



Alaska Commission on Judicial Conduct

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Marla N. Greenstein
Executive Director
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September 29, 2006

Notice of Probable Cause Determination

The Alaska Commission on Judicial Conduct met by Teleconference at 4:00 p.m. on Thursday September 28th to determine whether probable cause existed in a matter. By unanimous vote with all Commission members participating, the attached Complaint was adopted.

A handwritten signature in black ink, appearing to read "Marla N. Greenstein".

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Executive Director

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Complaint
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STATE OF ALASKA

COMMISSION ON JUDICIAL CONDUCT

In the matter of the proceeding)
pursuant to A.S. 22.30.011(a) in)
relation to:)

DAVID LANDRY,)

Judge of the District Court,)
Third Judicial District at)
Kenai, Alaska)

) **ACJC File No. 2006-005**

To: David Landry
c/o Jonathan Katcher
Pope & Katcher
421 West First Avenue, Suite #220
Anchorage, AK 99501

COMPLAINT

The Alaska Commission on Judicial Conduct pursuant to Article IV, sec. 10 of the Constitution of the State of Alaska, AS 22.30.011, and Rule 11 of the Rules of the Alaska Commission on Judicial Conduct charges that Judge David Landry engaged in the following conduct that violates AS 22.30.011(a)(3)(A), (B), (C), (D), and (E) and Canons 1, 2A, 2B, 3B(1), 3B(2)(a), 3B(2)(b), 3B(5), 3B(7), 3B(8), 3C(1), and 3C(2) of the Alaska Code of Judicial Conduct (1995).

(1) Beginning in approximately December 2004, until April 2006 when the procedure was stopped, Judge Landry made pre-signed bail orders available for use by prosecutors for all out-of-custody arraignments. Judge Landry's practice was to leave the bench and allow the prosecutor to fill in the blanks on the pre-signed orders, which then would be filed with the court. This practice of pre-signing judicial orders and allowing the prosecution to decide the particulars for out-of-custody defendants without judicial supervision violates Canons 1, 2A, 3B(1), 3B(2)(a), 3B(2)(b), 3B(7), 3B(8), 3C(1) and 3C(2) of the Alaska Code of Judicial Conduct.

(2) Beginning in approximately December 2004, until April 2006, when the procedure was stopped, Judge Landry took control of tracking Rule 45, speedy trial time frames from the court staff contrary to customary court procedure. Due to a lack of diligence in maintaining accurate tracking of the Rule 45 time constraints, at least 14 criminal cases in 2005 were required by law to be dismissed. This administrative failure that resulted in a lack of prosecution in a significant number of criminal cases violates Canons 2A, 3B(1), 3C(1), and 3C(2) of the Alaska Code of Judicial Conduct.

(3) Judge Landry engaged in improper ex parte communications and gave preferential treatment to the defendant in State of Alaska v. Jeremy Ness, 3KN-02-339CR in violation of Canons 2A, 2B, 3B(2)(b) and 3B(7) of the Alaska Code of Judicial Conduct.

(4) Judge Landry engaged in a pattern of inappropriate sexual comments to female court employees in the workplace. These included a statement to a female employee that her "Hillbilly thermometers are distracting" him, and a note to a female court clerk referring to a juror, stating, "I think Ms. _____ wants me." These statements and others violate Canons 2A, 3B(1), 3B(5) and 3C(1) of the Alaska Code of Judicial Conduct.

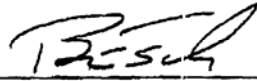
(5) Judge Landry provided access to prosecutors that other attorneys did not receive by frequently meeting with prosecutors in chambers, conveying the impression that the prosecution was in a special position to influence the judge. Judge Landry also frequently conveyed the impression that he agreed with the prosecutors where other judicial officers ruled adversely to them. This conduct violates Canon 2A and Canon 2B of the Alaska Code of Judicial Conduct.

Commission Rule 11 (b) (4) (B) requires that a response be filed within twenty days.

Dated at Anchorage, Alaska this 28th day of September 2006.

ALASKA COMMISSION ON JUDICIAL CONDUCT

By: _____


Honorable Ben Escobedo
Chairperson

BY ORDER OF THE COMMISSION