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**BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON**

In Re the Matter of

The Honorable Darvin Zimmerman,
Former Judge of the Clark County
District Court

CJC No. 10260-F-193

**ORDER GRANTING MOTION
TO DISMISS WITHOUT
PREJUDICE**

Disciplinary Counsel has moved to dismiss this matter because of the serious risks a hearing would present to Respondent’s health. See Commission Counsel’s Motion to Dismiss Without Prejudice and attachments, filed August 24, 2023, and incorporated herein. Respondent’s Counsel joined in the motion but requested the joinder be sealed because it contains medical information.

The Commission has considered: (1) Commission Counsel’s Motion to Dismiss and attachments, filed August 24, 2023; (2) Declaration of Margaret Hall, MD, filed under seal on August 24, 2023; (3) Joinder on Motion for Dismissal, filed under seal on August 25, 2023; (4) the fact that Judge Zimmerman has retired from office; (5) the fact that the hearing has been stayed multiple times due to medical necessity on June 27, 2022, November 14, 2022, and May, 9, 2023; and (6) the fact that there is very little likelihood that Respondent will return to judicial service; and (7) the fact that the Commission found probable cause and issued a Statement of Charges on December 3, 2021, which is a public document incorporated herein.

The Commission hearing panel grants the Motion to Dismiss Without Prejudice. Respondent’s motion to seal the Joinder on Motion for Dismissal, containing medical information, is also granted.

The Commission would proceed to a fact-finding hearing if Respondent were physically able, and this Order of Dismissal Without Prejudice reserves to the Commission the jurisdiction

1 and authority to refile the case should Respondent become physically capable of participating in
2 the hearing and seeks further judicial office, full-time, part-time, or pro tem. While the
3 Commission retains the jurisdiction and authority to proceed against a retired or former judge,
4 the overall goal of the Commission to maintain confidence and integrity in the judicial system is
5 adequately addressed by this disposition.

6 DATED this 8th day of September, 2023.

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9 
10 Judge Michael Evans
11 Presiding Officer

12 On behalf of hearing panel composed of:

13 Robert Alsdorf

14 Ramon Alvarez

15 Terrie Ashby-Scott

16 Claire Bradley

17 Wanda Briggs

18 Marsha Moody

19 Erik Price

20 Elizabeth Rene

21 Gerald Schley

22 LaWonda Smith-Marshall
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**BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON**

In Re the Matter of

The Honorable Darvin Zimmerman
Former Judge of the Clark County District
Court

CJC No. 10260-F-193

COMMISSION COUNSEL’S MOTION TO
DISMISS

Commission Counsel moves to dismiss this matter because of the serious risks a hearing would present for Respondent’s health.¹

This motion should not be understood to minimize the seriousness of the conduct detailed in the Statement of Charges in this matter, nor to discount the formal statements issued by the judges of the Clark County Superior and District Courts regarding Respondent’s actions.

The Clark County Superior Court judges, in particular, stated that:

It is the opinion of the Superior Court bench that your comments demonstrate bias and a lack of impartiality. We believe the comments diminished your credibility as a judicial officer. They do not reflect the values of our court. . .²

Based on Judge Zimmerman’s conduct, the Superior Court revoked his authority to perform any Clark County Superior Court judicial officer functions.³

Likewise, the District Court judges formally advised that:

¹ Declaration of Margaret Hall, MD filed under seal.

² See Ex. 1 (all exhibits are attached hereto).

³ *Id.*

1 Clark County District Court has zero tolerance for racism. The views of
2 Judge Darvin Zimmerman do not reflect the values of our court nor us as
3 individual judges. Racial bias displayed by a judge is unacceptable,
4 unethical, unjust and cannot be tolerated.⁴

5 Given that the Commission (i) found probable cause to believe that Respondent violated
6 the Code of Judicial Conduct; and (ii) would have proceeded to a hearing on the Statement of
7 Charges but for Respondent's health, the public will understand that the Commission remains
8 committed to maintaining public confidence in the integrity of the judiciary. Additionally, had the
9 matter proceeded to a hearing, Commission Counsel would have sought Order of Censure -- the
10 most serious sanction available under the Commission's rules.

11 Finally, the dismissal should be without prejudice. Although Respondent has retired and
12 there is very little likelihood that he might seek to return to judicial service, the Commission should
13 be free to proceed to a hearing on the current Statement of Charges should he so attempt.⁵

14 DATED this 24th day of August, 2023.

15 BYRNES KELLER CROMWELL LLP

16 By /s/ Paul R. Taylor
17 Paul R. Taylor, WSBA #14851
18 Attorney for the Commission on Judicial Conduct

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⁴ See Ex. 2.

26 ⁵ Similar orders of dismissal, where the respondent had retired, were entered in *In Re Hammermaster*, No. 3210-F-94 and *In Re Reid*, No. 3713-F-105.

1 **CERTIFICATE OF SERVICE**

2 The undersigned attorney certifies that on the 24th day of August, 2023, a true copy of the
3 foregoing pleading was served upon every counsel of record via email.

4 DATED this 24th day of August 2023.

5 /s/ Paul R. Taylor
6 Paul R. Taylor, WSBA #14851
7 Attorney for Commission on Judicial Conduct
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EXHIBIT 1

SCOTT A. COLLIER
PRESIDING

ROBERT A. LEWIS
DANIEL L. STAHNKE
GREGORY M. GONZALES
DAVID E. GREGERSON
SUZAN L. CLARK
DEREK J. VANDERWOOD
JOHN P. FAIRGRIEVE
JENNIFER K. SNIDER
EMILY A. SHELDRIK
CAMARA L. J. BANFIELD

JESSICA J. GURLEY
SUPERIOR COURT ADMINISTRATOR

SUPERIOR COURT OF
THE STATE OF WASHINGTON FOR CLARK COUNTY

PO BOX 5000
VANCOUVER, WA 98666-5000
(564) 397-2150
(564) 759-6621 FAX



COMMISSIONERS
CARIN S. SCHIENBERG
STEFANIE J. ELLIS
JILL H. SASSER
AMY L. SWINGEN

March 15, 2021

Dear Judge Zimmerman,

The Superior Court has reviewed a copy of the comments you made to a court commissioner during a meeting on March 9, 2021.

It is the opinion of the Superior Court bench that your comments demonstrate bias and a lack of impartiality. We believe the comments diminish your credibility as a judicial officer. They do not reflect the values of our court, as expressed in our letter to Members of the Clark County Legal Community dated July 22, 2020. Finally, we are of the opinion that your comments violate Canons 1, 2 and 3 of the Code of Judicial Conduct.

Effective immediately, you are removed from our list of elected judges pro tempore, appointed pursuant to AR 6. The Superior Court revokes your authority to perform any Clark County Superior Court judicial officer functions, including the authority to preside over our cases or to make probable cause determinations for any potential charges that would be filed in Superior Court. We are forwarding a copy of this letter to District Court Presiding Judge Kelli Osler and the Washington State Commission on Judicial Conduct.



JUDGE CAMARA L. J. BANFIELD



JUDGE ROBERT A. LEWIS



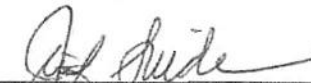
JUDGE SUZAN L. CLARK



JUDGE EMILY A. SHELDRIK



JUDGE SCOTT A. COLLIER



JUDGE JENNIFER K. SNIDER

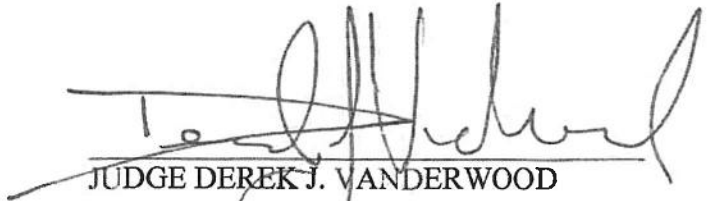


JUDGE JOHN P. FAIRGRIEVE



JUDGE DANIEL L. STAHNKE

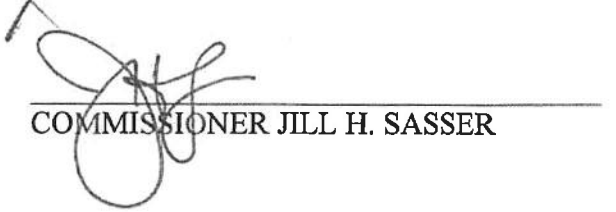

JUDGE DAVID E. GREGERSON

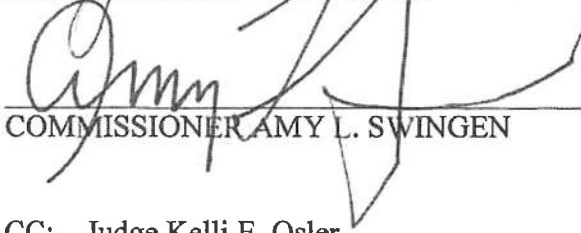

JUDGE DEREK J. VANDERWOOD


JUDGE GREGORY M. GONZALES


COMMISSIONER CARIN S. SCHIENBERG


COMMISSIONER STEFANIE J. ELLIS


COMMISSIONER JILL H. SASSER


COMMISSIONER AMY L. SWINGEN

CC: Judge Kelli E. Osler
WA State Commission on Judicial Conduct
Tony Golik, County Prosecutor

EXHIBIT 2



Clark County District Court

1200 Franklin Street • PO BOX 9806 • Vancouver, WA 98666-8806 • (564) 397-2424 • Fax: (564) 397-6044

Amber K. Emery, Court Administrator

To our community:

Clark County District Court has zero tolerance for racism. The views of Judge Darvin Zimmerman do not reflect the values of our court nor us as individual judges. Racial bias displayed by a judge is unacceptable, unethical, unjust and cannot be tolerated.

Our mission is to serve the people of Clark County by delivering the highest quality of justice services and providing equal access to the court and its programs; and to treat all persons with fairness and respect.

We denounce all forms of racism and will not allow racial bias to pervade our courtrooms. Until *all* members of our community feel safe in our court and have trust in our system, we have not done our jobs. We shall strive for a system rooted in equity and fairness.

As a court we recommit to the pledge we made publicly in July 2020: that Clark County District Court must be a place where litigants, attorneys, and employees are treated with dignity and respect regardless of race or background.

Sincerely,

Judge Kristen L. Parcher

Judge Chad E. Sleight

Presiding Judge Kelli E. Osler

Judge Sonya L. Langsdorf

Judge John P. Hagensen

DEC 03 2021

COMMISSION ON JUDICIAL CONDUCT

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**BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON**

In Re the Matter of

The Honorable Darvin Zimmerman,
Former Judge of the Clark County District
Court

NO. 10260 -F-193

STATEMENT OF CHARGES

Pursuant to authority granted in Article IV, Section 31 of the Washington State Constitution, the Revised Code of Washington, Chapter 2.64, and the Commission on Judicial Conduct Rules of Procedure (“CJCRP”), 17(d)(4)(C), the Commission on Judicial Conduct orders this Statement of Charges filed alleging violations of the Code of Judicial Conduct by former Judge Darvin Zimmerman.

I. BACKGROUND

A. Darvin Zimmerman (Respondent) was a judge of the Clark County District Court from 1986 – 2021.

B. On March 10, 2021, the Commission was made aware that, after the end of court proceedings on March 9, 2021, a conversation between Respondent and a fellow judicial officer was inadvertently broadcast live via YouTube, which the Clark County District Court was using during the pandemic in order to maintain public access to the court. The Commission was further made aware that Respondent made racially inflammatory statements about the fatal shooting of a Black man by local law enforcement during the conversation. Respondent gave the impression he had special access to ongoing police investigations because he had a relative in local law enforcement.

1 C. In the days and weeks that followed, the Commission received dozens of
2 complaints about this incident, including a self-report from Respondent, received on March 15,
3 2021. Following an independent confidential investigation, the Commission served Respondent
4 with a Statement of Allegations in May 2021. The Statement of Allegations alleged that the
5 comments made by Respondent during the March 9, 2021 conversation, widely disseminated on
6 YouTube, appeared to violate Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.2, 2.3(A), 2.4
7 and 2.10) of the Code of Judicial Conduct. The Commission alleged Respondent's comments
8 displayed overt racial bias, indicated a lack of impartiality, and implied that Respondent has a
9 personal channel of communication with the Sheriff's Department regarding pending and
10 impending cases.

11 D. Respondent retired from judicial office effective June 30, 2021.

12 E. Respondent, through counsel, submitted a written response to the Statement of
13 Allegations on July 23, 2021. In his answer, Respondent denied that his conduct violated the
14 Code.

15 F. At its executive session on November 19, 2021, the Commission on Judicial
16 Conduct made a finding that probable cause exists to believe that the Respondent violated Canon
17 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.2, 2.3(A), 2.4 and 2.10) of the Code of Judicial
18 Conduct.

19 II. CONDUCT GIVING RISE TO CHARGES

20
21 It is alleged that Judge Darvin Zimmerman, formerly of the Clark County District Court,
22 violated Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.2, 2.3(A), 2.4 and 2.10) of the Code
23 of Judicial Conduct on March 9, 2021, by making comments about a controversial incident and
24 the related impending case(s) that displayed racial bias, indicated a lack of impartiality, and
25 implied that he had a personal channel of communication with the Sheriff's Department
26 regarding pending and impending cases.

1 **III. BASIS FOR COMMISSION ACTION**

2 On November 19, 2021, the Commission on Judicial Conduct made a finding that
3 probable cause exists to believe that the Respondent violated Canon 1 (Rules 1.1 and 1.2) and
4 Canon 2 (Rules 2.2, 2.3(A), 2.4 and 2.10) of the Code of Judicial Conduct. These sections of
5 the Code state:

6
7 **CANON 1**

8 A Judge shall uphold and promote the independence, integrity, and impartiality of the
9 judiciary, and shall avoid impropriety and the appearance of impropriety.

10 **Rule 1.1**

11 **Compliance with the Law**

12 A judge shall comply with the law, including the Code of Judicial Conduct.

13 **Rule 1.2**

14 **Promoting Confidence in the Judiciary**

15 A judge shall act at all times in a manner that promotes public confidence in the
16 independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the
17 appearance of impropriety.

18 **CANON 2**

19 A Judge should perform the duties of judicial office impartially, competently, and
20 diligently.

21 **Rule 2.2**

22 **Impartiality and Fairness**

23 A judge shall uphold and apply the law, and shall perform all duties of judicial office
24 fairly and impartially.

25 **Rule 2.3**

26 **Bias, Prejudice, and Harassment**

1 (A) A judge shall perform the duties of judicial office, including administrative duties,
2 without bias or prejudice.

3 **Rule 2.4**

4 **External Influences on Judicial Conduct**

5 (B) A judge shall not permit family, social, political, financial, or other interests or
6 relationships to influence the judge's judicial conduct or judgment.

7 **Rule 2.10**

8 **Judicial Statements on Pending and Impending Cases**

9 (A) A judge shall not make any public statement that would reasonably be expected to
10 affect the outcome or impair the fairness of a matter pending or impending in any
11 court, or make any nonpublic statement that would reasonably be expected to
12 substantially interfere with a fair trial or hearing.

13 (B) A judge shall not, in connection with cases, controversies, or issues that are likely to
14 come before the court, make pledges, promises, or commitments that are inconsistent
15 with the impartial performance of the adjudicative duties of judicial office.

16 (C) A judge shall require court staff, court officials, and others subject to the judge's
17 direction and control to refrain from making statements that the judge would be
18 prohibited from making by paragraphs (A) and (B).

19 (D) Notwithstanding the restrictions in paragraph (A), a judge may make public
20 statements in the course of official duties, may explain court procedures, and may
21 comment on any proceeding in which the judge is a litigant in a personal capacity.

22 (E) Subject to the requirements of paragraph (A), a judge may respond directly or through
23 a third party to allegations in the media or elsewhere concerning the judge's conduct
24 in a matter.

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IV. RIGHT TO FILE A WRITTEN ANSWER

In accordance with CJCRP 20 and 21, Respondent may file a written answer to this Statement of Charges with the Commission within twenty-one (21) days after the date of service of the Statement of Charges; failure to answer the formal charges shall constitute an admission of the factual allegations therein and the Statement of Charges will be deemed admitted.

DATED this 23rd day of November, 2021.

COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON



J. Reiko Callner
Executive Director
PO Box 1817
Olympia, WA 98507