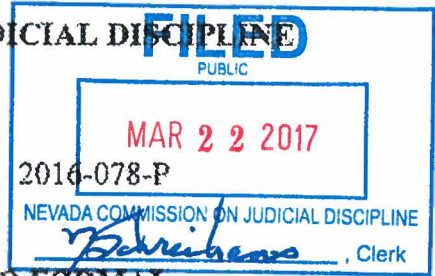


BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE

STATE OF NEVADA



In the Matter of the
HONORABLE DAWN HAVILAND
Justice of the Peace, Goodsprings Township
County of Clark, State of Nevada,
Respondent.

Case No.: 2016-078-P
ANSWER TO FORMAL STATEMENT OF CHARGES

Respondent, the Honorable Dawn Haviland, through her attorney, Albert G. Marquis, Esq., of Marquis Aurbach Coffing hereby Answers the Formal Statement of Charges.

I do not believe that I have committed any ethical violations. I have at all times during my 20 year career attempted to administer justice fairly and within the confines of the law. I have also done my best to operate the Goodsprings Courthouse in a smooth and professional fashion and to be fair and above board with all of my employees. The Clark County Office of Diversity issued a letter this past December rejecting Becki Driskel's fabricated claim of a hostile working environment, and this Commission should do the same. The following is my response to the Formal Statement of Charges:

COUNT ONE

The two cases referenced in paragraphs A and 1 in the Formal Statement of Charges ("FSOC") were domestic battery cases brought by my daughter against her husband (now ex-husband). As I have already informed the Commission, I recused myself from both cases, and another judge presided over the proceedings. Later, after the cases were concluded, my clerk, Becki Driskel, handed me a stack of orders to be signed. Orders generally went to Becki first so she could review them to make sure everything was in order. For example, an order sealing records must first be approved by the District Attorney's office and Metro before it can be signed. During my career, I have signed stacks of orders like this on a regular basis. I do not recall specifically signing this order. If I did sign it, I do not think there was anything wrong with that. Because this order had been agreed to by all parties, it was an uncontested issue. Therefore, it made no difference whether it was me or some other judge who signed the order. In

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10001 Park Run Drive
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1 any event, I am surprised that the very person who screened this order and gave it to me to sign
2 (Becki Driskel) now complains that I did something inappropriate by signing it.

3 Furthermore, I have recently learned that it was my daughter who wanted the records
4 sealed. She was embarrassed that she had been abused by her husband, and she wanted to put
5 this painful incident behind her. She researched the matter and took all necessary steps to have
6 the DA approve the order. NRS 179.285(1)(a), states that once an order sealing records has been
7 signed, "All proceedings recounted in the record are deemed never to have occurred." A case
8 once sealed, can be examined by governmental agencies only under limited circumstances as
9 delineated in NRS 179.295 - 179.301.

10 My daughter is now understandably upset that Becki Driskel has chosen to make this
11 matter public. Becki Driskel not only copied the order itself, but she and Karen Powell also
12 accessed the sealed file and provided copies of documents to the Commission. To add insult to
13 injury, this Commission then went public with the charges, which were naturally picked up by
14 newspapers. Now there is a permanent public record of this case. See Exhibit A attached hereto.
15 My daughter must now live with this disclosure for the rest of her life. If there was any
16 wrongdoing here, it was on the part of Becki Driskel, Karen Powell and this Commission, who
17 publicly disclosed records of a case that was sealed.

18 COUNT TWO

19 Responding to Count Two and Paragraph B, I did not ask anyone to conduct an NCIC
20 criminal background investigation. The public has access to certain DMV information, and
21 anyone can check filings at the courthouse to determine whether criminal charges are pending
22 against an individual. I asked for a simple check of public records. In any event, whatever
23 information was revealed by this check of public records, I had no intention of conveying that to
24 anyone, and I did not convey that information to anyone. The Sandy Valley citizen asked me to
25 check on this guy because she had lost \$65,000 in a previous relationship. When I discovered
26 that the driver's license which he had given her was a fake, I simply advised her that in my
27 opinion she should not continue dating this guy. This was a small favor for me and my staff to
28

1 do for this woman, and my advice may have saved her tens of thousands of dollars and
2 considerable grief and heartache. I do not think I did anything wrong.

3 COUNT THREE

4 Responding to Count Three and Paragraph C, it is surprising to me that I am being
5 charged with an ethics violation based on a simple mistake. I misspoke when I imposed a
6 sentence on Mr. Klosinski, and I quickly corrected that with the consent of both parties a couple
7 of days later. Everyone was satisfied. No one appealed or objected—except Becki Driskel and
8 this Commission. I don't understand the rationale behind charging me with an ethics violation
9 for a simple mistake—especially one which was corrected. Judges make mistakes every day. That
10 is why there are appeals. That is why appellate courts sometimes reverse and hold that a lower
11 court committed an error. Are all such judges to be subjected to disciplinary proceedings? In the
12 Klosinski case, no one even appealed. How can this be an ethics violation?

13 COUNT FOUR

14 In Count Four and Paragraph D, I am accused of being anti-union. Nothing could be
15 more ridiculous. My father was a union organizer. I grew up in a household that was 100% pro-
16 union. I have always been pro-union. The contention that I made anti-union statements is a total
17 fabrication. I did not threaten to terminate Becki Driskel at any time for any reason. The
18 discussion was for Becki to assume some of the duties needed for the administration of the court.
19 After thinking about the proposal as we understood it, Becki told me she could think of no down
20 side for either of us. We then accepted the proposal to be more on our own. Becki at that time
21 asked if she had to give up her union membership to be the Administrator. I said I did not know
22 but contacted Jeff Wells in county management and inquired. He stated no, she can still be a
23 union member. This can be verified. And I never threatened to fire Ken Smith if he joined the
24 Marshals Association.

25 COUNT FIVE

26 Responding to Count Five and Paragraph E, in 2005, a prisoner was arrested for
27 masturbating in a restaurant in Primm. When he was brought into the holding cell in our
28 courthouse, he could be seen staring at staff employees through the small glass window in the

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1 door. It was later reported to me by the bailiff that the prisoner was "jerking off" while staring
2 out the window, so Ken Smith taped a piece of paper over the window so that this particular
3 prisoner could no longer look at our female staff. Once or twice after this, I had been asked by
4 individuals why the paper had been taped on the door. I tried to frame my response as delicately
5 as possible. I didn't want to use the phrase "masturbation" or "jerking off," so I simply stated
6 that we had a "happy wacker" in the holding cell. This was said very quietly and discretely, and
7 I did not think that any of my employees even knew that it had been said.

8 No one ever complained to me about the use of the phrase "happy wacker." Certainly
9 Becki Driskel never stated to me that this made her feel uncomfortable or that she had even
10 overheard me making this statement. She certainly never asked me to stop using the phrase.

11 Around the time that Becki Driskel filed the subject complaint with this Commission, she
12 made the same claim to the Clark County Office of Diversity, and that claim was rejected. See
13 letter dated December 16, 2016 attached as Exhibit B. Since this claim has already been
14 considered and rejected by the Office of Diversity, I suggest that this is a matter which has
15 already been decided.

16 In addition, I find it difficult to believe that someone like Becki Driskel would be
17 embarrassed by the phrase "happy wacker" even if she did overhear it. Becki Driskel has a foul
18 mouth. She often talks openly about her own sex life and even shows fellow employees
19 pornographic pictures from her phone. How can such a person be offended by the term "happy
20 wacker?"

21 COUNT SIX

22 In response to Count Six and Paragraph F, I am astounded that my bailiff, Ken Smith,
23 would fabricate such claims against me which I categorically deny. I have never used the term
24 "sperm donor," and I have never referred to the Nevada Judiciary as an old boys club made up of
25 "swinging dicks" and "the Mo." Furthermore, I have never told Ken Smith that he was
26 "unemployable."

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COUNT SEVEN

Responding to Count Seven and Paragraph G, County management approached me some time back to consider Goodsprings separating and becoming our own entity such as Henderson and North Las Vegas. The reason for the consideration was the Goodsprings Justice Court operates with a solid budget and statistics to stand on our own for better accountability to the Township we serve. The court has possibilities to have more programs such as drug court, expansion of the Juvenile Diversion program, and more training for the employees. The consideration was simply to "grow up" to better serve the community. The removal was not done "quickly" or "precipitously."

COUNT EIGHT

Responding to Count Eight and Paragraph H, states and local jurisdictions across the country struggle with the issue of safety violations for commercial vehicles. If a driver is speeding or fails to maintain his log book, that should rightly be his violation. However, if the truck is cited for a safety violation, that is generally regarded as the owner's responsibility. Many states have statutes which address this issue. Some companies address this issue by giving letters to the drivers stating that the companies in fact accept responsibility for safety violations.

The Nevada Legislature has never given the courts clear guidance as to how these matters should be handled. Therefore, I try to handle things as fairly and justly as possible while staying within the confines of the law. Often when a driver would appear before me, I would ask him whether the company was going to pay the fine for the cited safety violations. Often the driver would say yes or that he didn't know, and I would have my staff contact the company to inquire whether they would pay. Although I didn't realize it at the time, this resulted in staff entering the owner's name into the collection system which resulted, unbeknownst to me, in warrants being issued for the owner if they did not pay within 60 days. I now know that the warrants bore my signature, but that was computer generated. I never saw those warrants, nor did I realize they existed, until the Strickly complaint was filed.

I now regret that I agreed to a suspension in that prior proceeding (Case No. 1502-137). Clearly I was performing my judicial duties—even if it turned out that I was doing something

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1 incorrectly. I decided to accept that suspension because a staff attorney with the Commission
2 told me that my conduct could possibly be viewed as "altering a criminal complaint," which I
3 still do not think I was doing, and because my attorney advised me that it would be simpler and
4 cheaper to accept a suspension and avoid a hearing. I now regret that decision. I do not believe
5 that I violated any ethical obligations, and I do not think I should have been suspended. At the
6 very least, this matter has already been decided and should not be the subject of a second judicial
7 discipline proceeding.

8 After being reprimanded last year, I did not attempt to circumvent the requirement that
9 citations be issued against the driver by sending letters to trucking companies saying they were
10 liable for fines. I did attempt to rectify the situation by having warrants changed back to the
11 drivers' names. Isn't this what I was supposed to do?

12 COUNT NINE

13 Responding to Count Nine and Paragraph I, I never awarded a DMV title to motor
14 vehicles. Only the DMV can do that. As there was a huge need in the Goodsprings/Sandy Valley
15 community to assist residents who had acquired or been left with a vehicle with no title, the court
16 explored possibilities. Those who came to the court were sent to the DMV. Often the DMV sent
17 the people back to us saying they (DMV) could do nothing without a court order. When this
18 happened, staff would start by running the VIN to see who might have an interest in the vehicle.
19 Then, using NRS 4.180, which gives the Court the power to "take and certify . . .
20 acknowledgement of conveyances," a date for hearing was set. If any persons or corporations
21 were showing on the vehicle in the past, a notification of the hearing date was sent. Any past
22 named entity was given the opportunity to attend or reply. In many cases, if there was a financial
23 lien on the vehicle, the finance company would respond with a release which was all that was
24 needed for the person to go back to the DMV in order to get a clear title.

25 COUNT TEN

26 Responding to Count Ten and Paragraph J, I do assist Judge Voy with the Juvenile
27 Division Program. I am not operating juvenile court or acting as a juvenile court hearing master
28 as alleged in Count Ten and Paragraph J.

1 Our juvenile diversion program is just becoming a reality after many years of frustration
 2 over a few young folks acting out. The city courts are too busy and the distance makes urban
 3 programs unrealistic for our families. With the recent addition of a social worker to our local
 4 school, we now have wrap-around services for our families that we never had in the past. It is
 5 most exciting! We also now have a family therapist who comes to our remote Sandy Valley to
 6 work with people. This has taken many years to accomplish. Our program is under the direction
 7 of Judge Voy, and his staff has trained our staff to assist in this diversion program.

8 I do not see how I can be charged with an ethical violation for assisting Judge Voy with
 9 the Diversion Program.

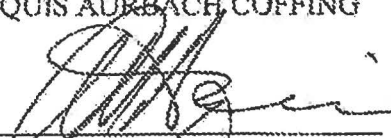
10 COUNT ELEVEN

11 In responding to Count Eleven and Paragraph K, I do not give anyone legal advice. Since
 12 there are no specific facts in Paragraph K or Count Eleven, I don't know how else I can respond.

13 Dated this 22nd day of March, 2017.

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 10001 Park Run Drive
 Las Vegas, Nevada 89145
 (702) 382-0711 FAX: (702) 382-5816

14 
 15 _____
 16 DAWN HAVILAND

MARQUIS AURBACH COFFING
 By 
 17 Albert G. Marquis, Esq.
 Nevada Bar No. 1919
 18 10001 Park Run Drive
 Las Vegas, Nevada 89145
 19 Attorney for the Honorable
 Dawn Haviland

CERTIFICATE OF SERVICE


I hereby certify that the foregoing ANSWER TO FORMAL STATEMENT OF CHARGES was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 22nd day of March, 2017. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:¹

N/A

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

Paul C. Deyhle, General Counsel & Executive Director
Commission on Judicial Discipline
P.O. Box 48
Carson City, NV 89702

Kathleen M. Paustian, Esq. SBN 3785
Law Office of Kathleen M. Paustian
3205 Skipworth Drive
Las Vegas, NV 89107


KIM DEAN, an employee of
Marquis Aurbach Coffing

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¹ Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

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3/21/2017

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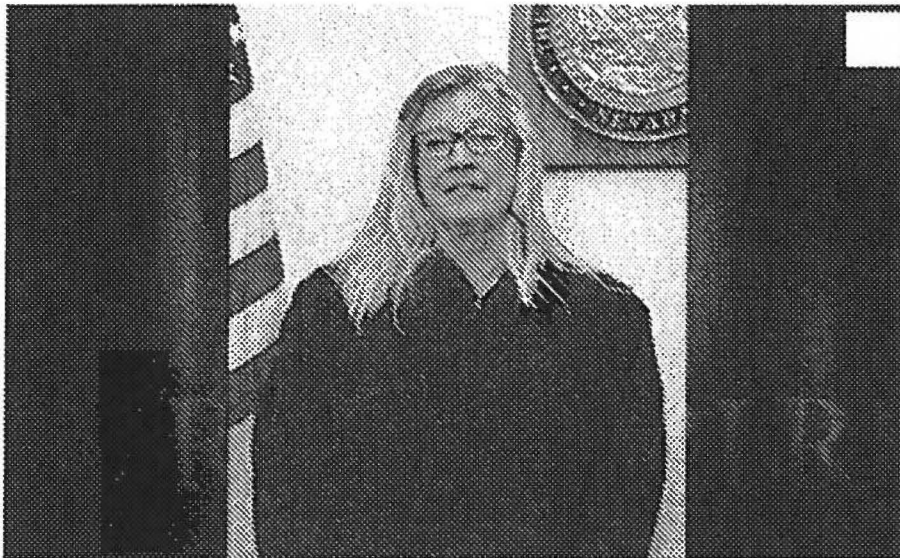
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State

Posted March 7, 2017 - 7:31pm Updated March 7, 2017 - 7:57pm

Goodsprings judge faces ethics charges



Photograph by AP/Wide World of the new Clark County Judge Dawn Haviland in Clark County.

State disciplinary investigators have slapped a Goodsprings judge with what amounts to a laundry list of ethics charges.

Justice of the Peace Dawn Haviland faces allegations that include sealing her then-son-in-law's criminal records, ordering staff to run background checks on her friend's boyfriend, and bullying employees while using commentary rife with vulgarity.

Haviland was suspended with pay in December, and the charges against her were made public last week. The ethics accusations, when viewed collectively, paint a picture of a small-town, small-court judge who — through broad abuse of her public office — made repeated efforts to expand her limited power and to bend the justice system as she saw fit.

But Haviland maintains she did nothing wrong. On Tuesday her attorney accused the state Commission on Judicial Discipline of slamming his client with onerous charges built on baseless accusations by disgruntled employees.

"Frankly, it makes it appear that someone has an axe to grind with Judge Haviland when they make accusations like that," said Las Vegas defense lawyer Al Marquis. He said Haviland



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was well-respected by people in her community, "except for these two people that work for her that decided to go after her."

The disciplinary investigation relied heavily on testimony from two of Haviland's employees, Goodsprings Justice Court Clerk Becki Driskel and Bailiff Kenneth Smith.

THE CHARGES

The 14-page statement of charges includes the following allegations:

—Haviland sealed court records of her son-in-law's arrest in two domestic battery cases. The cases involved Haviland's daughter. The documents were twice removed from the court's record storage after they were sealed.

"There's no evidence of that except Becki Driskel saying so," Marquis said. He said the parties in the case agreed to the sealing.

—Haviland instructed two of her staff members to run criminal background checks on a man who was the boyfriend of one of her friends. The disciplinary report states that Haviland also ordered other "improper" criminal searches in the FBI database.

—She sentenced a defendant to eight months in jail before the district attorney filed formal charges against him. Haviland later modified the penalty, and admitted it was a "bad sentence" that exceeded the statutory limit for civil contempt and protective order violations.

—Haviland ordered her staff to conduct unauthorized searches of the state Department of Motor Vehicles' license plate database in order to hold hearings over titles for abandoned vehicles. She told staff the vehicles "had been driven poorly or an acquaintance of hers had asked for the information."

When the state attorney general's office told her those hearings were outside her jurisdiction, she instructed people interested in the vehicles to file a small claims complaint so she could oversee the matter in small claims court.

UNION EMPLOYEES

"I don't think anything sticks," Marquis said. He said Driskel previously accused former Elko County District Judge Michael Mameo of sexual harassment. The state disciplinary commission later dismissed the charges.

Driskel and Smith, the two employees quoted in the report, both are union employees and told investigators that Haviland exhibited anti-union bias.

They also accused her of bullying. Smith said Haviland called him a "sperm donor" in front of other court employees. He accused her of describing the Nevada judiciary as an "old boys club" made up of "swinging d-----s" and "Mos," referencing Mormons.

Driskel, meanwhile, told investigators that Haviland used to give court tours and point out a window by Driskel's desk that overlooked a holding cell. Haviland told visitors stories about a man who sexually gratified himself in the holding cell by peering through the window. Driskel said the story caused her embarrassment and was not true.

Disciplinary officials accused Haviland of making an improper administrative change by removing the Goodsprings Justice Court's financial ties with the Clark County Rural Court system. Marquis said she did so because "she thought Goodsprings was better off retaining the revenue that was generated for the Goodsprings community."

The lawyer also said Haviland had the authority to operate a juvenile diversion program in conjunction with Family Court. State disciplinary investigators charged that running the program was not within her limited authority.

LONGTIME JUDGE

Haviland has been a justice of the peace since 1999. The job involves presiding over preliminary criminal hearings, traffic cases, and low-budget civil matters.

Goodsprings Justice Court Clerk Becki Driskel



More videos:



CALENDAR

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Excalibur
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She earns a taxpayer-funded salary of over \$70,000 a year. She does not have a law degree, which is not a requirement for justices of the peace in rural communities. Goodsprings is about 40 miles southwest of Las Vegas.

Haviland has a chance to respond to the allegations, and then a disciplinary hearing will be scheduled. She faces possible discipline ranging from a private reprimand to removal from office, or the charges could be dismissed.

Contact Jenny Wilson at jenwilson@reviewjournal.com or 702-384-8710. Follow @jennydwilson on Twitter.

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EXHIBIT B



Office of Diversity

500 S Grand Central Pkwy 5th Flr • Box 55113 • Las Vegas NV 89155-1113
(702) 455-5760 • Fax (702) 455-5759

Sandy Jeantete, Director

December 12, 2016

Judge Dawn Haviland
HCR 31 PO Box 200
Sandy Valley, NV 89019

Re: AA 0906-16-045

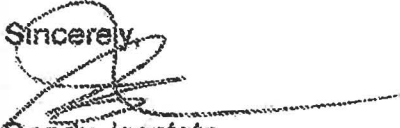
Dear Ms. Haviland:

The Office of Diversity completed its investigation of a complaint that was filed against you. Based upon the information gathered during the course of this investigation, it is determined that there was insufficient evidence presented to sustain the charge. Nonetheless, your administration will work with you to address relevant issues presented in this charge. Accordingly, we are administratively closing our file in this matter.

We take this opportunity to again remind you that retaliation toward any charging party, witness, or participant involved in this investigation is strictly prohibited under the County's Equal Opportunity/Affirmative Action Plan and law. Please know that it is our assumption and expectation that you will not engage in such behaviors; however, if it is found that you have engaged in retaliatory conduct, you will be subject to severe discipline for the egregious conduct.

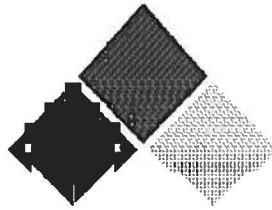
If you have any questions in regard to this matter, please call the assigned analyst to this case, Terrence McCarthy, at 455-5760.

Sincerely,


Sandy Jeantete
SJ/km

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