

IN THE SUPREME COURT OF THE STATE OF NEVADA

In the Matter of the

Case No.

52760

HONORABLE ELIZABETH HALVERSON,
District Court Judge, Eighth Judicial
District Court, County of Clark,
State of Nevada,

Respondent.

FILED

NOV 17 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

**CERTIFIED COPY OF FINDINGS OF FACT,
CONCLUSIONS OF LAW AND IMPOSITION OF DISCIPLINE**

Pursuant to Interim Commission Rule 28(2), I hereby certify that the document attached hereto is a true and correct copy of the FINDINGS OF FACT, CONCLUSIONS OF LAW, AND IMPOSITION OF DISCIPLINE adopted and filed by the Nevada Commission on Judicial Discipline on November 17, 2008.

DATED this 17th day of November, 2008.

NEVADA COMMISSION ON
JUDICIAL DISCIPLINE
P. O. Box 48
Carson City, NV 89702
(775) 687-4017

[Signature of David F. Sarnowski]

DAVID F. SARNOWSKI
General Counsel and Executive Director
Nevada Bar No. 0075

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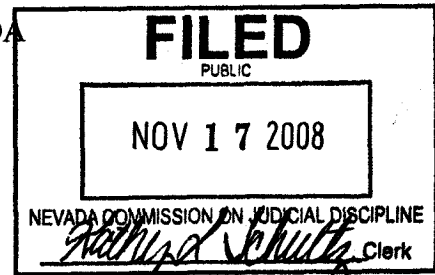
NOV 17 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

08-29187

BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE

STATE OF NEVADA



In the Matter of the

HONORABLE ELIZABETH HALVERSON,
District Court Judge, Eighth Judicial
District Court, County of Clark
State of Nevada,

Respondent.

Case No. 0801-1066

FINDINGS OF FACT, CONCLUSIONS OF LAW AND IMPOSITION OF DISCIPLINE

A. Preface.

The public file in this matter was opened on January 7, 2008, upon the filing of a Formal Statement of Charges by Dorothy Nash Holmes, Special Counsel. The respondent, District Judge Elizabeth Halverson, represented by counsel,¹ denied the charges via an answer filed on January 29, 2008. She then filed a First Amended Answer to Formal Statement of Charges on February 21, 2008. Approximately one month prior to the evidentiary hearing in this matter, Judge Halverson, while proceeding *in propria persona*, filed a motion to amend her amended answer. The special counsel opposed the motion, but the Commission overruled the objection and the matter proceeded to a hearing.

The disciplinary charges in this matter were the subject of a seven-day evidentiary proceeding before the Commission in August 2008. Due to the need to devote virtually all of the available hearing time to the evidentiary phase of the case, the parties were unable to present closing arguments to the Commission. At its conclusion, the Commission ordered the parties to submit final arguments no later than a time certain after the transcripts were filed with the Commission. Prior to September 18, 2008, the original due date for the simultaneous submission of written closing arguments, the respondent reportedly was the victim of an attack by her husband. The injuries she sustained in the attack led to her hospitalization for a prolonged period of time. Resultantly, her co-counsel, Mr. Schwartz, sought and

¹ As early as May 2007, three attorneys provided legal services to Judge Halverson. They included John Arrascada of Reno, Dominic Gentile of Las Vegas, and William Gamage of Las Vegas. While Mr. Gentile and Mr. Gamage were affiliated with the same firm at the outset of their appearance on behalf of the judge, they later went to work at different law firms while maintaining their connection to this case.

1 obtained an extension of time from the Commission to file the final written argument so that Judge
2 Halverson could have the opportunity to review the document. Both the special counsel and Mr.
3 Schwartz submitted their final arguments on September 30, 2008.

4 It then became necessary for the Commission to review the arguments and to reconvene in
5 person to deliberate. On October 17, 2008, the Chairman entered an order extending the time to file the
6 written disposition, pursuant to Commission Procedural Rule 28. On October 21, 2008, the first
7 available date on which the panel could convene as a group, the Commission met in Reno to deliberate.
8 Since that time, it has been involved in the drafting, circulation and consultation process in this case and
9 in one other case.² Due to the other proceeding and an intervening event involving several
10 commissioners who attended an ethics-related continuing legal education program in Chicago, the
11 Commission entered a second order extending the time for issuance of the disposition document.³ This
12 document is the written disposition document contemplated by Commission Procedural Rule 28.

13 The Commission will not recount the entire case history inasmuch as much has happened here
14 and in the Nevada Supreme Court since this case began in late April, 2007. The reader may refer to the
15 Commission's Order Establishing Record Pertaining to Non-Public Proceedings entered on February 11,
16 2008 to obtain an understanding of what had occurred up to that point in time. Following entry of that
17 order, this matter was scheduled for hearing in April 2008. The hearing was continued at the request of
18 Judge Halverson. The request for a continuance was submitted by Judge Halverson's attorneys and it
19 was done with her approval. Shortly before the rescheduled hearing was to begin on June 9, 2008, Judge
20 Halverson's attorneys moved to withdraw with the consent of Judge Halverson. Following a closed
21 proceeding before the Commission in Reno on May 29, 2008, to determine if the eleventh-hour motion
22 should be granted, the attorneys were allowed to withdraw. The attorneys' motion was granted so that
23 Judge Halverson would not be forced to proceed to a hearing while she and her attorneys were having
24

25 ² The other case, entitled *In the Matter of the Honorable Nicholas Del Vecchio*, Case Number
26 0802-1008, involved a public proceeding held on October 21, 2008 that led to the issuance of a final
27 disposition document on November 6, 2008. The case involved the removal from office of another
district court judge.

28 ³ The extension order was entered on November 6, 2008, pursuant to an amended version of
Commission Procedural Rule 28 that was adopted unanimously by the full commission at its October 21,
2008 general meeting.

1 a major dispute and so that she would have the opportunity to present her case to the Commission while
2 not encumbered by counsel that she says she could not afford to pay. The Commission continued the
3 matter at the request of Judge Halverson.⁴ Rather than granting her request for a several month time
4 frame to prepare, she was given sixty-seven (67) days and she was instructed to be prepared to proceed
5 with a contested evidentiary hearing on August 4, 2008. The Commission believed and still believes that
6 this was an adequate time for a lawyer with personal knowledge of the facts to prepare for an evidentiary
7 hearing, especially since she and her counsel had been given several months to prepare for the hearings
8 set it April, and then June 2008.

9 Another hearing was held in Las Vegas on June 26, 2008 regarding disputes over evidence and
10 other pre-hearing matters. Several other pre-hearing conferences were held telephonically in advance
11 of the August 4, 2008 hearing date. One of the telephonic hearings included a belated request by Judge
12 Halverson to associate counsel and to have Mr. Schwartz, admitted *pro hac vice*.⁵ The motion allowing
13 Mr. Schwartz *pro hac vice* admission status was granted because Mr. Schwartz indicated he would be
14 prepared to proceed on the date appointed for the hearing.

15 The hearing commenced on August 4, 2008, in Las Vegas. That same day, Judge Halverson
16 served the Commission with a legal action filed in the Nevada Supreme Court, the stated purpose of
17 which was to obtain a stay of the disciplinary proceedings against her. In due course, the Nevada
18 Supreme Court denied her motion and the evidentiary proceedings ensued.⁶ During the first week of
19 the hearing, Judge Halverson, with the services of a Las Vegas law firm, sued the Commission in federal

20 ...

21 ...

23 ⁴ Judge Halverson participated by phone from her home in Las Vegas. One of her three
24 attorneys, John Arrascada, appeared in person while a second, William Gamage, appeared
telephonically. Mr. Gentile did not participate due to other commitments.

25 ⁵ Judge Halverson's Motion to Associate Counsel was filed on July 21, 2008. It indicated that
26 Mr. Schwartz, a Michigan attorney not admitted to practice in Nevada, was prepared to participate on
27 behalf of Judge Halverson. That motion was accompanied by a Motion to Continue Trial, which was
opposed by Special Counsel Dorothy Nash Holmes. The request for a continuance was denied.

28 ⁶ The case in the Nevada Supreme Court is identified as *Honorable Elizabeth Halverson v.*
Nevada Commission on Judicial Discipline, Case No. 52165, Order Denying Petition for Writ of
Mandamus, Prohibition, or Certiorari, filed August 6, 2008.

1 court and interrupted the evidentiary proceedings in an effort to enjoin the disciplinary case against her.⁷
2 The federal court conducted a hearing on her request for a temporary restraining order on August 6, 2008,
3 and it denied her request for immediate equitable relief. The law suit, which sought and apparently still
4 seeks to enjoin the Commission's proceedings, is still pending, although Judge Halverson has not taken
5 the necessary steps to reset the matter for a hearing since the conclusion of the evidentiary proceedings
6 on August 15, 2008. Her administrative complaint against the Commission filed with the Federal Equal
7 Opportunity Commission, also is pending.⁸

8 This document contains the findings of fact and conclusions of law contemplated by Commission
9 Procedural Rule 28. The findings set forth below establish that Judge Halverson violated multiple
10 sections of the Nevada Code of Judicial Conduct and that she lied under oath during the evidentiary
11 proceedings. As we will discuss in more detail below, her acts on and off the bench greatly damaged the
12 public's confidence in the judiciary. She displayed considerable disrespect for the proceedings instituted
13 by this Commission and she demonstrated that she is unfit to hold judicial office. Due to those factors,
14 and the need to protect the public from persons who are unfit to serve as judges, the Commission
15 concludes that Judge Halverson should be permanently removed from judicial office.⁹

16 **B. Findings of Fact.**

17 **1. Discussion.**

18 There were a large number of charges for which the Commission initially found reasonable cause
19 to proceed to a public proceeding. Commission Procedural Rule 12(2) merely requires a "finding of
20 probable cause, that is, a finding of whether there is a reasonable probability the evidence available for
21 introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action

22
23 ⁷ *Elizabeth Halverson v. Nevada Commission on Judicial Discipline and Dorothy Nash Holmes*,
24 Case No. 2:08-cv-1006, United States District Court for the District of Nevada. The attorneys
representing her were not the same ones who had been counsel of record in the disciplinary case.

25 ⁸ It is a matter of public record that the Commission is represented in the federal law suit by the
26 Las Vegas law firm of Kamer Zucker and Abbott. The firm also represents the Commission in the
administrative law matter. The EEOC reference or "Charge" number is 487-2008-00730.

27 ⁹ The Commission notes that during the second week of the evidentiary proceedings, Judge
28 Halverson did not receive a sufficient number of votes from the Clark County electorate in the primary
election to qualify her for the general election ballot. Two other candidates moved on to the general
election, which concluded on November 4, 2008. Judge Halverson's election loss does not prevent her
from seeking judicial office again.

1 against the justice or judge named in the complaint.” The special counsel proceeded to file the Formal
2 Statement of Charges based on those initial findings. She was required to prove those allegations by
3 clear and convincing evidence. *Mosley v. Nevada Commission on Judicial Discipline*, 120 Nev. 908,
4 912, 102 P.3d 555, 558 (2004).

5 Upon due deliberation, and considering the strength of the evidence for and against the charges,
6 including the veracity, accuracy and relative import of the testimony and other evidence adduced, and
7 in consideration of the arguments of both sides, the Commission concludes that certain charges were
8 proved to the requisite level of clear and convincing evidence. The discussion below centers on those
9 charges, and not on the charges for which there was a lack of proof to the necessary level.

10 The following general observations will serve as a backdrop to the Commission’s discussion.
11 Prior to her election, Judge Halverson’s career as a lawyer in Nevada had been as a law clerk within the
12 district court. After serving under several different chief district judges, she was given a different title
13 after gaining several years worth of seniority relative to other clerks, who normally served for a year or
14 so. When Chief Judge Kathy Hardcastle was elected by her fellow judges to serve as the chief judge in
15 the Eighth Judicial District Court, she terminated the respondent, who was an “at will” employee. This
16 action was based on a determination by the chief judge that she did not want to have a law clerk who had
17 served for many years only as a law clerk, as the respondent had done. Subsequently, the respondent
18 filed for election in 2004 against Gerald Hardcastle, an incumbent judge in the Family Division who was
19 married to the chief judge at the time. Ultimately, the respondent lost her bid to unseat Judge Gerald
20 Hardcastle in 2004 but she was successful in her 2006 election effort to fill a newly created seat.
21 However, it appears that she remained embittered about her termination and more than a little paranoid
22 about Chief Judge Kathy Hardcastle.

23 In the estimation of the Commission, it was this sequence of events which apparently led to Judge
24 Halverson’s attitude toward the chief judge when she took office. When Judge Halverson assumed her
25 position on the bench in January 2007, it did not take long for her to demonstrate that she truly believed
26 the chief judge was her nemesis and that the chief judge was out to get her. There is no hard evidence
27 to substantiate this paranoid outlook and the Commission has concluded that Judge Halverson went out
28 of her way to create a conflict with the chief judge where one could and should have been avoided. From

1 the beginning of her tenure, she refused to accept the administrative role played in Nevada's "strong chief
2 judge" system by Chief Judge Hardcastle, including the duty of all judges to conform to reasonable
3 administrative requirements of the court. If nothing else, Judge Halverson's attitude and actions
4 demonstrated that despite her law school education and her long-term experience within the court as a
5 clerk, she did not have a correct sense of how to work through past conflicts nor did she have the good
6 judgment to accept the help of her fellow judges, a panel of whom were ultimately empowered to try to
7 assist her.

8 Ironically, the panel of unbiased judges was created by the chief judge in order to ensure that the
9 chief judge and the court's administrative staff could adequately ascertain the basis for the personnel-
10 related complaints that the respondent's immediate staff members had conveyed to court administrators,
11 while simultaneously trying to ensure that whatever had gone on in the past between Chief Judge Kathy
12 Hardcastle and Judge Halverson would not taint the panel's inquiry. Unfortunately, Judge Halverson did
13 not view this as a constructive process nor did she seek to improve her own shortcomings related to
14 personnel management and leadership. The evidence makes it clear that having been thrown a proverbial
15 rope by the chief judge that could have been used to save her from professionally drowning in her own
16 sea of inexperience as a litigator, her lack of technical knowledge in the area of criminal trial procedure
17 and her limited and stilted interpersonal skills, Judge Halverson chose not to grab onto the rope. Instead,
18 she chose to sink and she chose to try to pull the district court down with her.

19 **2. Findings on the Individual Counts.**

20 1. Count One was dismissed prior to the end of the evidentiary hearing. There are no adverse
21 findings entered as a result of this count.

22 2. Count Two involved allegations that Judge Halverson slept during certain portions of three
23 separate trials, two criminal and one civil. The great weight of the evidence supports this charge at the
24 level of clear and convincing proof. The attorneys in the cases and the others whose testimony was
25 presented in support of the charge were certainly more convincing than the witnesses offered by Judge
26 Halverson, including the judge herself. The Commission finds that each instance violated the canons
27 in that such behavior does not promote public confidence in the integrity and impartiality of the judiciary
28 ...

1 and that such conduct does not allow a judge to carry out her duty to hear and decide cases that are
2 assigned to her. Stated simply, a judge cannot hear matters when a judge is asleep.

3 On occasion, any person, including a judge, can fall asleep in a public meeting or a trial. Such
4 an occasional event, if brief in duration, likely would not be deemed to be a serious violation of the
5 canons if it also is an isolated event. What makes this series of three occasions more serious is that Judge
6 Halverson fell asleep in front of juries who were already empaneled for trial under her supervision and
7 she did so within months of taking office, not years after having presided over hundreds of trials. The
8 act of falling asleep during a jury trial conveys to the jury members and the public that such proceedings
9 are not important and that the judge does not have an important role to play.

10 A judge must be very aware of the minutiae of the proceedings before her and she must be able
11 to rule on objections dozens if not hundreds of times during the course of any given trial. A judge must
12 be able to sense and control the ebb and flow of a trial so that it is fair for all the litigants. A judge must
13 be attentive because even brief inattention can lead to a mistrial, new trial or multiple proceedings that
14 are avoidable absent such unusual events. *Paine v. State*, 107 Nev. 998, 823 P.2d 281 (1991) (the fact
15 that trial judge in a penalty hearing of a capital case allegedly fell asleep for a brief time in a capital trial
16 caused the Nevada Supreme Court to require a new penalty phase proceeding out of fairness to the
17 defendant).

18 Once Judge Halverson became aware during her first trial that she had fallen asleep, she had a
19 duty to take steps to avoid repeating the event. This includes obtaining a medical assessment and
20 intervention as necessary. Instead, she apparently did little or nothing to deal with the problem. Indeed,
21 she essentially continues to deny that a problem exists. This seems to be a common approach to any
22 number of situations that Judge Halverson encounters, although fortunately her common alternative
23 approach of blaming others was not at play in these particular incidents. While we cannot conclude that
24 she purposefully (willfully) slept, we can conclude she willfully failed to take preventive action to
25 minimize the chance of a repeat occurrence.

26 3. Count Three relates to charges that Judge Halverson had improper contacts with two juries
27 in separate criminal cases. The Commission finds that the special counsel proved by clear and
28 convincing evidence that Judge Halverson violated the canons as alleged in the charging document.

1 However, before discussing the substantive counts, a brief discussion is in order regarding the special
2 counsel's post-hearing motion to amend the charging document to conform to the proof elicited at the
3 hearing.

4 Prior to submission of the closing written arguments, the special counsel submitted a motion
5 seeking the amendment of subsection (c) of Count Three to change certain language identifying a
6 particular case about which Judge Halverson had discussed publicly her improper contacts with a jury.
7 The charging document specifies that this occurred with regard to *State v. McDaniel* (case number
8 omitted). The case was actually *State v. Sotomayor* (case number omitted).

9 As explained by the special counsel in her motion, both cases were the subject of much testimony
10 during the Commission hearing because they involved a common issue, i.e., improper contact by Judge
11 Halverson with juries in criminal cases. An audio tape and written transcript of the audio tape's content
12 were admitted as Exhibits 4 and 15. The materials pertained to Judge Halverson's interview with a
13 reporter from radio station KNPR. Judge Halverson is heard to talk on the tape about the *Sotomayor*
14 case.

15 The majority of the Commission agrees that Judge Halverson had ample notice that she was being
16 accused of a transgression relating to the *Sotomayor* case, rather than the *McDaniel* case, in Count 3(c)¹⁰.
17 She had the evidence prior to the hearing and the evidence consisted of words out of her own mouth. She
18 never contended during the hearing or thereafter that she was unable to defend the charge or that she was
19 otherwise denied due process, until the special counsel filed her motion to amend. Despite the
20 protestations in Judge Halverson's response to the special counsel's motion, the Commission concludes
21 that the motion is consistent with Nevada Rule of Civil Procedure 15(b). The rule states:

22 When issues not raised by the pleadings are tried by express or implied
23 consent of the parties, they shall be treated in all respects as if they had
24 been raised in the pleadings. Such amendment of the pleadings as may be
25 necessary to cause them to conform to the evidence and to raise these
26 issues may be made upon motion of any party at any time, even after
27 judgment; but failure to do so amend does not affect the result of the trial
28 of these issues. If evidence is objected to at the trial on the ground that it
is not within the issues made by the pleading, the court may allow the
pleadings to be amended and shall do so freely when the presentation of
the merits of the action will be subserved thereby and the objecting party
fails to satisfy the court that the admission of such evidence would

¹⁰ One of the six voting Commissioners voted not to allow the amendment.

1 prejudice the party in maintaining the party's action or defense upon the
2 merits.

3 Therefore, it is the ruling of the Commission that the special counsel's Motion to Amend the Pleadings
4 (Formal Statement of Charges) to Conform to the Evidence Presented at Hearing, should be and hereby
5 is granted. *State v. Sutton*, 120 Nev. 972, 988, 103 P.3d 8, 18-19 (2004); *Anastassatos v. Anastassatos*,
6 112 Nev. 317, 320, 913 P.2d 652, 653 (1996).

7 The Commission hereby finds that the special counsel has proved by clear and convincing
8 evidence that Judge Halverson violated the canons as charged. That is, she had improper *ex parte*
9 contacts with deliberating juries in two cases, *State v. McDaniel* and *State v. Sotomayor*. She also made
10 improper public comments to the media while the aforementioned *Sotomayor* case was pending that
11 might reasonably have been expected to affect the outcome of the case or impair its fairness. The
12 respondent also falsely stated to the media in a post-trial interview that she had been "conned" into
13 having those inappropriate contacts by one or more of the attorneys participating in the *McDaniel* case.

14
15 Nothing could be more basic with regard to conducting jury trials than the concept that a judge
16 should never have contact with a jury, especially a deliberating jury, except through limited and
17 structured mechanisms. These mechanisms can include prior notice to counsel for all parties and contact
18 with the jurors only with counsel present. Eating or chatting with a deliberating jury and answering their
19 law-related and case-related questions in an *ex parte* setting is so fundamentally wrong that even a first-
20 year law clerk should know better, much less someone who had several years of experience as a law clerk
21 within the court system.

22 With respect to criminal cases, NRS 175.451 provides:

23 **Return of jury for information.** After the jury have retired for
24 deliberation, if there is any disagreement between them as to any part of
25 the testimony, or if they desire to be informed on any point of law arising
26 in the cause, they must require the officer to conduct them into court.
Upon their being brought into court, the information required shall be
given in the presence of, or after notice to, the district attorney and the
defendant or his counsel.

27 Judge Halverson tried to use her inexperience as an excuse for such behavior and she attempted
28 to shift the blame onto the attorneys for her misconduct. Here, there was some discussion on the record

1 that there was a need for the judge to communicate with the jury. However, rather than clarifying exactly
2 what form and forum should be used for such a communication, the judge implemented a mechanism
3 of her own choosing and one not in compliance with the law. A judge is responsible for knowing the
4 law, for following the law, and for ensuring that a jury is not contaminated by the judge's own behavior.
5 Even if the attorneys in either case had asked her to carry out inappropriate contacts, which they did not
6 do, the judge is responsible for knowing what is proper and for not relying solely on input from attorneys
7 in such situations.

8 What is most egregious about the behavior addressed in this particular count is that once the error
9 became public, Judge Halverson shifted the blame to the attorneys by making unethical contact with the
10 media. Canon 2(A) requires that a judge shall act at all times in a manner that promotes public
11 confidence in the integrity of the judiciary. Canon 3(B) prohibits judges from commenting publicly
12 about pending and impending cases. Judge Halverson flagrantly violated both by going to the media to
13 tell her side of the story when it simply did not need to be told and certainly should not have been told
14 in such a forum. Judge Halverson demonstrated great hubris in doing so, especially after she had been
15 given the benefit of counseling by an experienced judge. A newly elected judge would be well served
16 to have sufficient humility to learn the basics of conducting trials from colleagues and others conversant
17 with the topic instead of trying to curry favor with individual jurors who also serve as electors for district
18 judges once every six years and with the media, whom she apparently considered a viable outlet for her
19 claims of innocence.

20 In conclusion, the Commission finds that the first instance of inappropriate contact with the jury
21 was not willful, but a result of her inexperience. The second instance was willful. Furthermore, when
22 she chose to go to the press and blame others rather than owning up to having made serious mistakes,
23 her behavior was willful. She flagrantly violated the canons by speaking in public about a case that was
24 not yet resolved and also by acting in a disparaging manner toward the attorneys. Neither action could
25 have benefitted the public's confidence in the legal system. Unfortunately, due to Judge Halverson's
26 obvious unfamiliarity with criminal law and procedure, the chief judge was put in a position of
27 reassigning criminal cases on Judge Halverson's docket to other judges whose experience included more
28 criminal law matters than Judge Halverson had undertaken during her limited experience. The chief

1 judge did so upon the recommendation of a panel of three experienced judges. This move was approved
2 by the Nevada Supreme Court when it reviewed Judge Halverson's law suit against Chief Judge
3 Hardcastle. *Halverson v. Hardcastle*, 123 Nev. ___, ___, 163 P.3d 428, 447-448 (2007). While the
4 respondent's legal challenge to the chief judge's intervention is not the subject of disciplinary charges
5 before the Commission, the Commission can and does observe that Judge Halverson's effort to retain
6 cases for which she had already demonstrated a lack of ability to handle as a jurist is certainly an
7 indication of her poor judgment. It is evident that the respondent was more concerned about retaining
8 her powers and carrying on her fight with the chief judge than she was about ensuring that she was not
9 placed in a position of making more mistakes that could negatively impact litigants, lawyers, fellow
10 judges and the entire judicial system in the Eighth Judicial District. She never displayed any regret about
11 her shortcomings and she failed to take any responsibility for the actions that led to the serious errors in
12 the two criminal cases that led to the wholesale rearrangement of her case load and that of a couple of
13 other judges who inherited her criminal cases in the reassignment process.

14 4. Count Four was dismissed prior to the end of the evidentiary hearing. There are no adverse
15 findings entered as a result of this count.

16 5. Count Five involved multiple alleged instances of mistreatment of staff. Subsections (a) and
17 (b) were dismissed prior to the conclusion of the trial. The Commission has concluded that the special
18 counsel did not meet her heavy burden of proof as to subsections (d), (e), (f), (g), (h), (i), (k), (l), (m),
19 (n), (o), (p), (q), (r), (t), (u), (v) and (w). However, the Commission has concluded that subsections (c),
20 (j) and (s) were proved by clear and convincing evidence.

21 Subsection (c) involved allegations that Judge Halverson referred to other employees in the
22 presence of her bailiff, Johnnie Jordan, Jr., as "bitches," "dumb fucks," "fucks," or "dumb asses."
23 Subsection (j) involved allegations that Judge Halverson had flippantly given Mr. Jordan \$20.00 at a
24 luncheon for judges and told him to "go play with the other bailiffs."¹¹ Subsection (s) involved
25 allegations that Judge Halverson required Mr. Jordan to massage her feet, neck and shoulders, or some
26 combination of those body parts.

27
28 ¹¹ Mr. Jordan had accompanied the judge as part of his duty to provide security for the judge.

1 Suffice it to say that the testimony demonstrably showed that Judge Halverson had a bizarre
2 relationship with her immediate or personal staff (court clerk, judicial executive assistant, bailiff and
3 court recorder/reporter) and that her treatment of them, as with so many others she encountered, was
4 unnecessarily disrespectful. Judge Halverson should not take any solace in the refusal of the
5 Commission to find that many of the counts had not been proved due to the high level of proof required.
6 Instead, the Commission finds it regrettable that any of the many allegations had a foundation at all and
7 it concludes that as to each of the three instances for which proof is adequate, each is considered willful.

8 It appears to the Commission that Judge Halverson does not have the ability to routinely treat
9 subordinate staff with dignity and respect over a prolonged period of time, at least without the specter
10 of investigating officials to "guide" her behavior. While a number of witnesses who replaced Judge
11 Halverson's original staff members testified that they were treated well during the time Judge Halverson
12 remained on the bench in the late spring and early summer of 2007, the Commission concludes that she
13 had an ulterior motive for behaving in a manner other than her normal manner. She obviously knew her
14 behavior was being scrutinized and she belatedly tried to alter her socially and professionally
15 unacceptable manner of dealing with people. Ironically, one could argue that her interactions during the
16 short window of time in which Judge Halverson treated replacement staff members well showed that if
17 she made an effort to treat people appropriately, she could do so.

18 No employee, even those inured to a judge's mercurial temperament and foul mouth should have
19 to experience what Judge Halverson made her immediate staff live and work through on a routine basis.
20 The fact that all four left within a short period of time speaks volumes about the inappropriate way that
21 Judge Halverson interacted with them on a daily basis. In conclusion, while many sub-counts were not
22 adequately supported with clear and convincing evidence at the final hearing, the Commission is satisfied
23 that its decision to suspend Judge Halverson with pay on an interim basis likely prevented multiple
24 additional instances of Judge Halverson behaving badly.

25 6. Count Six involves allegations related to Judge Halverson's interaction with her first Judicial
26 Executive Assistant, Ileen Spoor. Three subsections of Count Six, (c), (d) and (e), were dismissed prior
27 to the conclusion of the evidentiary hearing. The Commission finds that as to (a) and (b), the evidence
28 ...

1 supports a finding by clear and convincing evidence that Judge Halverson yelled at other employees in
2 the presence of Ms. Spoor and that Judge Halverson used foul language in the presence of Ms. Spoor.

3 The Code of Judicial Conduct sets high standards of behavior for judges. Judge Halverson failed
4 to live up to those standards in her dealings with Ms. Spoor. Judge Halverson's abusive language and
5 her proclivity to yell at those whom she believed were there to do her bidding, official and unofficial, are
6 simply not the acts of someone with good judgment and even moderately developed interpersonal skills.
7 Staff members are paid by the taxpayers to discharge the lawful directives of judicial officers, not to put
8 up with loud, offensive and boorish conduct by someone who believes that donning the judicial robe
9 absolves them from behaving badly.

10 As to this particular count, the Commission is compelled to note that it wholly rejects Judge
11 Halverson's attempt to impeach Ms. Spoor through the use of collateral impeachment efforts.
12 Essentially, Judge Halverson attempted to convince the Commission that her misplaced fixation on Ms.
13 Spoor's so-called "ticket fixing" operation is a basis to undercut Ms. Spoor's testimony. The
14 Commission remains unconvinced that there was anything illegal going on with regard to Ms. Spoor's
15 involvement in what appears to be a system to put people in touch with those who can render legal
16 advice. Judge Halverson's attempt to put Ms. Spoor on trial for referring friends and acquaintances to
17 attorneys who represent people regarding traffic matters does not lessen the import of Ms. Spoor's
18 testimony on the counts that were not dismissed at the hearing.

19 In reaching this conclusion, the Commission does not intend to place an imprimatur on a judicial
20 executive assistant or other employee handling such matters while on "county time." It is certainly
21 within the purview of the court administration and individual judges to prohibit their employees from
22 doing so while in work/pay status for their governmental employer. However, the Commission's more
23 salient point is that Judge Halverson's attempt to make a mountain out of a proverbial mole hill has
24 fallen on deaf ears insofar as it being a basis to refute factually the remaining charges against her in this
25 particular count.

26 7. As to Count Seven, the Commission finds that there was not clear and convincing evidence
27 to sustain the charge. There are no adverse findings as a result of this count.

28 ...

1 8. As to Count Eight, the Commission finds that there was not clear and convincing evidence
2 to sustain the charge. There are no adverse findings as a result of this count.

3 9. Count Nine was dismissed prior to the end of the evidentiary hearing. There are no findings
4 entered as a result of this count.

5 10. As to Count Ten, the Commission finds that there was not clear and convincing evidence to
6 sustain the charge. Subsection (c) was dismissed prior to the conclusion of the hearing. There are no
7 adverse findings as a result of this count.

8 11. Count Eleven involves allegations that Judge Halverson violated the canons by improperly
9 or without authorization or surreptitiously allowing two individuals to gain access to the Regional Justice
10 Center (RJC), by allowing them to serve as so-called bodyguards or security officers at the RJC without
11 informing court administrative officials, and by purporting to "hire" them as bodyguards when neither
12 was properly licensed as a private investigator. The Commission finds that the special counsel adduced
13 adequate proof to show that Judge Halverson violated the canons.

14 These charges arose in May 2007, when Judge Halverson was in the midst of the dispute with
15 the chief judge and her staff members. The dispute largely was one of Judge Halverson's making. After
16 her bailiff, Johnnie Jordan, Jr. was removed, Judge Halverson brought two individuals into the RJC
17 without obtaining the proper authorizations and without knowing they were unlicensed to serve as
18 bodyguards.

19 First, it must be noted that Judge Halverson did nothing to obtain a new bailiff by going through
20 the regular process of locating another one already on the court's roster of qualified bailiffs.¹² Had she
21 done so, there is at least some likelihood that the events leading to the charges in this count could have
22 been avoided because they never would have occurred. While she was not required to take someone who
23 was already a qualified bailiff, she was not authorized to immediately have someone "protecting" her
24 who was not cleared through a minimal security screening process. She allowed Steven Fortune and

25 _____
26 ¹² Following a decision by court administrators to remove bailiff Jordan from a potentially
27 hostile work environment, the decision was made to assign temporary bailiffs to Judge Halverson. As
28 time went on, it became evident that the assignment of temporary bailiffs to Judge Halverson's
department was problematic because at least some of those assigned did not want to return and/or be
assigned in the first place due to the treatment they had experienced or that they anticipated receiving
at the hands of Judge Halverson. Some were assigned under protest and were subject to warnings that
they had to serve in her department despite their misgivings.

1 Nickolas Starling to enter and remain in the restricted access area in which her chambers and those of
2 other judges were located without the least bit of coordination and for a prolonged period of time. She
3 did not contact anyone to ensure that court's administrative officials were aware that non-cleared
4 individuals were supposedly conducting security tasks. It is clear beyond any doubt that the two
5 individuals did not take any steps to ensure that whatever they were doing was being done pursuant to
6 the overall security regime in place within the court.

7 Second, the evidence is clear that at the point in time Judge Halverson actually entered into a
8 contract to hire the individuals, they did not have proper credentials from the Private Investigator's
9 Licensing Board (PILB), a subagency within the office of the State of Nevada Attorney General, to serve
10 as bodyguards; nor were they working for an entity that was properly licensed. The evidence also makes
11 it clear that Judge Halverson hired and paid for them from her own pocket. For some period of time, she
12 did not take the requisite steps to have them placed on the county's hiring rolls and after doing so, she
13 rescinded her announced determination to hire them at all. There is no adequate explanation in the
14 record as to the legal basis under which Judge Halverson purported to hire two individuals for security
15 reasons when all other judges had just one bailiff whose time and talents were occasionally put to use
16 doing security-related duties in other areas of the court. Moreover, there is no adequate explanation in
17 the record from Judge Halverson as to why she needed to go about "hiring" and deploying the individuals
18 in the manner that she did.

19 The Commission emphatically rejects Judge Halverson's attempt to defend this charge on the
20 theory that the PILB did not cite her as some sort of co-conspirator or other type of offender when it cited
21 the individuals in question. Common sense tells us that the PILB's main regulatory focus is on those
22 who purport to provide services within the regulatory dominion of the PILB, not third parties like Judge
23 Halverson. She appears to believe that because she wasn't cited that she did not in some way violate the
24 rules applicable to judges that are found in the Nevada Code of Judicial Conduct. Fortunately for the
25 public and unfortunately for Judge Halverson, the canons require a higher level of ethical conduct than
26 the level of not being legally complicit in unregulated behavior.

27 The Eighth Judicial District Court is the largest Judicial District in Nevada. It has a chief judge
28 system that requires all judges to coordinate their activities and to cooperate in carrying out the

1 administration of the court's business. Of necessity, such a system requires internal security measures and
2 the coordination of security activities through the elected chief judge and the court's appointed
3 administrator. There is simply no room in the system for a judge who wants to act as a "lone wolf" when
4 it comes to security related matters. Judge Halverson breached the entire court's security system by
5 bringing in unauthorized and seemingly unqualified individuals in a surreptitious manner. Judge
6 Halverson created a potential security risk to everyone working within the court's inner security area and
7 within the courthouse itself.

8 Again, what this incident shows is Judge Halverson's poor judgment. She willfully and foolishly
9 utilized the power of her office to actively undermine wholly valid and unburdensome security measures,
10 including preemployment hiring background checks, that were already in place and that must be followed
11 if the phrase "court security" is to have any meaning at all. In *Halverson v. Hardcastle*, the Nevada
12 Supreme Court concluded that it is within the purview of the Commission to decide whether a judge, by
13 refusal or failure to cooperate with court administration pertaining to matters of court security, warrants
14 discipline. Based on the findings of this Commission, including a finding that Judge Halverson
15 purported to have someone conduct court duties while the court's administrative officials were unaware
16 of such activity, the Commission concludes that discipline is warranted.¹³

17 12. As to Count Twelve, the Commission finds that there was not clear and convincing evidence
18 to sustain the charge. There are no adverse findings as a result of this count.

19 13. Count Thirteen pertains to allegations that arose after Judge Halverson attended one meeting
20 of a committee of district judges formed by Chief Judge Kathy Hardcastle for the express purpose of
21 exploring complaints by some of Judge Halverson's immediate staff members. The meeting occurred
22 on April 6, 2007. The three judges were Art Ritchie, who served as the Presiding Judge in the Family
23

24 ¹³ The Commission notes that the chief judge wisely decided to defuse the situation by ensuring
25 that the so-called bodyguards could not physically gain access to the facility; while at the same time she
26 took steps to ensure that Judge Halverson was locked out as well. In *Halverson v. Hardcastle*, the
27 Nevada Supreme Court already determined that the chief judge could not force Judge Halverson to
28 cooperate by locking her out of the building. This decision by the Commission is not intended to
comment upon or critique the high court's determination. Rather, this decision is limited to observations
by the Commission related to Judge Halverson's action in bringing the two individuals into her
chambers area by claiming she needed protection from other officers within the court. As noted in its
discussion of Count Fourteen, below, Judge Halverson's claimed need for protection from other
members of the court's administrative staff was wholly fanciful and by calling the LVMPD to protect
her, she did nothing but embarrass the judicial system and herself.

1 Division of the Eighth Judicial District Court, Judge Stu Bell, and Judge Sally Loehrer. Judge Bell was
2 the only one of the threesome who testified at the hearing. The charging document alleges that Judge
3 Halverson made several false statements to a print news reporter that were reported on September 18,
4 2007 in the Las Vegas Review Journal. Specifically, the charging document alleges that (a) Judge Bell
5 yelled at her and said "We're going to get rid of you right away;" (b) that Judge Ritchie kept throwing
6 his hands in the air; and (c) that Judge Loehrer was screaming. The import of the charge is that Judge
7 Halverson knowingly lied to a reporter, albeit about a serious administrative matter, and in doing so she
8 essentially accused three well-respected judges of misbehaving. The underlying intent of such a course
9 of behavior seems to have been to try to demonstrate they were actors in a conspiracy hatched by her
10 nemesis, the chief judge, whose ultimate purpose was to eliminate her from office.

11 Judge Bell testified accurately and truthfully that no such behavior as described by Judge
12 Halverson occurred on the part of any of the panelists. He explained that in addition to speaking with
13 Judge Halverson about problems that had arisen with regard to her handling of certain case related
14 matters, a process he accurately described as mentoring a colleague, the panelists had decided to speak
15 with the employees who had complained to court administrative supervisors about how Judge Halverson
16 had treated them. After having done so, the panelists met with Judge Halverson in the presence of Kathy
17 Lambermont, one of those administrators. In Judge Bell's words, Judge Halverson "minimized" the
18 employees' complaints, in part by asserting that whatever had happened had occurred as a result of the
19 employees' own initiative.

20 Judge Bell specifically denied that he yelled at Judge Halverson and that he made the statement
21 attributed to him by Judge Halverson. He also denied that Judge Ritchie was throwing up his hands. He
22 also denied that Judge Loehrer was yelling. When given the opportunity to relate her version of events
23 about the meeting during the evidentiary proceeding, Judge Halverson essentially took the approach of
24 "that's my story and I'm sticking to it." She insisted that her fellow judges had engaged in inappropriate
25 behavior by yelling, and by making gestures and statements that conveyed a not-so-veiled threat. In so
26 doing, she lied under oath to the Commission, an act considerably more egregious than lying to a reporter
27 during an interview that is not under oath.

28 ...

1 There is no good reason to believe that any of the three judges had anything to gain by engaging
2 in the behavior described by Judge Halverson. Judge Bell had already assisted Judge Halverson by
3 meeting with her at her insistence, about at least one incident of inappropriate contact with a jury during
4 the course of a criminal case over which she was presiding. There is no indication that he had any intent
5 then, or later, of doing anything other than trying to help Judge Halverson resolve several problems that
6 had already arisen during her short tenure in office. In short, the version of facts related by Judge Bell
7 was true, and thus the allegations in Count Thirteen are true. The version of facts related by Judge
8 Halverson was not only false, it was preposterously false and designed to deflect well-earned scrutiny
9 away from her and onto the chief judge and Judge Halverson's three colleagues.

10 14. Count Fourteen pertained to allegations that Judge Halverson impeded the administrative
11 functions of Chief Judge Kathy Hardcastle. Of the four subsections within the count, only three
12 remained for consideration by the Commission because (b) had been dismissed prior to the conclusion
13 of the evidentiary hearing.

14 The allegation in Subsection (a) pertained to Judge Halverson's refusal to communicate with
15 Judge Hardcastle by purporting to require her and her authorized representative to communicate with
16 Judge Halverson only through her attorney, Mr. Spretnak. This allegation was proven because it was
17 documented that Judge Halverson had authorized her attorney to convey specific instructions in writing
18 to the effect the chief judge and her staff could not communicate with his client. The decision by Judge
19 Halverson to pursue such an unconstructive course of conduct was designed to impede the operation of
20 the court and it had that effect as well. Judge Halverson's attempt to get an opinion from the State Bar
21 that Judge Hardcastle was acting unethically on the premise that Chief Judge Hardcastle was a lawyer
22 as well, and thus acting unethically by communicating with someone known to have counsel,
23 demonstrates the absurd lengths to which the respondent was willing to go in her Quixotic, paranoid
24 quest to spar with Chief Judge Hardcastle.

25 It strains credulity to think that in a "strong chief judge system" that is in place in Nevada, any
26 one or more of thirty-six district judges in Clark County can require the chief judge to route routine, day-
27 to-day matters through the chosen legal representative of a judge who doesn't like how the chief judge
28 ...

1 is conducting business.¹⁴ Clearly, the Nevada Supreme Court recognized the unworkability of such a
2 notion when it ruled that Judge Halverson's reliance on a rule governing lawyer misconduct, RPC 4.2,
3 was "misplaced" when it rejected Judge Halverson's argument in a separate law suit brought by Judge
4 Halverson against Chief Judge Hardcastle. *Halverson v. Hardcastle*, 123 Nev. ___, ___, 163 P.3d 428,
5 n.103 at 450 (2007).

6 Subsection (c) involves allegations that Judge Halverson refused to communicate or cooperate
7 with Court Administrator Chuck Short when he attempted to retrieve a rolodex from Judge Halverson
8 which Judicial Executive Assistant Ileen Spoor claimed to be her personal property. Much time was
9 expended during the course of the hearing about the effort made by Mr. Short to accomplish the mission
10 assigned to him by the chief judge. There is a videotape of the incident. Judge Halverson essentially
11 locked herself in her chambers with individuals she claimed as her personal security officers, and she
12 refused to provide the rolodex to Mr. Short when he asked for it. While Judge Halverson disputed the
13 claim of ownership by Ms. Spoor, it simply was not within the respondent's purview to dispute the
14 instructions the chief judge had given staff to secure the property, which Judge Halverson claimed to be
15 court property. Despite Judge Halverson's uninformed and unfounded suspicions that the property may
16 have been evidence of a crime, it was not within Judge Halverson's purview to impede Mr. Short in his
17 assigned duties. The fact that Judge Halverson went to such extreme measures over such a trivial item
18 demonstrates again the ridiculous lengths to which Judge Halverson was willing to go in order to joust
19 with the chief judge and anyone else whom she suspected of acting in concert with the chief judge.

20 Subsection (d) involves allegations that Judge Halverson made an erroneous statement in a
21 telephonic report to the Las Vegas Metropolitan Police Department that "unauthorized personnel" were
22 attempting to access her chambers on May 8, 2007. Judge Halverson clearly knew that Mr. Short was
23 on the premises and that he was authorized to be there for court-related purposes. The tape shows that
24 Mr. Short conducted his mission in an appropriate manner and was in no way disrespectful or threatening
25 to Judge Halverson. The fact that Judge Halverson disagreed with his authority to do what the chief had
26 instructed him to do does not eliminate the fact that Mr. Short had every right, indeed a duty, to be there.

27

28

¹⁴ The Commission takes note of the fact that there will be in excess of forty judges in the district once several new positions are filled on January 5, 2009 by those elected on November 4, 2008.

1 Clearly, the respondent was aware of why Mr. Short was there and a reasonable person would not have
2 called the police to report what she ultimately reported. This is just one more example of the extent of
3 Judge Halverson's willingness to impede the administrative functions of the chief judge. In doing so she
4 wasted the precious time of law enforcement officers who could have been doing much more important
5 tasks than intervening in a "dispute" created by Judge Halverson.

6 **C. Conclusions of Law.**

7 1. Count One was dismissed prior to the conclusion of the evidentiary hearing. There are no
8 violations identified as a result of this count.

9 2. As to Count Two, the respondent's actions constitute a violation of Canon 2(A) only, of the
10 Nevada Code of Judicial Conduct.

11 3. As to Count Three, the respondent's actions constitute violations of Canons 1, 2(A), 2(B),
12 3(B)(7), 3(B)(8) and 3(B)(9), or any combination of those canons, of the Nevada Code of Judicial
13 Conduct.

14 4. Count Four was dismissed prior to the conclusion of the evidentiary hearing. There are no
15 violations identified as a result of this count.

16 5. As to Count Five, Subsections (c), (j) and (s) only, the respondent's actions constitute
17 violations of Canons 1, 2(A), 2(B), 3(B)(5), 3(C)(1), 3(C)(2) and 4A, or any combination of those
18 canons, in violation of the Nevada Code of Judicial Conduct.

19 6. As to Count Six, Subsections (c), (d) and (e) were dismissed prior to the conclusion of the
20 evidentiary hearing. There are no violations identified as a result of those particular subsections.
21 However, as to Subsections (a) and (b) of Count Six, the respondent's actions constitute violations of
22 Canons 1, 2(A), 2(B), 3(B)(5), 3(C)(1), 3(C)(2), and 4(A), or any combination of those canons, of the
23 Nevada Code of Judicial Conduct.

24 7. As to Count Seven, the Commission has found that the factual proof was insufficient to sustain
25 the charge. Therefore, there are no violations identified as a result of this count.

26 8. As to Count Eight, the Commission has found that the factual proof was insufficient to sustain
27 the charge. Therefore, there are no violations identified as a result of this count.

28 ...

1 9. Count Nine was dismissed prior to the conclusion of the evidentiary hearing. There are no
2 violations identified as a result of this count.

3 10. As to Count Ten, the Commission has found that the factual proof was insufficient to sustain
4 the charge. Therefore, there are no violations identified as a result of this count.

5 11. As to Count Eleven, the respondent's actions constitute violations of Canons 1, 2(A),
6 3(C)(1), 3(C)(2), and 4(A), or any combination of those canons, of the Nevada Code of Judicial Conduct.

7 12. As to Count Twelve, the Commission has found that the factual proof was insufficient to
8 sustain the charge. Therefore, there are no violations identified as a result of this count.

9 13. As to Count Thirteen, the respondent's actions constitute violations of Canons 1, 2(A), 2(B),
10 3(B)(1), 3(B)(2) and 4(A), or any combination of those canons, in violation of the Nevada Code of
11 Judicial Conduct.

12 14. As to Count Fourteen, subsection (b) was dismissed prior to the conclusion of the evidentiary
13 hearing. There are no violations identified as a result of that subsection. However, as to subsections (a),
14 (b) and (d), the respondent's actions constitute violations of Canons 1, 2(A), 2(B), 3(B)(1), 3(B)(2), and
15 4(A), or any combination of those canons, of the Nevada Code of Judicial Conduct.

16 15. At all times relevant hereto, the majority of respondent's actions were willful within the
17 meaning of subsection 8(a) of Section 21 of Article 6 of the Nevada Constitution. *Matter of Fine*, 116
18 Nev. 1001, 1021, 13 P.3d 400, 413 (2000). There is no mitigating evidence, much less sufficient
19 mitigating evidence, for the Commission to consider a lesser punishment, especially in light of the
20 likelihood that Judge Halverson's impaired judgment and combative personality would be likely to
21 manifest themselves again were she to seek and obtain judicial office again. *Compare, In re: Assad*, ____
22 Nev. ____, 185 P.3d 1044 (2008) (nonwillful and isolated nature of judge's conduct, together with
23 substantial mitigating evidence, resulted in reduction of sanction imposed by the Commission).

24 16. Pursuant to the provisions of subsection (1) of Section 21 of Article 6 of the Nevada
25 Constitution, the Commission has subject matter jurisdiction over the allegations in the Formal Statement
26 of Charges. It has the authority to impose sanctions on the respondent, including removal from office.

27 17. Pursuant to the service of process certification on file in the Commission's file, the
28 Commission has personal jurisdiction over the respondent.

1 **D. Imposition of Discipline.**

2 The following observation by the New Mexico Supreme Court is wholly applicable to this case.

3 When a new judge, through lack of knowledge, experience or judgment,
4 acts in ways that are inconsistent with his or her new role, we hope that
5 such conduct can be corrected through discipline in the form of training,
6 mentoring, and supervision. However, when a judge denies making
7 mistakes, he or she cannot learn from the mistakes, and there is little that
8 can be done to correct the behavior. Under such circumstances, to allow
9 a judge who is not truthful to remain on the bench betrays the public trust
10 and threatens the integrity and the independence of the judiciary as a
11 whole.

12 *Inquiry Concerning Rodella*, 190 P.3d 338, 349 (N.M. 2008).

13 The evidence is overwhelming that shortly after Judge Halverson was elected and took office in
14 January 2007, her behavior and her failure to cooperate with other judges and court officials led to
15 substantial problems for the Eighth Judicial District Court. She interrupted the workings of the court and
16 her largely perceived conflict with the chief judge purposefully caused unnecessary problems for the
17 chief judge, other judges, and the court's administrative staff. This resulted in unnecessary costs to the
18 taxpayers and her behavior undermined the confidence of the public in the court system. While a judge
19 needs to be independent, and there are a myriad of styles in which judges may carry out their duties while
20 retaining their independence, there is a basic level of judgment, cooperation and integrity which is
21 required of judges. In a district the size of the Eighth Judicial District, which has a huge workload, it is
22 absolutely essential that all judges, including new ones who are prone to making technical mistakes that
23 more experienced judges might not make, must cooperate with the lawful directives of the chief judge
24 and the persons she tasks to carry out those directives.

25 Judge Halverson made significant legal errors conducting her first jury trials that resulted in
26 significant costs to the taxpayers because reversible error occurred. In one case, her *ex parte*
27 conversation with a jury likely led to the need for a new trial that will require all the witnesses and the
28 victim of a series of alleged sex crimes to go through the ordeal of trial twice. When such errors were
brought to her attention, she injudiciously attempted to shift the blame to court staff members and the
attorneys who were conducting the trials rather than shouldering it herself. When the panel of judges and
administrators attempted to meet with her to provide assistance, instead of having the humility and
accepting the help, she demonstrated hubris instead. She went to the media in an effort to discredit other

1 judges, seasoned attorneys and at least some of her staff members. In doing so, she attempted to destroy
2 the public's confidence in the integrity of the judiciary and the judicial system. The credible evidence
3 in this record is that she lied to the press about her colleagues and she lied under oath to this
4 Commission.

5 The damage resulting from her antics and willful misconduct will be felt by the judicial system
6 for a significant future period of time. The Commission cannot reach any other conclusion but that
7 Judge Halverson's behavior undercut the key canon at issue in this case. Her own courtroom antics and
8 demeanor during the proceedings held before this Commission require immediate consideration in
9 deciding whether to impose a sanction, and if so, what sanction to impose. *Matter of Davis*, 113 Nev.
10 1204, 946 P. 2d 1033 (1997) (in a judicial discipline proceeding, the Commission rightfully considered
11 the judge's demeanor at the hearing in the process of determining the appropriate sanctions to be imposed
12 since it was relevant to a limited degree to the deliberations over the nature of the discipline to be
13 imposed). In this case, Judge Halverson throughout the proceedings behaved in a way that did not
14 promote confidence in the integrity of the judiciary. While Canon 2 requires a judge to act in a manner
15 at all times that promotes the public confidence in the integrity and impartiality of the judiciary, Judge
16 Halverson's behavior, including her combative style and imperial attitude, had just the opposite impact.

17 Instead of cooperating in presenting her case to the Commission, Judge Halverson spent a great
18 amount of effort trying her case to the press and attempting to embarrass the entire Nevada judiciary prior
19 to and during the evidentiary hearing. From the beginning of this case, Judge Halverson refused to
20 cooperate with the Commission, in that she repeatedly refused to submit to a physical examination.¹⁵
21 After castigating the Commission in legal pleadings for delaying her case she repeatedly took steps
22 purposefully to delay it. She obtained legal counsel who, despite their ardent representation of her, were
23 forced to withdraw. She then proceeded to represent herself for a period of time during the late spring
24 and summer of 2008 and she chose to file frivolous writs and law suits trying to delay or dismiss the
25 case. Even during the hearing of her case, she applied belatedly to the federal district court to stop the
26 proceedings and her new set of attorneys unceremoniously interrupted the Commission's proceedings

27
28 ¹⁵ Prior to the hearing, she erroneously claimed in a motion that she had an entitlement to be
allowed to present medical related evidence while asserting that the Americans with Disabilities Act
shielded her from any examination of her medical or psychiatric status by an outside evaluator.

1 to serve her federal lawsuit. In certain instances, uncooperative conduct and delay tactics by judicial
2 officers have been found to be antithetical to the responsibilities of a judge and attorney involved in the
3 disciplinary process; and also acts which call into question the integrity of the judicial disciplinary
4 process itself. *In the Matter of McClain*, 662 N.E. 2d 935 (Ind. 1996).

5 Once the hearing began, she routinely was late at the beginning of each hearing session and after
6 almost every break. One afternoon, when she was given the opportunity to go home early due to health
7 problems related to her diabetic condition, conditions that Mr. Schwartz used as a basis for asking the
8 Commission to take an early recess, the Commission observed Judge Halverson immediately conduct
9 prolonged press interviews in the back of the courtroom.

10 The Commission and the special counsel bent over backwards to accommodate her needs during
11 the hearing process, while she continually did all she could to delay and demean the process and the
12 judiciary. She inappropriately subpoenaed numerous members of the judiciary, including members of
13 the Supreme Court. When asked for information by the Commission as to whether she had even talked
14 to the witnesses, and when instructed to provide offers of proof as to relevant testimony from such
15 witnesses, she repeatedly failed to provide such information. Despite repeated directives issued by the
16 presiding officer, Judge Halverson failed to provide the special counsel with any semblance of a witness
17 list. This behavior appears to have been purposeful and taken with the intent to gain a tactical advantage,
18 rather than the mere oversight of an inexperienced and unprepared litigator.

19 She had not even spoken to many of the "witnesses" she subpoenaed. Judge Halverson continued
20 throughout the hearing to demand her rights to put on a meaningful defense, contending that she had over
21 one hundred witnesses to call, but she ended up not using all the time allotted to her because her
22 witnesses were not present. They were not present because Judge Halverson had not taken the necessary
23 steps in advance of the hearing to ensure that they had been served with process and in some instances,
24 a witness fee required by law. In sum, it appears that Judge Halverson failed to prepare to try the case
25 and yet she continually voiced protestations about the need to call dozens if not hundreds of witnesses
26 to whom she had failed to speak prior to the hearing.¹⁶

27
28 ¹⁶ This observation about Judge Halverson should not be construed as a critique of Mr. Schwartz. He arrived on the scene just days before the hearing began and he did an admirable job as an advocate. He is to be commended for ardently representing his client. The failure to prepare the witnesses may

1 Moreover, Judge Halverson caused great disruption to the operation of the Eighth Judicial District
2 by failing to cooperate with the legal counsel for that court in arranging for witnesses and she showed
3 her disrespect for the system by failing to cooperate with the attorney general's office in calling other
4 witnesses represented by that office. Her behavior throughout the hearing was at times, variously and
5 fairly to be described as agitated, combative and bordering on contemptuous. While there were times
6 she remained outwardly respectful to the Commission, the Commission concludes that she deliberately
7 decided to wreak as much havoc as possible upon the operation of the entire judicial system of the State
8 of Nevada, including the Commission, without recognizing the severe impact and consequences of her
9 actions.

10 While some of the behavior found by the Commission to have occurred in Counts Two, Three,
11 Five, Six, Eleven, Thirteen and Fourteen was a result of her inexperience, the most egregious behavior
12 on her part was willful and persistent. Such behavior, particularly with regard to treating employees
13 decently and not disrupting the administrative operations of the entire court is not, in our collective
14 estimation and experience, amenable to correction by education or mentoring. Indeed, having been given
15 the opportunity to learn from her mistakes and to obtain assistance from one or more of her fellow
16 judges, it is beyond any reasonable argument that Judge Halverson threw away the opportunity and
17 instead, lashed out at those judges thought to be her detractors and accusers.

18 It is also important that there were existing violations relating to many different instances
19 involving varied factual scenarios and different people. Count Two involved sleeping in court on
20 multiple occasions and the judge's abject failure to take any corrective action to control repeated
21 instances of sleeping. Count Three involved serious violations of basic rules pertaining to contact with
22 juries in criminal cases and her violations led to additional, unnecessary proceedings. Counts Five and
23 Six involved mistreatment of staff, i.e., the use of profane language and yelling that is not likely to be
24 a characteristic of an effective, efficient judicial workplace even with an experienced, talented jurist.
25 Count Eleven involved purposeful security breaches of the district court. Count Thirteen involved
26 making false unsworn statements to the media and false statements under oath to this Commission.

27
28 _____

be directly attributed to Judge Halverson, who apparently chose to use the time between late May and
early August to prepare motions and writs instead of preparing for trial.

1 Count Fourteen involved multiple acts intended to impede the administrative functioning of the district
2 court. This panoply of ethical transgressions surely did not do anything to promote the public's
3 confidence in the judiciary.

4 We are mindful of a general rule recognized by appellate courts that the purpose of a judicial
5 disciplinary proceeding is not to impose punishment for its own sake, "but for the imposition of sanctions
6 where necessary to safeguard the Bench from unfit incumbents." *Matter of Restaino*, 10 NY2d 3d 577,
7 890 N.E. 2d 224 (2008). Our findings and conclusions cover a period of time that only included the first
8 few months of Judge Halverson's mercifully short tenure as a judge. Some judges are in office for an
9 entire career and do not accumulate the type of dismal professional history that the record in this case
10 establishes. The Commission unanimously concludes that it is a near certainty that if elected to judicial
11 office again, Judge Halverson's behavior would once again be the subject of consideration by this
12 Commission. Given her unrepentant attitude, her lack of professional litigation and judicial expertise,
13 her disrespectful demeanor and almost total inability to operate collegially, it would be a surprise if any
14 other course of events were to ensue upon her return to the bench at any level. In order to prevent that
15 from being a possibility and in light of its duty to protect the public, the Commission concludes that it
16 has but one viable punishment option in this case.

17 Therefore, the order of the Commission is that Judge Elizabeth Halverson should be and therefore
18 she is immediately removed on a permanent basis from her elective office as a district judge. By
19 operation of law, she will not be able to seek judicial office in Nevada.

20 **E. Order and Notice.**

21 IT IS HEREBY ORDERED that the Clerk's Certificate of Mailing, found below, shall constitute
22 the notice of entry of this document pursuant to Commission Procedural Rule 34, and the clerk shall
23 promptly serve it on the respondent's counsel and the special counsel.

24 Notice is hereby tendered to the special counsel and the respondent pursuant to NRAP 3D, an
25 appeal may be taken by filing a notice of appeal with the Clerk of the Commission and by serving such
26 notice on opposing counsel within fifteen (15) days of service of this document by the clerk of the
27 Commission.

28 ...

1 The Chairman of the Commission is authorized to sign this order on behalf of the full
2 Commission.

3 IT IS SO ORDERED.

4 DATED this 17th day of November, 2008.

5 NEVADA COMMISSION ON
6 JUDICIAL DISCIPLINE
7 P.O. Box 48
8 Carson City, NV 89702

9 By: 
10 GREG FERRARO, Chairman

1 **CERTIFICATE OF MAILING**

2 I hereby certify that I am an employee of the Nevada Commission on Judicial Discipline and that
3 on the 17th day of November, 2008, I placed a copy of the FINDINGS OF FACT, CONCLUSIONS
4 OF LAW AND IMPOSITION OF DISCIPLINE in the United States Mail, postage prepaid, addressed
5 to the undersigned:

6 Dorothy Nash Holmes, Esq.
7 Fahrendorf, Vilorio, Oliphant & Oster, L.L.P.
8 P. O. Box 3677
9 Reno, NV 89505-3677
10 Special Counsel

11 Michael Alan Schwartz
12 Schwartz, Kelly & Oltarz-Schwartz PC
13 30300 Northwestern Highway Ste 260
14 Farmington Hills, MI 48334
15 Counsel for Respondent

16 Honorable Judge Elizabeth Halverson
17 3850 E. Flamingo Rd. #152
18 Las Vegas, NV 89121-6227
19 and to her personal address
20 *Address redacted*
21 Respondent

22 
23 KATHY SCHULTZ, Commission Clerk
24
25
26
27
28

**SUPREME COURT OF THE STATE OF NEVADA
OFFICE OF THE CLERK**

IN THE MATTER OF THE HONORABLE ELIZABETH HALVERSON,
DISTRICT COURT JUDGE, EIGHTH JUDICIAL DISTRICT, COUNTY
OF CLARK, STATE OF NEVADA.

Supreme Court No. 52760

District Court Case No.

RECEIPT FOR DOCUMENTS

TO: Fahrendorf, Vioria, Oliphant & Oster, LLP and Dorothy Nash Holmes
Nevada Commission on Judicial Discipline and David F. Sarnowski,
Executive Director
Schwartz, Kelly & Oltarz-Schwartz, P.C. and Michael Alan Schwartz
Elizabeth Halverson, District Judge

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

11/17/08 Filing fee waived: Judicial Discipline.

11/17/08 Filed Certified Copy of Findings of Fact, Conclusions of Law and Imposition of Discipline.

DATE: November 17, 2008

Tracie Lindeman, Clerk of Court