

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

FILED

JUL 27 2018

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

2
3 In the Matter of)
4 THE HONORABLE DOUGLAS E. SMITH,)
5 Eighth Judicial District Court, Department 8,)
6 County of Clark, State of Nevada,)
7 Respondent.)

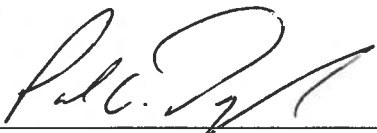
CASE NO. 76514

8 CERTIFIED COPY OF STIPULATION AND ORDER OF
9 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 July 26, 2018.

13 DATED this 27th day of July, 2018.

14
15
16 NEVADA COMMISSION
ON JUDICIAL DISCIPLINE
17 P.O. Box 48
Carson City, NV 89702
18 (775) 687-4017

19
20 By: 
21 PAUL C. DEYHLE
22 General Counsel and Executive Director
23 Nevada Bar No. 6954
24

25
26 RECEIVED
27 JUL 27 2018
28 ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

1 THOMAS C. BRADLEY, ESQ.
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10 Commission on Judicial Discipline



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

10 IN THE MATTER OF THE HONORABLE
11 DOUGLAS E. SMITH, Eighth Judicial
12 District Court, Department 8,
13 County of Clark, State of Nevada,
14
15 Respondent.

CASE NO.: 2016-068-P

16 **STIPULATION AND ORDER OF CONSENT TO DISCIPLINE**

17 To resolve the Formal Statement of Charges filed on April 19, 2018, pending before the
18 Nevada Commission on Judicial Discipline (the "Commission"), the Respondent and the
19 Commission stipulate to the following pursuant to Commission Procedural Rule 29 ("Rule 29"):

20 1. Respondent admits that he violated the Revised Nevada Code of Judicial Conduct (the
21 "Code"), including Judicial Canon 1, Rule 1.1, failing to comply with the law, including the Code;
22 Rule 1.2, failing to act at all times in a manner that promotes public confidence in the independence,
23 integrity, and impartiality of the judiciary and avoiding impropriety and the appearance of
24 impropriety; Canon 2, Rule 2.2, failing to perform all duties of his judicial office fairly and
25 impartially; Rule 2.3(B), failing to refrain from manifesting bias, prejudice, and harassment; Rule
26 2.5(A), failing to perform judicial duties competently and diligently; Rule 2.8(B), failing to be
27 patient, dignified, and courteous to litigants and lawyers; and Rule 2.16(A), failing to cooperate
28 and be candid and honest with judicial discipline authorities, or any single rule or combination of

1 those rules, and in his official capacity as a District Court Judge, Eighth Judicial District Court,
2 Department 8, County of Clark, State of Nevada, by knowingly engaging in an act, a combination
3 of acts, or all of the following acts that occurred relevant to these charges:

4 **A.** In *State of Nevada v. Daniels*, Case Nos. C304976 and C305032, the Respondent
5 held a calendar call hearing in his courtroom on May 11, 2016. At the hearing, the Defendant, Mr.
6 Daniels, the Defendant's court appointed attorney, Mr. Claus, and the prosecutor, Ms. Pandukht,
7 were present. There were many other persons also present in the courtroom.

8 Defense counsel had previously filed a motion to continue the trial date which was set for
9 May 23, 2016. The motion was unopposed by the prosecutor. When the hearing began, the
10 Defendant requested the appointment of a new attorney because his attorney had allegedly failed
11 to file a motion contending that the State had failed to comply with its obligation to disclose all
12 exculpatory evidence, commonly known as *Brady* discovery. The Defendant claimed that the State
13 had failed to disclose this evidence to his defense attorney. The Respondent denied the Defendant's
14 motion for the appointment of new counsel.

15 Throughout the hearing, Respondent failed to treat the Defendant and his lawyer in a patient,
16 dignified, and courteous manner. Instead, Respondent repeatedly threatened that he would order
17 the trial to commence in only twelve days and deny the unopposed motion to continue the trial.
18 Respondent did so even though defense counsel attempted to explain that he was not adequately
19 prepared for trial.

20 Respondent subsequently threatened the Defendant with the forced application of duct tape
21 to the Defendant's mouth if the Defendant continued to make any further verbal statements to the
22 Court. The threat to forcibly apply duct tape to the Defendant's mouth was excessive under the
23 circumstances. The Respondent's conduct throughout the hearing was marked by rudeness and
24 sarcasm.

25 **B.** In *State of Nevada v. Turner*, Case No. C314750, the Respondent held a sentencing
26 hearing in his courtroom on August 31, 2016. The Defendant, Mr. Turner, was convicted of child
27 abuse for kicking a five-year-old boy in the face. The Respondent sentenced the Defendant to 28

1 to 72 months in the Nevada Department of Corrections, which was the maximum sentence allowed
2 under the plea agreement.

3 After issuing the sentence, Respondent muttered under his breath, but still loud enough to
4 be heard, "I hope this follows you to the prison." This comment is clearly heard on the JAVS
5 recording and is contained in the official court transcript. In his interview with the Judicial
6 Commission investigator, Respondent falsely denied that he made the entire comment and stated,
7 "No, no, I did not say I hope it follows you. I said, 'This will follow you.' We were reading from a
8 doctor's report." The comment "I hope this follows you to the prison" had the appearance that
9 Respondent wished harm upon the Defendant in prison.

10 2. Respondent admits to all the allegations brought against him in Counts One (1) and Two
11 (2) in the Formal Statement of Charges, and, more specifically, in paragraphs (1) (A) and (B) as set
12 forth above.

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

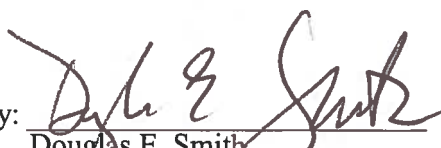
20 4. Respondent agrees and acknowledges that this Order will be published on the Commission's
21 website and filed with the Clerk of the Nevada Supreme Court pursuant to Rule 29.

22 5. Respondent and the Commission hereby stipulate to Respondent's consent to public censure
23 pursuant to Rule 29 and Respondent's agreement to complete, at Respondent's expense, a National
24 Judicial College course entitled Ethics and Judging: Reaching Higher Ground, or such similar class
25 as may be available with approval by the Commission's Executive Director, and payment of a fine
26 of one thousand five hundred dollars (\$1,500) to an appropriate law-related charity as approved by
27 the Commission's Executive Director, pursuant to the Nevada Constitution, Article 6, Section 21,
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IT IS FURTHER ORDERED that the Executive Director of the Commission take the necessary steps to file this document in the appropriate records and on the website of the Commission and with the Clerk of the Nevada Supreme Court.

Dated this 9 day of ~~June~~ ^{July}, 2018.

By: 
Douglas E. Smith
Respondent

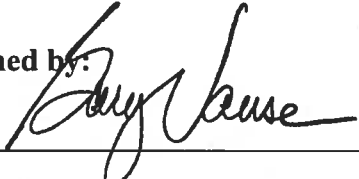
NEVADA COMMISSION ON
JUDICIAL DISCIPLINE
P.O. Box 48,
Carson City, Nevada 89702

Dated this 10 day of ~~June~~ ^{July}, 2018.

By: 
Thomas C. Bradley, Esq., SBN 1621
Prosecuting Officer for the NCJD

1 **NEVADA COMMISSION ON JUDICIAL DISCIPLINE:**

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

6
7 **Signed by:** 
8 _____

Dated:
9 7/26/18

10 GARY VAUSE, CHAIRMAN

11 KARL ARMSTRONG

12 BRUCE HAHN

13 STEFANIE HUMPHREY

14 JOHN KRMPOTIC

15 HON. JEROME POLAHA

16 HON. THOMAS STOCKARD

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