

In the Matter of the Honorable Sharon N. DeVries

Kevin O'Brien, Assistant Commissioner NH Department of Safety

JC-15-025-C

Committee Initiated Complaint

JC-15-054-C

REPRIMAND AND CAUTION

I. INTRODUCTION

This matter commenced with a report dated July 30, 2015 which was received and docketed by the Judicial Conduct Committee on August 3, 2015. The report was filed regarding Judge Sharon N. DeVries and was brought forward by Kevin O'Brien, then Assistant Commissioner of the State of New Hampshire Department of Safety.

Assistant Commissioner O'Brien's report addressed hearings or bench trials in 12 criminal cases conducted by Judge DeVries at the 10th Circuit Court — Rockingham County — District Division — Seabrook between February 6, 2014 and July 9, 2015. Six of the cases were bench trials, five involved negotiated plea and sentencing hearings, and one involved consideration of a request for issuance of a bench warrant and payment of witness fees for a default based on a failure to appear. In this Judicial Conduct Committee disposition, Judge DeVries stipulates to a violation of Canons 2.2(B) and 2.6(A) and the issuance of a reprimand in one case. The Committee issues a caution without formal discipline in four cases with Judge DeVries' consent. The Committee dismisses the portions of the report related to the other seven cases.

II. PROCEDURAL HISTORY

Assistant Commissioner O'Brien indicated on the face of the report Cover Sheet only that, "Rulings have impacted the State's ability to bring cases." Assistant Commissioner O'Brien set forth in detail the judicial conduct complained of in a document appended to the report Cover Sheet entitled, "Statement of Cases and Rule Violations". The report included audio recordings of each of the hearings cited by Assistant Commissioner O'Brien.

Assistant Commissioner O'Brien alleged that the above-referenced cases evidenced a consistent pattern of judicial misconduct by Judge DeVries over a lengthy period of time in violation of the State of New Hampshire's Code of Judicial Conduct specifically citing Rules 1.1; 2.2; 2.2 (A); 2.2 (B); 2.3 (A); 2.5 (A); 2.6 (A); 2.6 (B); 2.8 (A); 2.8 (B); and, 2.9 (A).

Assistant Commissioner O'Brien's report was elevated by the Committee to the level of a complaint requiring Judge DeVries' response in September of 2015 (JC-15-025-C). Because Judge DeVries, through counsel, raised the issue of Assistant Commissioner O'Brien's standing to file a report of alleged judicial misconduct under circumstances where he did not personally observe the conduct complained of and was not personally affected by it, the

Committee, out of an abundance of caution, initiated its own inquiry into these matters pursuant to New Hampshire Supreme Court Rule 40 (6) in December of 2015. The Committee's self-initiated inquiry was itself elevated to the level of a complaint by the Committee in March of 2016 (JC-15-054-C). These complaints, JC-15-025-C and JC-15-054-C, had been consolidated for purposes of discovery and are now consolidated herein for purposes of final disposition.

Following receipt of Judge DeVries' answers to complaints JC-15-025-C and JC-15-054-C the Committee determined to open a preliminary investigation of these complaints pursuant to New Hampshire Supreme Court Rule 40 (8). The Committee retained Attorney Philip R. Waystack as Committee Counsel on or about June 24, 2016 to undertake a preliminary investigation of these complaints. The complaints were resolved by this stipulation during the preliminary investigation.

III. ALLEGATIONS AND RESPONSES

A summary of Reporter's allegations and Judge DeVries' responses are included in an Addendum to this stipulation.

IV. FINDINGS OF FACT

1. The Committee has determined that its investigation has not disclosed probable cause to warrant formal proceedings arising from the following underlying cases and hereby terminates its inquiry and dismisses this portion of the complaints:

State of New Hampshire v. M. H.;

State of New Hampshire v. J. J.;

State of New Hampshire v. I. R.;

State of New Hampshire v. D. P.;

State of New Hampshire v. M. S.;

State of New Hampshire v. A. C.; and,

State of New Hampshire v. R. E.

2. The Committee finds in the case of State of New Hampshire v. M. C. that the case record is consistent with the allegations of the complaints such that:

A. Judge DeVries stated that while she would accept the terms proposed for the amended felony charge which included a suspended 12-month term of incarceration, she was not willing to impose another suspended, consecutive 12-month commitment to the House of Corrections regarding the misdemeanor marijuana charge and would enter a \$350 fine as a class B misdemeanor;

B. The State objected and indicated on several occasions that the proposed plea agreement was meant to be a global resolution;

C. Judge DeVries indicated to the State that she would impose a \$350 fine but would not approve the term of 12 months suspended incarceration proposed regarding the marijuana charge. Attorney Reed once again asserted that the proposal was to be a global settlement and that if the Court was inclined to reject the negotiated terms of the marijuana charge, the State would withdraw the amendment made to the complaint and the matter would be bound over in its entirety to the Superior Court so that the felony charges could be pursued in Superior Court by the County Attorney's office;

D. Judge DeVries did not allow the State to strike an amendment to the complaint stating that the defendant had already entered a guilty plea;

E. Judge DeVries reminded the State of provisions in the waiver and acknowledgement of rights form stating that the court has discretion in imposing sentences;

F. Judge DeVries imposed a sentence over the State's objection that included the agreed-upon terms on the amended felony charge and the \$350 fine on the marijuana charge, which in the absence of a suspended term of incarceration converted that charge to a Class B misdemeanor by operation of law.

G. The State filed no appeal.

3. The Committee finds in the case of State of New Hampshire v. B. W. that the case record is consistent with the allegations of the complaints such that:

A. At Judge DeVries' request, the trooper made an offer of proof describing the facts of the case; offering the defendant's prior motor vehicle record in Massachusetts in support of the State's recommendation;

B. Judge DeVries amended the charge and proceeded to sentence the defendant to a violation level of possession of a controlled drug over the State's objection as the negotiated plea reflected a violation of RSA 318-B: 26 (Penalties);

C. Judge DeVries imposed the recommended \$350 fine plus penalty assessment and then allowed the defendant to leave so as to make payment at the clerk's office.

D. After hearing, Judge DeVries then suspended the entire fine without any input from the State.

4. The Committee finds in the case of State of New Hampshire v. M. P. that the case record is consistent with the allegations of the complaints such that:

A. The State indicated that a negotiated plea was reached on both charges and set forth the terms that were agreed to by the parties;

B. The defendant indicated that she was pleading guilty to both matters;

C. Judge DeVries asked the defendant several questions regarding the reason for the suspension of her license and also inquired as to why the defendant had been in default since the year 2000;

D. The defendant indicated that she did not know why her license was suspended but thought that it might have had to do with a payment issue related to a fine that she had received but she simply could not recall. The State indicated that presumably the license suspension was related to the non-payment of a fine in 1994;

E. Judge DeVries asked the defendant whether the fine had been paid and the defendant indicated that she thought she had mailed the fine payment to the courthouse but she did not bring with her any proof of payment;

F. Judge DeVries placed the charge of driving after suspension on file without a finding, indicating that the defendant's belief that she had previously paid the fine and cleared it up was her motivation for placing the charge on file without a finding;

G. Judge DeVries did not ask the State for its position on the departure from the negotiated plea terms and entered the disposition placing the driving after suspension charge on file without finding *sua sponte* absent request from the defendant and without any proof of satisfaction of the suspension issue.

H. The State did not make an objection on the record to the placement of the charge on file without a finding.

I. A guilty finding was entered and a fine paid on one charge of drug possession.

5. The Committee finds in the case of State of New Hampshire v. G. C. that the case record is consistent with the allegations of the complaints such that:

A. Judge DeVries declined to order the interlock device even though defense counsel stated that it was part of the negotiated agreement. The State offered no objection to the judge's denial of the interlock device;

B. Judge DeVries maintained that the Division of Motor Vehicles could order the interlock device if it chose to do so in a case where it was not mandatory;

C. Judge DeVries was not willing to order a monitoring interlock device and questioned the applicability of the interlock device statute to this first time offender over 21 years of age;

D. Judge DeVries reviewed the interlock device statute with defense counsel and discussed the statutorily-delineated circumstances where the installation of the monitoring interlock device is mandatory and/or discretionary. Judge DeVries stated "So it [the statute] qualifies it even in that circumstance and I don't have this circumstance so frankly I am not ordering the interlock. . . That's a judicial decision and the trooper will convey that to the [other trooper]."

6. The Committee finds in the case of State of New Hampshire v. R. F. that the case record is consistent with the allegations of the complaints such that:

A. Prior to trial the defendant and the State agreed to a plea deal whereby the defendant would plead guilty to one charge of simple assault in return for the other charge being nolle prossed.

B. Trooper Michael C. appeared on behalf of the State for the hearing.

C. Attorney David Newton represented the defendant.

D. Judge DeVries stated that, "I feel like there is a puppet behind the curtain that has pulled strings without being present here and I'm finding it very objectionable. It happens to go on regularly in this court for some reason and it is not an acceptable way for the State to prosecute cases."

E. Judge DeVries stated, "... So tell me what the deal is please, Michael. ... No, what your deal with Attorney Reed is?"

F. Judge DeVries asked Trooper C. what he would do if she did not accept the plea because the case was scheduled for trial without a Department of Safety prosecutor or the victim in court for trial.

G. Attorney Reed appeared to have released the State's witnesses based on the negotiated disposition.

H. Trooper C. indicated that he would not be able to prosecute the case if it went to trial and that he would have to accept the Court's decision.

I. Judge DeVries dismissed the simple assault charge with prejudice.

J. After Judge DeVries dismissed the charges, she granted the State's Motion for Reconsideration and rescheduled the case for hearing.

K. The parties, after hearing, requested additional time to seek a negotiated resolution which was granted.

L. Judge DeVries recused herself from the case.

V. RULINGS OF LAW

The Respondent and the Judicial Conduct Committee stipulate that the following Canons of the Code of Judicial Conduct were violated by clear and convincing evidence in the context of State v. M.C.

Rule 2.2(B) Impartiality and Fairness

(B) A judge may make reasonable efforts, consistent with the law and court rules, to facilitate the ability of all litigants, including self-represented litigants, to be fairly heard.

Rule 2.6 Ensuring the Right to Be Heard

(A) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law.

Comment

1. The right to be heard is an essential component of a fair and impartial system of justice. Substantive rights of litigants can be protected only if procedures protecting the right to be heard are observed.

In the context of State of New Hampshire v. M.C., by her *sua sponte* revision of the negotiated plea agreement, Judge DeVries refused to allow the State to strike amendments to the complaints; abrogated the Court's duty and exceeded its authority to make charging decisions; and forced the State to go through with a plea after unilaterally renegotiating the terms of the plea agreement which were not in line with the negotiated agreement and were previously agreed upon by the defendant and prosecutor. Litigants have right to expect, for example, that their case will be heard in a public forum before an impartial judge or jury with representatives of both sides present. When judges infringe on such basic rights granted to litigants by common law, they violate Canon 2 of the 2007 Code which commands judges to accord litigants the full right to be heard (Rule 2.2 B and Rule 2.6).

Judge DeVries' conduct from the bench in the matter of State of New Hampshire v. M.C. violates two provisions of Canon 2 of the Code of Judicial Conduct.

This case involved a negotiated plea between defense counsel and the State Police prosecutor. The terms of the negotiated plea were that: 1) a felony charge of controlled drug possession would be reduced to a misdemeanor charge of controlling a premises where a controlled drug was found; 2) a charge of unlawful possession of alcohol would be dismissed; 3) a second charge for misdemeanor drug possession would be amended to a misdemeanor charge of controlling a premises where a controlled drug was found. The defendant would plead guilty to a reduced charge of a misdemeanor drug offense and a second charge of a misdemeanor drug offense. In addition, the negotiated plea at issue, among other things, provided that the defendant could serve 12-month suspended sentences in the House of Correction on each charge.

Negotiated pleas are subject to the approval of the presiding judge. When presented to Judge DeVries as the presiding judge, she was not willing to accept a portion of the above-described plea bargain concerning one of the misdemeanor drug charges, specifically the consecutive 12-month suspended sentence of incarceration on the second drug charge. The defense counsel told Judge DeVries that he discussed his concerns with the defendant's parents about the severity of the sentencing terms and his reluctance to go forward, but his client wanted to accept the plea terms despite those concerns.

When Judge DeVries notified defense counsel and the prosecutor that she was unwilling to accept the negotiated disposition on one of the misdemeanor charges, the prosecutor clearly stated that she was not willing to go forward with the negotiated plea given the sentencing changes as stated by the judge. The prosecutor then stated that she would revert back to the

felony level charge and proceed to trial. (Felonies are tried in Superior Court; however, the Circuit Court-District Division may hold a hearing to determine if probable cause exists to bind a felony level case over to Superior Court).

Judge DeVries stated to the prosecutor that she would not permit the prosecutor to revert to the original felony charge because the defendant had already entered a plea of guilty to the amended charge. Faced with the judge's position, the prosecutor then stated that she would dismiss (*nolle prosequere*) the charges in the District Court and allow the Rockingham County Attorney to present the cases to a grand jury for the purpose of indicting the defendant on felony charges. Judge DeVries did not permit the prosecutor to take this action either. By so doing, Judge DeVries failed to make reasonable efforts to facilitate the ability of the prosecutor to be fairly heard on the initial charges. Rule 2.2 (B) requires the judge to make reasonable efforts, consistent with the law and court rules, to facilitate the ability of all litigants to be fairly heard.

If the defendant was unwilling to accept the judge's amendment to the negotiated plea she would have been permitted to proceed to trial. But the right of litigants to be heard is not limited only to the defendant in a criminal case. The State also has a right to be fairly heard in cases in which the judge does not accept the negotiated plea. Thus, by Judge DeVries' actions from the bench in preventing the prosecutor from withdrawing the plea offer and allowing her to proceed to trial, or to *nolle prosequere* the charges and allow the County Attorney to present the evidence to a grand jury, Judge DeVries violated the terms of Rule 2.2 (B) by failing to facilitate the ability of all litigants to be fairly heard. The same circumstances also give rise to a violation of Rule 2.6 (A) which requires a judge to accord to every person who has a legal interest in a proceeding the right to be heard according to law. The State, through its prosecutor, had a legal interest in the prosecution of the charges against M.C. As stated in the comment to Rule 2.6, "... The right to be heard is an essential component of a fair and impartial system of justice." By failing to allow the State to proceed to trial or to allow the prosecution to present State of New Hampshire v. M.C. to a grand jury, Judge DeVries did not ensure the State's right to be heard. It is not only the defendant who has the right to be heard but, as Rule 2.6 (A) provides, it is "... every person who has a legal interest in a proceeding" who has a right to be heard.

The Committee has concluded (and the Committee and Judge DeVries have herein stipulated) that clear and convincing evidence exists of a violation of Rule 2.2 (B) and Rule 2.6 (A) in the matter of State of New Hampshire v. M.C.

Factual findings as set forth in Section III above are incorporated herein by reference.

The Respondent and the Judicial Conduct Committee further stipulate that while a violation of the following Canon of the Code of Judicial Conduct is **not** found in State of New Hampshire v. B.W.; State of New Hampshire v. M. P.; State of New Hampshire v. G. C.; and, State of New Hampshire v. R. F., Judge DeVries acted in a manner which involved behavior which requires attention and hereby further stipulate to dismissal with the issuance of a Caution and recommendations for prudent future conduct.

Canon 2

Rule 2.8 Decorum, Demeanor, and Communication with Jurors

(A) A judge shall require order and decorum in proceedings before the court.

(B) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge's direction and control.

Judge DeVries' conduct on the bench in the cases of State of New Hampshire v. B.W.; State of New Hampshire v. R.F.; State of New Hampshire v. M.P. and, State of New Hampshire v. G.C. given the totality of the circumstances, does not appear to rise to the level of a violation of the Code of Judicial Conduct. However, the Committee believes that certain aspects of Judge DeVries' conduct on the bench in these cases does require attention and the Committee believes that the issuance of a Caution is appropriate to the resolution of the issues presented.

In State of New Hampshire v. R.F., Judge DeVries initially dismissed the case despite a negotiated plea between defense counsel and the State Police prosecutor. In so doing, the victim of domestic violence was deprived of the opportunity to have the defendant attend anger management counseling as the sentence of the negotiated plea required. Ultimately, Judge DeVries did reconsider her dismissal and the negotiated plea was approved some months later before a different judge. As discussed above, Rule 2.6 (A) provides that every person who has a legal interest in a proceeding has a right to be heard. The victim of domestic violence does have a legal interest in a sentencing hearing. The legal interest of all such people in a matter in hearing must be protected by the presiding judge.

During the hearing, after learning that Attorney Reed had negotiated the case but had not appeared in court, Judge DeVries became upset. She stated that, "I feel like there is a puppet behind the curtain that has pulled strings without being present here and I'm finding it very objectionable. It happens to go on regularly in this court for some reason and it is not an acceptable way for the State to prosecute cases." This referred to the fact that Attorney Reed had not appeared in court for over six months but had continued to work on cases at Seabrook as one of her assigned courts.

Judge DeVries also stated raising her voice, "... So tell me what the deal is please, Michael." When he asked if the question concerned the terms of the plea agreement, Judge DeVries stated, "No, what your deal with Attorney Reed is?".

The Committee hereby reminds Judge DeVries that the duty to hear all proceedings with patience and courtesy is not inconsistent with the duty imposed in Rule 2.5 to dispose promptly of the business of the Court and that judges can be efficient and businesslike while being patient and deliberate.

The Committee also hereby cautions Judge DeVries to avoid allowing her professional disagreements towards a party or an attorney to manifest themselves in a judicial manner lacking in patience, courtesy and professionalism.

In State of New Hampshire v. B.W., a self-represented defendant came to a negotiated plea agreement with a State Police officer. At the hearing on this negotiated plea, the defendant appeared to begin to repudiate his agreement to the negotiated plea. Judge DeVries reduced the level of the offense from a misdemeanor to a violation over the objection of the state police officer who was prosecuting the case. In so doing, the judge, *sua sponte*, made an offense charging decision. Decisions as to what level of criminal charges are to be made are not the province of the presiding judge and should be left to the prosecutor. It is the sole responsibility of the prosecutor to make such charging decisions. Once the prosecutor objected to the reduction of the offense from a misdemeanor to a violation the case should have been allowed to proceed to trial.

In State of New Hampshire v. M.P., another self-represented party arrived at a negotiated plea with the State Police prosecutor. The negotiated plea involved a misdemeanor charge of operating a motor vehicle while under suspension. There was also evidence of a controlled substance (marijuana) in the defendant's vehicle. When presented with the terms of the negotiated plea and without the consent of the prosecutor, Judge DeVries rejected the plea agreement because she believed that the fine was too high where the circumstances involved the defendant's belief that she had previously paid the fine and cleared it up. Ultimately, Judge DeVries imposed the negotiated sentence of a drug possession charge but, *sua sponte*, placed the other charge, driving after suspension, on file without a finding. This action in placing the case on file without finding was taken by the judge alone without colloquy with or the consent of the State Police prosecutor.

In State of New Hampshire v. G.C., the defendant was represented by experienced defense counsel who negotiated a plea agreement with the State Police prosecutor. The original charge of aggravated operating under the influence of intoxicating liquor, a more serious charge with enhanced penalties, was to be reduced to a baseline level DWI. However, an important condition of the reduced charge was that an ignition master lock device be installed in the defendant's vehicle which is a penalty more regularly used with an aggravated DWI charge. Judge DeVries did not accept this portion of the plea agreement which included installation of the interlock device.

Factual findings as set forth in Section III above are incorporated by reference.

VI. DISPOSITIONAL ANALYSIS

Canons 2, Rule 2.2(B) and 2.6

After determining the existence of clear and convincing evidence supporting the finding of a violation of Canon 2, Rules 2.2(B) and 2.6 of the Code of Judicial Conduct by Judge DeVries, the Committee examined the factors identified by the New Hampshire Supreme Court pursuant to its decision, In Re: Coffey's Case, 157 N.N.156 (2008) in determining a sanction.

Specifically, the Committee considered the nature of the misconduct, the extent of the misconduct, the judge's culpability, the judge's conduct in response to the Committee's inquiry and disciplinary proceedings and the judge's reputation and record on the bench.

A. The Nature of the Conduct:

The conduct occurred in the judge's official capacity. There was no indication that it was conducted in bad faith or for personal gain.

B. The Extent of the Conduct:

This event occurred in the context of one case. Given the surrounding circumstances and nature of the conduct, there is no substantial basis to conclude that there has been actual or potential harm to the court system as a result of these actions.

C. The Judge's Culpability:

Canon 2, Rule 2.2(B) and Rule 2.6 are unequivocal and prohibit the conduct at issue. Compliance with this principle is central to our adversary system of justice. Judges abuse the power of their office when they abbreviate or change critical aspects of the adversary process counter to the scheme established by constitutional and statutory law. Litigants have right to expect, for example, that their case will be heard in a public forum before an impartial judge or jury with representatives of both sides present. When judges infringe on such basic rights granted to litigants by common law, they violate Canon 2 of the 2007 Code which commands judges to accord litigants the full right to be heard (Rule 2.2 B and Rule 2.6). (See Judicial Conduct and Ethics 5th Edition, Geyh, Alfini, Lubet and Shamar, Chapter 2 § 2.04.)

D. The Judge's Conduct in Response to the Committee's Inquiry and Disciplinary Proceedings:

Judge DeVries was at all times cooperative with the Committee and its investigation. She responded timely and thoroughly to requests for information, has acknowledged that her conduct violated the applicable code provisions, and has consented to this resolution.

E. The Judge's Reputation and Record on the Bench:

A judge since 1989, Judge DeVries did have a previous judicial conduct complaint resulting in a Reprimand in 2009. This Reprimand involved Judge DeVries making an after-hours cell phone call to a Superior Court judge requesting that judge change his Order in Superior Court and hold a juvenile over at YDC. The allegation was that Judge DeVries engaged in an unsolicited, ex-parte communication with this Superior Court judge which was made outside of the presence of the parties concerning an impending proceeding. Pursuant to Judge DeVries' stipulated violation of Canon 3 B (7) by way of her Answer to the Statement of Formal Charges, the Committee sanctioned Judge DeVries in January of 2009 for her violation of Canon 3 B (7) by way of a Reprimand.

Then as now in the context of State of New Hampshire v. M.C., State of New Hampshire v. R.F.; State of New Hampshire v. M.P.; State of New Hampshire v. B.W.; and State of New Hampshire v. G.C., Judge DeVries' alleged misconduct was motivated by her compassion for others. In the previous reprimand issued Judge DeVries in 2009 it was specifically noted that Judge DeVries' actions were prompted by her concern for the juvenile, the family, and the community and that Judge DeVries had no dishonest or selfish motives coloring her behavior.

However, then as now, Judge DeVries had demonstrated a propensity to exceed the power of her office by abbreviating or changing critical aspects of the adversarial process in her effort to expedite a faster, more efficient and, in her view, just result.

In Judicial Conduct and Ethics, Alfini, et al point out that,

Judges abuse the power of their office when they abbreviate or change critical aspects of the adversary process counter to the scheme established by constitutional and statutory law. Litigants have right to expect, for example, that their case will be heard in a public forum before an impartial judge or jury with representatives of both sides present. When judges infringe on such basic rights granted to litigants by common law, they violate Canon 2 of the 2007 Code which commands judges to accord litigants the full right to be heard (Rule 2.2 B and Rule 2.6). (See Judicial Conduct and Ethics 5th Edition, Geyh, Alfini, Lubet and Shamar, Chapter 2 § 2.04.)

Including and beyond State of New Hampshire v. M.C., the Committee is concerned that Judge DeVries' handling of State of New Hampshire v. R.F.; State of New Hampshire v. M.P.; State of New Hampshire v. B.W.; and State of New Hampshire v. G.C. when examined in light of her 2009 Reprimand to some extent reveal similarities in conduct consistent with an abbreviation of the adversary process however well intentioned.

Canon 2, Rule 2.8

Rule 2.8 Decorum, Demeanor, and Communication with Jurors

(A) A judge shall require order and decorum in proceedings before the court.

(B) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals hi an official capacity, and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge's direction and control.

(C) A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding.

Comment

1. The duty to hear all proceedings with patience and courtesy is not inconsistent with the duty imposed in Rule 2.5 to dispose promptly of the business of the court. Judges can be efficient and businesslike while being patient and deliberate.

Consistent with the Rulings of Law in Section III, this Code provision is being dismissed with a Caution which is defined under Supreme Court rule 40 (2) as, "A Non-disciplinary action taken by the Committee when it is believed that the judge acted in a manner which involved behavior requiring attention although not constituting a clear violation of the Code of Judicial Conduct warranting disciplinary action."

VII. STIPULATED DISPOSITION

Upon a finding that Judge DeVries has violated Canon 2, Rule 2.2(B) and Canon 2, Rule 2.6(A), in the context of the State of New Hampshire v. M.C. case based on the above dispositional analysis, the Committee finds that these violations are not of a sufficiently serious nature to warrant the imposition of formal discipline by the Supreme Court. Pursuant to Supreme Court Rule 40 (8) (f) (2) and with the consent of Judge DeVries, the Committee issues this Reprimand together with the following Caution and additional sanctions.

The Committee urges Judge DeVries to refrain from the conduct addressed in this Stipulated Disposition. Litigants have right to expect, for example, that their case will be heard in a public forum before an impartial judge or jury with representatives of both sides present.

A. Cautions in Other Cases

The Committee shall also require that Judge DeVries stipulate to a Caution in four cases - State of New Hampshire v. R.F.; State of New Hampshire v. M.P.; State of New Hampshire v. B.W.; and State of New Hampshire v. G.C. A caution is a non-disciplinary action when it is believed that a judge acted in a manner which involved behavior requiring attention although not constituting a clear violation of the Code of Judicial Conduct warranting disciplinary action. Judge DeVries may have abbreviated or changed critical aspects of the adversary process in these four cases which runs counter to established statutory and constitutional law and is hereby cautioned against doing so in the future. In the matter of State of New Hampshire v. R.F., Judge DeVries is further hereby cautioned to avoid allowing her professional disagreements towards a party or an attorney to manifest themselves in a judicial manner lacking in patience, courtesy and professionalism.

B. National Judicial College Training


Judge DeVries at her own expense shall complete the seminar offered by the National Judicial College entitled, Enhancing Judicial Bench Skills, before the end of 2018; and,

C. Investigative Costs and Expenses

Judge DeVries shall reimburse the State of New Hampshire / Administrative Office of the Courts for 50% of the Committee's investigative costs and expenses. The terms and conditions upon which this reimbursement is to be made shall be arranged between Judge DeVries and the AOC.

Pursuant to Supreme Court Rule 40 (8) (0 (1), the Committee determined that a clear violation of Canon 2, Rule 2.2(B), Rule 2.6(A) and Rule 2.8 is not found in the context of the State of New Hampshire v. R.F.; State of New Hampshire v. M.P.; State of New Hampshire v. B.W.; and State of New Hampshire v. G.C. cases but that Judge DeVries acted in a manner which requires attention and Judge DeVries stipulates and consents to resolution of these Code provisions by its dismissal with the issuance of this Caution of these portions of the complaint.

Judge DeVries has stipulated to resolve these matters by way of agreement to accept the within Reprimand and Caution from the Judicial Conduct Committee and that by entering into this stipulation, she waives her right to a public hearing pursuant to New Hampshire Supreme Court Rule 40 (9) and agrees that the attached Reprimand and Caution shall serve as the official record of these proceedings.



Mary Collins, Committee Chair

4-3-17

Date



Judge Sharon N. DeVries

3.20.17

Date