules of
20 Appellate Procedure.

21
22 **ORDER**

23 IT IS HEREBY ORDERED that Respondent is hereby publicly reprimanded for violating the
24 Code, Canon 1, Rule 1.1 and 1.2; and Canon 2, Rule 2.5 (A) and 2.10.

25 IT IS FURTHER ORDERED that the Executive Director of the Commission take the necessary
26 steps to file this document in the appropriate records and on the website of the Commission and with
27 the Clerk of the Nevada Supreme Court.
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William Kephart

William Kephart
Respondent

Dated this 25th day of August, 2017.

By: Brian Hutchins

Brian Hutchins, Esq.
Prosecuting Officer for the Commission

Dated this 25th day of August, 2017.

1 **NEVADA COMMISSION ON JUDICIAL DISCIPLINE:**

2
3 The Commissioners listed below accept the terms of this Stipulation and Order of Consent to
4 Public Reprimand between the Respondent and the Commission. They further authorize the Chairman,
5 if requested, to sign on behalf of the Commission, as a whole, this document containing the Stipulation
6 and Order of Consent to Public Reprimand.

7 **Signed by:**

Dated:

8 
9 GARY VAUSE, CHAIRMAN

8/31/17

10 KARL ARMSTRONG

11 BRUCE HAHN

12 STEFANIE HUMPHREY

13 MARY-SARAH KINNER

14 HON. THOMAS STOCKARD

15 HON. JEROME POLAHA

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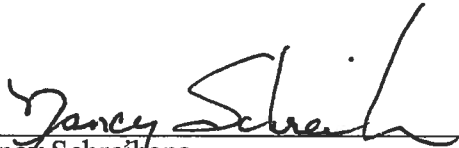
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CERTIFICATE OF MAILING

I hereby certify that on the 31st day of August, 2017, I served a copy of the CERTIFIED COPY OF STIPULATION AND ORDER OF CONSENT TO PUBLIC REPRIMAND, filed with the Nevada Supreme Court, by United States Mail, postage pre-paid, certified, return receipt requested, addressed to the undersigned:

William B. Terry, Esq.
William B. Terry, Chartered Attorney at Law
530 South Seventh Street
Las Vegas, NV 89101-6011
Info@williamterrylaw.com
Counsel for Respondent

Brian Hutchins, Esq.
BH Consulting, LLC
P. O. Box 2366
Carson City, NV 89701
bhconsultingllc@sbcglobal.net
Special Counsel



Nancy Schreihans
Commission Clerk