

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

FILED

JUN 11 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT

BY CHIEF DEPUTY CLERK

2
3 In the Matter of)
4 THE HONORABLE DAVID HUMKE,)
District Court Judge, Second Judicial District)
5 Court, Washoe County, State of Nevada,)
6 Respondent.)

CASE NO. 76047

7
8 **CERTIFIED COPY OF STIPULATION**
9 **AND ORDER OF CONSENT TO DISCIPLINE**

10 Pursuant to Commission Procedural Rule 29, I hereby certify that the document attached hereto
11 is a true and correct copy of the STIPULATION AND ORDER OF CONSENT TO DISCIPLINE filed
12 with the Nevada Commission on Judicial Discipline on June 8, 2018.

13 DATED this 11th day of June, 2018.

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15
16 NEVADA COMMISSION
ON JUDICIAL DISCIPLINE
17 P.O. Box 48
Carson City, NV 89702
18 (775) 687-4017

19
20 By: 
PAUL C. DEYHLE
21 General Counsel and Executive Director
22 Nevada Bar No. 6954

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26 RECEIVED
27 JUN 11 2018
28 ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK



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BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE

STATE OF NEVADA

In the Matter of)
THE HONORABLE DAVID HUMKE, District)
Court Judge, Second Judicial District Court,)
County of Washoe, State of Nevada,)
Respondent.)

CASE NO. 2016-150-P

STIPULATION AND ORDER OF CONSENT TO DISCIPLINE

To resolve the Formal Statement of Charges filed on January 8, 2018, pending before the Nevada Commission on Judicial Discipline (the "Commission"), David Humke, District Court Judge, Second Judicial District Court, Family Division, Washoe County, State of Nevada ("Respondent" or "Judge Humke") and the Commission stipulate to the following pursuant to Commission Procedural Rule 29 ("Rule 29"):

1. Respondent admits he violated the Revised Nevada Code of Judicial Conduct ("the Code"), including, Canon 1 of the Code, Rule 1.1, requiring the Respondent to comply with the law, including the Code; and Rule 1.2, requiring him to promote confidence in the independence, integrity and impartiality of the judiciary, avoiding impropriety and the appearance of impropriety; and Canon 2, Rule 2.5(A), requiring that he perform judicial and administrative duties competently and diligently; Rule 2.5 (B), requiring him to cooperate with other judges and court officials in the administration of court business; Rule 2.12 (A), requiring him to ensure court staff act consistent with his obligations under the Code; and Rule 2.16, requiring jurists to cooperate with disciplinary authorities, or any single rule or combination of those rules, in his official capacity as a District Court judge, in and for the Second Judicial District Court, Washoe County, Nevada, by knowingly, willfully and deliberately engaging in any or all, or any combination of, the acts listed below:

- A. In or about January of 2015, the Respondent hired Mitchell Wright as his judicial assistant ("Mr. Wright" or "JA"), over the objections of then Chief Judge David A. Hardy. Mr. Wright had been publicly reprimanded by the State Bar for bringing a

1 concealed handgun into the Family Court in a Temporary Protective Order proceeding in
2 which he was a party and for failing to cooperate with the State Bar's investigation of the
3 incident. Mr. Wright also failed the District Court's background check. The Respondent
4 met Mr. Wright in 2007 while practicing in tribal courts in which Mitchell Wright served
5 as a prosecutor.

6 B. Over the course of the next two (2) years, the Respondent failed to carry out his
7 administrative duties regarding the lack of supervision over Mr. Wright in his JA
8 position, and interfered with the Human Resources investigations pertaining to his JA.
9 Specifically, despite repeated requests from the child support enforcement business unit
10 and the fact that he was repeatedly trained in the execution of the task, Mr. Wright failed
11 to process 172 "no show" orders for delinquent parents who failed to present themselves
12 for incarceration pursuant to a contempt order. Fellow Family Court Judge Bridget Robb
13 processed this paperwork for the first two (2) months of Judge Humke's tenure to allow
14 time for his staff to receive training. Over a year later, she learned the documents were
15 still not being processed in the Respondent's department and she was required to obtain
16 an Administrative Order from the Chief Judge to return the no show orders to her, as the
17 Presiding Family Court Judge, for processing.

18 C. Furthermore, Judge Humke's department administratively processed only 62
19 cases as of the end of November 2016, while most other departments administratively
20 processed over 700. Also, the Respondent's department did not timely file case
21 disposition reports, which show the number of cases closed by each department on a
22 monthly basis. The necessity for these filings was discussed in an August 2, 2016, judges'
23 meeting, which Judge Humke did not attend. Judge Robb had a subsequent private
24 conversation with the Respondent to stress the importance of this reporting. The
25 Respondent subsequently attended two (2) judges' meetings and said he was taking care
26 of the matter. However, the Respondent's department disposed of only four (4) cases in
27 September 2016 and no cases in October and November of that year. Judge Humke's
28 Department also neglected to process large volumes of child support hearing master

1 recommendations, as well as court orders for, among other issues, child support
2 enforcement, and failed to act on other matters within the deadlines.

3 D. On one occasion, litigants came to the Respondent's department for an
4 emergency hearing; but neither Mr. Wright nor Judge Humke was there, so Judge Robb
5 heard the matter. Litigants also found it extremely difficult to obtain help from the
6 Respondent's department, because they would get a recorded voicemail when they called
7 and no one returned their calls. When these litigants complained to other offices, and staff
8 checked the Respondent's chambers, no one was there.

9 E. The Respondent was elected in the Fall of 2014 and consistently failed to
10 follow established Court practice and procedure, and cooperate with other judges and
11 Court staff. It started with his insistence upon hiring Mr. Wright as his JA, despite Mr.
12 Wright's public reprimand by the Nevada State Bar, failure to pass the Court's
13 background check, as well as over the objections of then Chief Judge Hardy. The
14 Respondent then failed to provide adequate oversight of the JA to ensure timely
15 completion of the official and legal duties of his department, including the processing of
16 requests, recommendations and orders as detailed above.

17 F. Judge Humke also failed to perform his own administrative duties. He did not
18 timely complete an evaluation of a hearing master, despite repeated notifications to do so.
19 When the evaluation still had not been completed nine (9) months after the deadline, the
20 Court Administrator sought input on the hearing master's performance from other family
21 judges so the employee, who was eligible for a pay increase, would not be further
22 penalized by the Respondent's failure to perform his duty. Judge Humke also failed to
23 answer his phone when "on call", thereby causing fellow Judge Robb to answer these
24 calls when Judge Humke would not do so.

25 G. The Respondent failed to timely respond to phone calls from the Commission's
26 Investigator over the course of five (5) separate days in June of 2017. The Investigator
27 followed up with an e-mail to the Respondent after the fifth call. The Judge did not
28 respond until almost a week later and then only through his new JA, who only provided

1 the information that he was obtaining counsel. The Respondent later alleged in his
2 interview that he did not know who was calling; however, the Investigator noted the JA
3 asked him when the Complaint was filed with the Commission, so the department was
4 aware that the calls came from a representative of the Commission.

5 H. On December 4, 2015, Court Administrator Jackie Bryant issued Mr. Wright a
6 written warning for inappropriate comments, gestures and interpersonal relations, and for
7 retaliation. On August 2, 2016, Administrator Bryant issued another written warning
8 finding Mr. Wright: (1) inappropriately blew a kiss to a female employee; (2) acted as, or
9 held himself out as, a tribal judge, a position he had been told to withdraw from upon
10 being hired at the District Court; and (3) failed to correctly record work hours. The
11 Respondent failed to take corrective action on any of the foregoing matters. On December
12 2, 2016, Administrator Bryant put Mr. Wright on administrative leave. Chief Judge
13 Patrick Flanagan terminated Mitchell Wright on January 11, 2017, citing to his
14 "...disruptive behavior" and "failure to carry out your duties..., including following
15 specific directives given to you...." Judge Flanagan also stated in the termination letter
16 that Mr. Wright's poor performance had interfered with the operation of Judge Humke's
17 department, the management of information in the Court in general, and the Chief
18 Judge's ability to carry out "administrative and judicial functions." Judge Humke had not
19 disciplined his JA or taken any corrective action during the two (2) year period covered
20 by the Chief Judge's termination letter.

21 I. In his response to Interrogatories, the Respondent admitted his defense of the JA
22 was due to "...misguided loyalty...." See September 27, 2017 Response to Interrogatory
23 27, p. 16, ll. 21-5. The Respondent added, despite the fact that he hired Mr. Wright,
24 Respondent learned that like any other employee, Mr. Wright was covered under
25 personnel policies, including the Employee Handbook. He stated he learned this as a
26 result of a December 30, 2015, meeting with Chief Judge Hardy and the Court
27 Administrator. The Respondent stated this meeting, along with the Court putting Mr.
28 Wright on administrative leave in early December of 2016, finally convinced him Mr.

1 Wright's "...conduct and behavior were a reflection upon me and I was responsible for
2 him. I made a mistake in trusting his representations, not listening to others and accept
3 full responsibility for my errors." See Response to Interrogatory 9, p. 8, l. 26-p. 9, l. 1. In
4 summary, Judge Humke admits that for two (2) years, he took the word of his JA that the
5 work was being done over the expressions of concern from other judges and the Court
6 Administrator.

7 2. The Respondent admits to all the allegations brought against him in Counts One (1) through
8 Four (4) of the Formal Statement of Charges, filed on January 8, 2018, and in Paragraphs (1) (A)
9 through (I), as set forth above.

10 3. Respondent agrees to waive his right to present his case before the Commission, contesting
11 the allegations in the information set forth above, in a formal hearing, pursuant to Commission
12 Procedural Rule 18. The Respondent also agrees that this Stipulation and Order of Consent to
13 Discipline ("Order") takes effect immediately, pursuant to Rule 29. The Commission accepts the
14 Respondent's waiver of said right and acknowledges and agrees to the immediate effect of this Order.
15 Respondent further agrees to appear before the Commission in a public proceeding, if required by the
16 Commission, to discuss this Order in more detail and answer any questions from the Commissioners.

17 4. The Respondent agrees and acknowledges that this Order will be published on the
18 Commission's website and filed with the Clerk of the Nevada Supreme Court pursuant to Rule 29.

19 5. Respondent and the Commission hereby stipulate to the Respondent's consent to discipline
20 pursuant to Rule 29: public censure; a three (3) month suspension without pay; Respondent's agreement
21 to complete, at Respondent's own expense, a National Judicial College course entitled Effective
22 Caseflow Management in June 2018, or similar such course as may be available with approval by the
23 Commission's Executive Director; and payment of a \$1,000 fine to an appropriate law-related charity as
24 approved by the Commission's Executive Director, pursuant to the Nevada Constitution, Article 6
25 Section 21 (1) and (5)(a) and (b) ("Section 21"), NRS 1.4653(1) and (2); NRS 1.4677(1)(a),(b),(c) and
26 (d)(2). The Respondent stipulates to the following substantive provisions:

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A. Respondent stipulates to discipline by the Commission for violations of the Code, including Canon 1, Rules 1.1 and 1.2; and Canon 2, Rules 2.5 (A) and (B); 2.12 (A); and 2.16 as set forth above.

B. Respondent agrees that the discipline of public censure, suspension without pay, educational training, and fine is authorized by the Nevada Constitution, Article 6, Section 21(1) and (5)(a) and (b); NRS 1.4653(1) and (2); NRS 1.4677(1)(a),(b),(c) and (d)(2); and Rule 29.

C. Respondent agrees to a three (3) month suspension without pay, beginning on July 1, 2018 and ending on October 1, 2018.

D. Respondent agrees to complete, at Respondent's own expense, a National Judicial College course entitled Effective Caseflow Management in June 2018; or such similar course as may be available with approval by the Commission's Executive Director within one (1) year from the filing date of this Order.

E. Respondent agrees to pay a fine of one thousand dollars (\$1,000.00) to an appropriate law-related charity as approved by the Commission's Executive Director within six (6) months of the filing date of this Order.

F. Respondent agrees the evidence available to the Commission would establish by clear and convincing proof that he violated the Code, including Canon 1, Rules 1.1 and 1.2; and Canon 2, Rules 2.5 (A) and (B); 2.12 (A); and 2.16 as set forth above.

G. Respondent stipulates and agrees that failure to comply with the requirements of this Order shall result in Respondent being permanently removed from the bench and forever barred from serving as a judicial officer in the future pursuant to NRS 1.4677(1)(e).

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

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1 **ORDER**

2 IT IS HEREBY ORDERED that Respondent be and hereby is disciplined pursuant to
3 Rule 29 for violating the Code, including Canon 1, Rules 1.1 and 1.2; and Canon 2, Rules 2.5
4 (A) and (B); 2.12 (A), and 2.16 as set forth above.

5 IT IS FURTHER ORDERED that the Respondent is hereby suspended without pay for a
6 period of three (3) months, effective from July 1, 2018 through October 1, 2018.

7 IT IS FURTHER ORDERED that the Respondent shall complete, at Respondent's own
8 expense, a National Judicial College course entitled Effective Caseload Management in June
9 2018; or such similar course as may be available with approval by the Commission's Executive
10 Director within one (1) year from the filing date of this Order.

11 IT IS FURTHER ORDERED that the Respondent shall pay a fine of one thousand dollars
12 (\$1,000.00) to an appropriate law-related charity as approved by the Commission's Executive
13 Director within six (6) months of the filing date of this Order.

14 IT IS FURTHER ORDERED that failure to comply with the requirements of this Order
15 shall result in Respondent being permanently removed from the bench and forever barred from
16 serving as a judicial officer in the future pursuant to NRS 1.4677(1)(e).

17 IT IS FURTHER ORDERED that the Commission's Executive Director take the
18 necessary steps to file this document in the appropriate records, on the website of the
19 Commission and with the Clerk of the Nevada Supreme Court.

20 
21 _____
22 The Honorable David Humke
23 Respondent
24 Dated this 23 day of May, 2018

25 
26 _____
27 John L. Arrascada, Esq.
28 Attorney for Respondent
Dated this 23 day of May, 2018

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

By: 
Kathleen M. Paustian, Esq.
Prosecuting Officer
Dated this 24 day of May, 2018

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

5 NEVADA COMMISSION ON JUDICIAL DISCIPLINE:

6 Signed by:  Dated: 6/8/18
7 _____
8 GARY VAUSE, CHAIRMAN

- 9 HON. MARK DENTON
10 BRUCE HAHN, ESQ.
11 STEFANIE HUMPHREY
12 LAURENCE IRWIN, ESQ.
13 HON. THOMAS STOCKARD

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1 CERTIFICATE OF MAILING

2 I hereby certify that I am an employee of the Nevada Commission on Judicial Discipline and
3 that on the 11th day of June, 2018, I served a copy of the **CERTIFIED COPY OF STIPULATION**
4 **AND ORDER OF CONSENT TO DISCIPLINE**, filed with the Nevada Supreme Court, by United
5 States Mail, postage paid, addressed to the following:

6 John L. Arrascada, Esq.
7 Arrascada & Aramini, Ltd.
8 145 Ryland Street
9 Reno, NV 89501
10 ila@arrascadalaw.com
11 Counsel for Respondent

12 Kathleen Paustian, Esq.
13 Law Offices of Kathleen M. Paustian
14 1912 Madagascar Lane
15 Las Vegas, NV 89117
16 kathleenpaustian@cox.net
17 Prosecuting Officer

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Valerie Carter, Commission Clerk