



BEFORE THE COMMISSION ON JUDICIAL DISCIPLINE
STATE OF NEVADA

In the Matter of the

HONORABLE FRANCES-ANN FINE,
District Court Judge for the County
of Clark, State of Nevada,

Respondent.

CASE NO.: 9501-222

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

The above-entitled matter having come on for hearing on November 1, 1995, before the Nevada Commission on Judicial Discipline, Robert R. Hager appearing as Special Prosecutor for the State of Nevada Commission on Judicial Discipline, and William B. Terry appearing as attorney for the Respondent.

After hearing the allegations and proofs of the parties, the arguments of counsel and having considered the evidence introduced by both parties and being fully advised, the Commission states that this proceeding was a Formal Hearing pursuant to the Administrative and Procedural Rules for the Nevada Commission on Judicial Discipline for the purpose of determining whether the acts and conduct of the Respondent warrant the imposition of discipline. The Commission makes the following findings of fact and conclusions of law, which constitute the decision of the Commission in this matter.

Commissioner Lefebvre and Commissioner Fuller concur in the Findings of Fact and Conclusions of Law, however dissent from the discipline imposed.

Findings of Fact

The Commission finds that the legal evidence presented by the Special Prosecutor at the Formal Hearing clearly and convincingly established each of the facts thereafter set forth in Paragraphs 2-4 of these Findings of Facts.

1. Respondent is a District Court Judge for the County of Clark, State of Nevada. That while serving in said capacity, Respondent permitted and participated in ex parte communications with Judge Gerald Hardcastle on two or three occasions during 1993 regarding the Shumny divorce proceedings then pending before Judge Hardcastle, said conversations having occurred in the area of the judge's chambers on the fourth floor of the Clark County Courthouse.
2. That Respondent, while serving in the capacity of a District Court Judge for the County of Clark, State of Nevada, participated in six or seven ex parte communications with Judge Steven Jones regarding the Shumny divorce matter

- during 1994, at a time when Judge Jones had jurisdiction over the custody issues in the case; and appeared as a spectator at a custody hearing in open court on or about September 21, 1994, and at that time, engaged in facial gestures, rolling of the eyes and shaking her head in response to testimony and events occurring at said hearing; and has, since January, 1994, repeatedly allowed a litigant in the Shumny divorce to visit her in chambers, which said chambers were in proximity to the chambers of the judge assigned to the case.
3. That Respondent, while serving in the capacity of a District Court Judge for the County of Clark, State of Nevada, engaged in the ex parte contacts described in Paragraph 2 and Paragraph 3 and made the facial gestures described in Paragraph 3 with the intention of influencing the judge who had jurisdiction of the case.

From the above facts, the Commission concludes:

Conclusions of Law

1. That Respondent's conduct as set forth in Paragraph 2 and Paragraph 3 of the Findings of Fact, violated ARJD 11(3) and:
 - A. That portion of Canon 2(A) that provides that a judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary;
 - B. That portion of Canon 2(B) that provides that a judge shall not lend the prestige of judicial office to advance the private interests of the judge or others;
 - C. That portion of Canon 3(B)(7) that provides that a judge shall not initiate, permit or consider ex parte communications.

Dated this ___ day of November, 1995.

NEVADA COMMISSION ON JUDICIAL DISCIPLINE

document signed by:

FRANK BRUSA, Chairman
GUY SHIPLER, Vice-Chairman
DRENNAN A. CLARK, Commissioner
BILLY JEAN "BJ" FULLER, Commissioner
MICHAEL R. GRIFFIN, Commissioner
MICHAEL P. GIBBONS, Commissioner
ALAN J. LEFEBVRE, Commissioner

Imposition of Discipline

The Nevada Commission on Judicial Discipline, having made and adopted the foregoing Findings of Fact and Conclusions of Law, hereby orders that the Respondent, FRANCES-ANN FINE, a District Court Judge for the County of Clark, State of Nevada, receive a public reprimand and be fined in the amount of Two Thousand Five Hundred Dollars (\$2,500.00) on each count making a total fine of Five Thousand Dollars (\$5,000.00), payable to the local law library.

Dated this ___ day of _____, 1995.

NEVADA COMMISSION ON JUDICIAL DISCIPLINE

document signed by:

FRANK BRUSA, Chairman
GUY SHIPLER, Vice-Chairman
DRENNAN A. CLARK, Commissioner

MICHAEL R. GRIFFIN, Commissioner
MICHAEL P. GIBBONS, Commissioner

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_____)

CERTIFICATE OF MAILING

I hereby certify that on the 14th day of November, 1995, I placed the following documents in the United States Mail:

1. Findings of Fact, Conclusions of Law and Imposition of Discipline;
2. Dissent to the Majority's Imposition of Discipline;
3. Letter of Public Reprimand addressed to Judge Frances-Ann Fine.

The package containing copies of these documents was pre-paid and addressed to the undersigned:

William B. Terry, Esq.
530 S. Seventh Street
Las Vegas, NV 89101
Attorney for Respondent

Robert R. Hager, Esq.
910 Parr Boulevard, Suite 3
Reno, NV 89512
Special Prosecutor

RHONDA AZEVEDO, Commission Clerk

