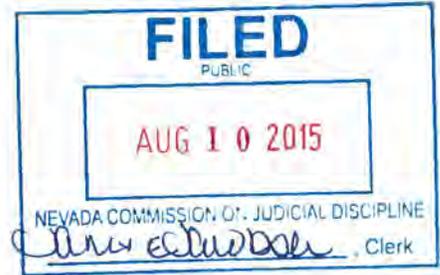


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Special Counsel for the Nevada
Commission on Judicial Discipline



BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE
STATE OF NEVADA

IN THE MATTER OF THE

HONORABLE KIMBERLY WANKER,
Fifth Judicial District Court, Dept. One,
County of Nye, State of Nevada

Respondent.

CASE NO. 1501-1147

FORMAL STATEMENT OF CHARGES

COMES NOW Thomas C. Bradley, Special Counsel for the Nevada Commission on Judicial Discipline ("Commission"), established under Article 6, Section 21 of the Nevada Constitution, who, in the name of and by the authority of the Commission, as found in NRS 1.425 through NRS 1.4695, does file this Formal Statement of Charges and informs the above named Respondent, the Honorable Kimberly Wanker, who was and is at all times relevant to these charges a District Judge, Fifth Judicial District Court, Counties of Nye, Esmeralda, and

Mineral, State of Nevada, that the following acts were committed by Respondent and warrant disciplinary action by the Commission under the Nevada Code of Judicial Conduct.

COUNT ONE

During or about the period from October 3, 2012 to March 31, 2014, Respondent violated Canon 1, Rule 1.1 (failure to comply with the law, including the Code of Judicial Conduct); Canon 2, Rule 2.2 (failure to uphold and apply the law); Rule 2.5 (failure to perform judicial duties competently and diligently); Rule 2.6 (ensuring right to be heard); Rule 2.9 (ex parte communication); Rule 2.12(A) (requiring court staff to act in a manner consistent with the judge's obligations) of the Nevada Code of Judicial Conduct, or any single rule or any combination of those rules, by doing any, a combination of, or all of the following acts, while Respondent was acting in her official capacity as a district court judge in Nye, Esmeralda, and Mineral Counties, Nevada, presiding over Case No. CV32871, *In the Matter of the Paternity of Kolena Carson the issue of Robert Carson and Kolena Brown (Brown v. Carson)*:

Respondent, on or about November 13, 2012, held Complainant Robert Carson in contempt of court and sentenced him to seven days in jail and a fine of \$500.00. Said finding of contempt was not in accordance with Nevada law in one or more of the following respects:

(1) If the contempt was direct as having occurred in the immediate view and presence of the court and meeting the definitions of contempt, Respondent failed to enter the requisite order following Judge Wanker's finding of contempt which included a recitation of the facts constituting the contempt, the finding that Robert Carson is guilty of contempt, and the prescribed punishment for the contempt;

(2) If the contempt was based on a determination by Respondent that Complainant lied to Respondent in Court on or about October 3, 2012 or November 13, 2012, or both, and was based,

in whole or in part, on information Respondent received outside Respondent's immediate view and presence, and was not based on Complainant's disruption of the proceedings so as to require immediate action, Respondent failed to have an affidavit presented to the Court which included the requisite elements of the contempt and Respondent failed to recuse herself from the trial of the contempt;

(3) Respondent also failed to afford Robert Carson his right to due process which included giving him proper notice of the charge of contempt and an opportunity to be heard by way of the issuance of a warrant of attachment, the issuance of an order to show cause, or other lawful method that would have provided Robert Carson his right to due process;

(4) Respondent also held Robert Carson in contempt for statements or actions that do not constitute contempt under Nevada law; and

(5) Prior to the time Respondent found Robert Carson to be in contempt of Court, Respondent also failed to disclose one or more ex-parte communications that Respondent had with court staff, sheriff's deputies, and/or Quest Laboratory personnel regarding the results of a blood-alcohol test administered to Robert Carson.

COUNT TWO

During or about the period from October 3, 2012, to March 31, 2014, Respondent violated Canon 1, Rule 1.1 (failure to comply with the law, including the Code of Judicial Conduct); Canon 2, Rule 2.2 (failure to uphold and apply the law); Rule 2.5 (failure to perform judicial duties competently and diligently); Rule 2.6 (ensuring right to be heard); Rule 2.9 (ex parte communication); Rule 2.12(A) (requiring court staff to act in a manner consistent with the judge's obligations) of the Nevada Code of Judicial Conduct, or any single rule or any combination of those rules, by doing any, a combination of, or all of the following acts, while

Respondent was acting in her official capacity as a district court judge in Nye, Esmeralda, and Mineral Counties, Nevada, presiding over Case No. CV32871, *In the Matter of the Paternity of Kolena Carson the issue of Robert Carson and Kolena Brown (Brown v. Carson)*:

Respondent, on or about November 13, 2012, held Complainant Robert Carson in contempt of Court and sentenced him to seven days in jail and a fine of \$500.00. Prior to finding Robert Carson to be in contempt, Respondent initiated an independent investigation on or about October 3, 2012, which included ordering a Nye County Sheriff's deputy to travel to Robert Carson's home, demand that Robert Carson submit to a preliminary breath test (PBT), transport Robert Carson to Quest Laboratory, and require him to submit to a blood alcohol test. Respondent also directed a member of her staff to contact Robert Carson while he was at the Quest Laboratory and demand that he immediately pay for the cost of the blood alcohol test.

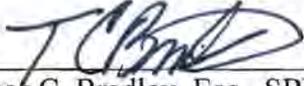
COUNT THREE

On or about the period from October 3, 2012 to March 31, 2014, Respondent violated Canon 1, Rule 1.1 (failure to comply with the law, including the Code of Judicial Conduct); Canon 2, Rule 2.1 (giving precedence to judicial duties); Rule 2.2 (failure to uphold and apply the law); Rule 2.5 (failure to perform judicial duties competently and diligently); Rule 2.12(A) (requiring court staff to act in a manner consistent with the judge's obligations) of the Nevada Code of Judicial Conduct, or any single rule or any combination of those rules, by doing any, a combination of, or all of the following acts, while conducting judicial duties as a district court judge in Nye, Esmeralda, and Mineral Counties, Nevada, presiding over Case No. CV32871, *In the Matter of the Paternity of Kolena Carson the issue of Robert Carson and Kolena Brown (Brown v. Carson)*: Respondent, held a visitation hearing on or about August 17, 2012. Respondent failed to issue an order concerning the issues raised at the August 17, 2012 hearing.

Respondent held another visitation hearing on or about October 3, 2012, and indicated that she would take the matter under advisement and issue an order. Respondent held another visitation hearing on November 13, 2012. As of March 2014, Respondent failed to issue any custody or visitation orders concerning the issues raised at the August 17, 2012 hearing, the October 3, 2012 hearing, or the November 13, 2012 hearing.

Based on the foregoing, the Nevada Commission on Judicial Discipline shall hold a public hearing on the merits of these charges, pursuant to NRS 1.4673 and, if violations as alleged are found to be true, the Commission shall impose whatever sanctions and/or discipline it deems appropriate, pursuant to NRS 1.4673 and other Nevada Revised Statutes governing the Commission.

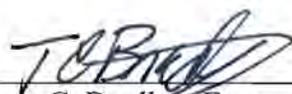
Dated this 10 day of August, 2015.

By: 
Thomas C. Bradley, Esq., SBN
Special Counsel to the NCJD
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Boetsch, Bradley and Pace*
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Reno, Nevada 89501
Telephone (775) 323-5178

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this FORMAL STATEMENT OF CHARGES was placed in the U.S. mail, postage pre-paid, on this 10 day of August, 2015.

The Honorable Kimberly A. Wanker
Nye County Government Center
1520 East Basin Avenue, Suite105
Pahrump, NV 89060

By: 
Thomas C. Bradley, Esq.
Special Counsel for the Nevada Commission on
Judicial Discipline

STATE OF NEVADA)
) ss
COUNTY OF WASHOE)

THOMAS C. BRADLEY, ESQ. being first duly sworn under oath, according to Nevada law, and under penalty of perjury, hereby states:

1. I am an attorney licensed to practice law in the State of Nevada. I have been retained by the Nevada Commission on Judicial Discipline to serve in the capacity of Special Counsel in the matter of the Honorable Kimberly Wanker, Case No. 1501-1147.

2. I have prepared and reviewed this Formal Statement of Charges against the Honorable Kimberly Wanker and, pursuant to the investigation conducted in this matter, and based on the contents of that investigation and following reasonable inquiry, I am informed and believe that the contents of this Formal Statement of Charges are true and accurate.

Dated this 10 day of August, 2015



THOMAS C. BRADLEY, ESQ.

Subscribed and sworn to before me, a Notary Public

This 10th day of August, 2015.

By: 

NOTARY PUBLIC

