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Las Vegas, Nevada 89101
(702) 385-0799

1 WILLIAM B. TERRY, ESQ.
Nevada Bar No. 001028
2 ALEXANDRA ATHMANN-MARCOUX, ESQ.
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6 Attorney for Respondent



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8 BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE
9

10 In the Matter of

11 THE HONORABLE RICHARD SCOTTI, District }
12 Court Judge, Eighth Judicial District Court, }
13 County of Clark, State of Nevada }


Case No. 2019-183-P

14 Respondent.

15 **VERIFIED ANSWER TO FORMAL STATEMENT OF CHARGES**

16 COMES NOW, the Honorable Richard Scotti, District Court Judge, Eighth Judicial District
17 Court, Clark County, State of Nevada, by and through his counsel, WILLIAM B. TERRY, ESQ. and
18 ALEXANDRA ATHMANN-MARCOUX, ESQ., of the law offices of WILLIAM B. TERRY,
19 CHARTERED and files the instant Answer to the Formal Statement of Charges.

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1 **FACTUAL ALLEGATIONS**

2 In answering paragraph A of the complaint, Respondent acknowledges that he presided over a
3 criminal trial being *State of Nevada vs. Azucena* as stated in the complaint. Respondent admits that a
4 perspective juror gave multiple and numerous responses to voir dire questions including but not limited
5 to the fact that she felt she could not be impartial. While Respondent acknowledges that he became
6 angry, he denies that he berated, yelled and threatened the perspective juror. Respondent acknowledges
7 he in effect tossed a pamphlet and may have “cursed”. Said curse was not directed, however, to the
8 perspective juror. Respondent admits that the perspective juror was excused from the venire and admits
9 that at least one other juror admitted to having suffered sexual abuse as a child.

10 Respondent admits that the jury convicted Azucena as stated in the complaint.

11 Respondent admits that the Nevada Supreme Court reversed and remanded the Azucena case.
12 Respondent admits that the Nevada Supreme Court specifically indicated the basis for it’s reversal and
13 remand was a consequence of the acts set forth within the instant complaint.

14 Respondent admits that the language quoted by the Nevada Supreme Court in the complaint at
15 pages 2 and 3 is a correct recitation of a portion of Supreme Court’s decision.

16 Respondent denies that his statements and actions during the trial in the matter of *State of*
17 *Nevada vs. Jose Azucena* were done in a knowingly and deliberate manner and thus the Respondent
18 denies that he violated Canon 1 of the Code, Rule 1.1 requiring the Respondent to comply with the law
19 including the code itself and further denies that he violated Rule 1.2 requiring the Respondent to act at
20 all times in a manner that promotes public confidence in the independence, integrity and impartiality
21 of the judiciary and avoiding impropriety and the appearance of impropriety. Further, Respondent
22 denies that he violated Canon 2 of the Code, Rule 2.5(A) requiring the Respondent to perform his
23 judicial duties competently and further denies that he violated Rule 2.8(B) requiring the Respondent
24 to be patient, dignified and courteous, and act and speak with decorum and maintain a proper judicial
25 demeanor.

26 In answering paragraph B of the complaint, Respondent denies that he abused his judicial
27 authority by engaging in any or all of the acts set forth in the complaint under paragraph A and further
28 asserts that said acts were not knowingly and deliberately done to violate any of the Code of Judicial

1 Conduct.

2 **Count One**

3 Respondent specifically denies that he violated Canon 1 of the Code, Rule 1.1 requiring the
4 Respondent to comply with the law including the code itself and further denies that he violated Rule
5 1.2 requiring the Respondent to act at all times in a manner that promotes public confidence in the
6 independence, integrity and impartiality of the judiciary and avoiding impropriety and the appearance
7 of impropriety. Further, Respondent denies that he violated Canon 2 of the Code, Rule 2.5(A) requiring
8 the Respondent to perform his judicial duties competently and further denies that he violated Rule
9 2.8(B) requiring the Respondent to be patient, dignified and courteous, and act and speak with decorum
10 and maintain a proper judicial demeanor. Respondent further alleges that said acts described in Count
11 One were not knowingly and deliberately done to violate any of the Code of Judicial Conduct.

12 **AFFIRMATIVE DEFENSES**

- 13 1. The acts set forth within the complaint do not demonstrate that the Respondent knowingly or
14 deliberated violated any of the Code of Judicial Conduct.
- 15 2. The complaint should be dismissed for lack of specificity.
- 16 3. Count One fails to specifically allege how Respondent's course of conduct violated each Canon
17 alleged.

18 **MITIGATING CIRCUMSTANCES**

19 Respondent submits that the following mitigating circumstances in addition to others that will
20 be presented at the time of the formal hearing exist in the instant case:

- 21 (1) Respondent has an absence of a prior disciplinary record;
- 22 (2) Respondent has an absence of a dishonest or selfish motive;
- 23 (3) Respondent had personal and emotional problems;
- 24 (4) Respondent's character and reputation;
- 25 (5) That as a lawyer prior to becoming a judge the Respondent was never subject to any forms of
26 discipline;
- 27 (6) Respondent cooperated fully with the Commission;
- 28 (7) The imposition of other penalties or sanctions should be taken into consideration; and

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(8) Respondent recognized at the time that it was important to strive towards better judicial temperament, so he took it upon himself to voluntarily see a counselor on a monthly basis prior to the Supreme Court reversal.

DATED this 28th day of September, 2020.

WILLIAM B. TERRY, CHARTERED



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VERIFICATION

STATE OF NEVADA }
 } SS.
COUNTY OF CLARK

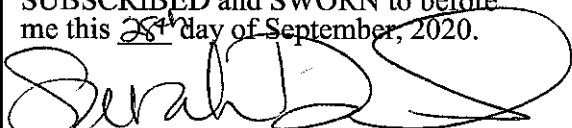
RICHARD SCOTTI, being first duly sworn, deposes and says:

That he is the Respondent in the above-entitled action; that he has read the foregoing Verified Answer and knows the contents thereof; that the same is true of his own knowledge except for those matters therein contained stated upon information and belief; and as to those matters, he believes them to be true.

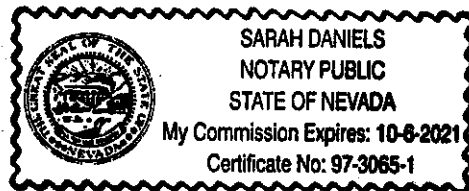


RICHARD SCOTTI

SUBSCRIBED and SWORN to before
me this 28th day of September, 2020.



NOTARY PUBLIC in and for said
County and State




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CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of September, 2020, I, as an employee of WILLIAM B. TERRY, CHARTERED, caused to be served via email and by first class mail, a copy of the foregoing **VERIFIED ANSWER TO FORMAL STATEMENT OF CHARGES** with postage fully prepaid thereon, by depositing the same with the U.S. Postal Service, addressed as follows:

Richard I. Dreitzer, Esq.
300 South Fourth Street, Suite 1400
Las Vegas, Nevada 89101
rdreitzer@fclaw.com
Prosecuting Officer


As an employee of William B. Terry, Chartered