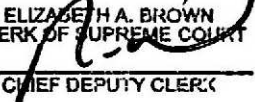


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FILED

JUN 30 2021

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

**In Re: ADK 582**

May it please the Court, your honors and Chief Justice-

Sigal Chattah here to testify on ADK 582 Requesting this Court to Consider the formation of a commission to study the statutes and rules of the Nevada Commission on Judicial Discipline (NCJD) |

These Rules are codified in the Judicial Cannons as follows and are the tenets that promote confidence by the public not only in the Judicial commission but also the judiciary. Disparate treatment by the Commission of judges affects the public's perception that judges are judged not on merit but on collateral issues that have nothing to do with a judges performance on the bench.

Imagine being a litigant in front of a judge where the litigant knows that whatever this judge does is irrelevant because "he/she" is protected by the JDC and no ill will befall them despite unconscionable acts on the bench.

Imagine the exact opposite, of an outstanding judge, who's competence and every decision made, and every action taken is up for arbitrary interference by the JDC regardless of any merit to a complaint.

As with all administrative bodies in our State, there are areas of perfection and imperfection in everything. Today, I would like to bring to your attention parts of the Judicial Cannons that must be reviewed for the sake of the bench on the public's confidence in the system by which judges are judged.

- Transparency of procedures

21-18813

As an attorney who served twelve years on the State Bar committee of ethics and discipline, I am baffled that the JDC does not have a process that mirrors the same for our judiciary. Clearly, what is good for attorneys practicing in the State of Nevada, should be good for judges adjudicating cases In the State of Nevada.

It seems like common sense that the statement of formal charges should be reviewed by an independent panel of a combination of lawyers and jurists, and then this preliminary panel determines whether their lies sufficient evidence to bring a statement of charges based on a reasonable probability for disciplinary action.

The second step should be a completely new designated independent panel as a second set of eyes that determines the merits of the case under the standard of proof of clear and convincing evidence.

It is simply unfathomable that the same body that determines whether a statement of charges should be filed is the body that determines the Judge should be disciplined.

Imagine being a Defendant in a criminal case and the Grand Jury that indicted you, gets to chose your prosecutor, your judge and also hears your case and choses your sentence. The violation of due of process is abhorrent, and yet this is the standard by which Nevada's Judges are bound to.

What kind of confidence does the public have that the Judicial oversight serves the public at all.

- Procedural Defects in the Rules that must be reviewed

#### 1) Standards of Proof and Standards of review

What is the Standard of Review that is being used? Is it simply the standard that a statement of charges based on a reasonable probability that the panel will have clear and convincing evidence to discipline the judicial officer? Because the JDC is now a single body or single panel

body that determines reasonable probability and clear and convincing, the danger of conflating the standards of review must be addressed.

Rule 13- initial standard is to bring statement of charges based on a reasonable probability for disciplinary action.

Rule 25- addresses the burden of proof- clear and convincing evidence

2) There seems to be a Disparity in disciplinary procedures between male and female judges mandates a committee for review that seem to result in harsher disciplinary measures towards female judges over male counterparts for much less egregious behavior.

The JDC has exercised ad hoc discretion on matters that are not substantiated by any statutory authority to do so, and again, this discretion vacillates depending on which Judge is charged with what offense.

There simply is no precise description of mitigating and aggravating factors, likewise who determines what is competent adjudication and what is not?

Likewise, who determines what promotes the independence, integrity, and impartiality of the judiciary and what is impropriety or the appearance of impropriety.

You would all agree that these are subjective standards that now lie in the hands of one person, the judge of judges.

3) Nevada procedural rules on judicial discipline rule 4- mandate transparency, the executive director is engaging in activity that precludes disclosure on any investigative discovery, the rule should be reviewed- there should be access to supporting documents and communications

between investigators and the Commission Executive Director (Rule 13.1) to substantiate any complaint moving forward.

The Hiring of prosecuting officers under Rule 13.3 before the investigation is over, well before the formal statement of charges without any knowledge of precisely what these prosecuting officers are doing because the confidentiality precludes fair and just discovery and adjudication on the merits.

In Rule 24, the Commission is bound to use Rules of Civil procedure and evidence, yet it is apparent that it has repeatedly deviated from these requirements and refused disclosure that would be sanctionable in any civil court proceedings.

I think I have given sufficient examples of what is necessary to start a commission. The purpose of my testimony is not to pick apart every canon that should be reviewed, nor is it to rewrite your canons. It is simply to bring light to the fact that therein lies a huge problem in the proper methodology and adjudication of judicial discipline that must be reviewed for the integrity of the judiciary and the public confidence therein.

Thank You