

Bylsma

IN THE SUPREME COURT OF THE STATE OF UTAH

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In re: Judicial Conduct Commission  
Inquiry Concerning a Judge;  
F00-1JC-024

Case No. 20000552-SC

ORDER

Pursuant to the authority vested in the Supreme Court by Article VIII, Section 13 of the Utah Constitution and section 78-8-107(7) of the Utah Code, the Court approves the implementation of the Judicial Conduct Commission's Order of Public Reprimand.

Oct. 20, 2000  
Date

Richard C. Howe  
Richard C. Howe  
Chief Justice

**BEFORE THE JUDICIAL CONDUCT COMMISSION  
INQUIRY CONCERNING A JUDGE**

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**In re: Inquiry Concerning** : **ORDER**  
**a Judge** :  
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: **F00-1JC-024**

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This matter was heard by a hearing panel (panel) of the Judicial Conduct Commission (Commission) on May 9, 2000. The panel was composed of Commission members David Nuffer, Sylvia Bennion, Gary Cox, Sharon Donovan, C. Dane Nolan, Pete Suazo, Michael Waddoups, Kenneth L. Warnick, and the Hon. Timothy R. Hanson, who acted as Chair. Steven H. Stewart, Executive Director of the Commission, appeared as Examiner. Judge Samuel H. Bylsma appeared and represented himself *pro se*.

After the hearing, the panel issued a Memorandum Decision, and a copy was mailed to the Examiner and Judge Bylsma on June 15, 2000. A quorum of the Commission, having considered the record and having entered its Findings of Fact and Conclusions of Law, issues the following Order.

**ORDER**

Judge Bylsma is publicly reprimanded for engaging in conduct prejudicial to the administration of justice which brought a judicial office into disrepute in violation of Section 78-8-103(1)(e) of the Utah Code because he prejudiced public esteem for the judicial office and violated Canon 4A of the Code of Judicial Conduct, which requires judges to conduct their extra-judicial activities so those activities do not demean the judicial office; Canon 2, which requires

judges to avoid impropriety and the appearance of impropriety; and Canon 1, which requires judges to personally observe high standards of conduct so that the integrity of judiciary will be preserved.

DATED this 22nd day of June, 2000

**THE JUDICIAL CONDUCT COMMISSION**



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David Nuffer, Chair

**CERTIFICATE OF SERVICE**

I hereby certify that on the 22nd day of June, 2000, I served a copy of the foregoing **ORDER** on the Hon. Samuel H. Bylsma, by mailing a copy thereof, postage prepaid, to the following:

Hon. Samuel H. Bylsma  
2530 South 550 West  
Perry, UT 84302



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Steven H. Stewart

**BEFORE THE JUDICIAL CONDUCT COMMISSION  
INQUIRY CONCERNING A JUDGE**

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<b>In re: Inquiry Concerning a Judge</b>	:	<b>FINDINGS OF FACT AND CONCLUSIONS OF LAW</b>
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After the hearing, the panel issued a Memorandum Decision, and a copy was mailed to the Examiner and Judge Bylsma on June 15, 2000. A quorum of the Commission, having considered the record, enters the following Findings of Fact and Conclusions of Law.

**FINDINGS OF FACT**

The following facts were established by a preponderance of the evidence at the hearing:

1. On July 15, 1999, Judge Bylsma was charged with speeding and required to appear in the Wellsville Justice Court.
2. Judge Bylsma made an initial appearance on July 28, 1999 before Wellsville City Justice Court Judge Terry Moore and entered a not guilty plea. At that point in time, Judge Bylsma also orally requested a jury. He posted a \$100 pretrial cash bail, and the trial was set for

August 25, 1999. The \$100 pretrial bail was placed in an envelope and held by the Wellsville City Justice Court in accordance with its local practices.

3. On August 11, 1999, Judge Bylsma filed a formal appearance and request for jury trial.

4. In the following days, Judge Bylsma contacted the Wellsville City Prosecutor, Bruce Jorgensen. There was discussion regarding the resolution of the speeding citation to Judge Bylsma, and the City Prosecutor agreed to recommend to Judge Moore that the matter be dismissed upon payment of a \$40 fine.

5. Judge Bylsma was concerned regarding the operation of the Wellsville City Justice Court and its procedures and practices.

6. The evidence shows that the personnel of Wellsville City who had contact with Judge Bylsma were aware that he was a Justice Court Judge.

7. Judge Bylsma was concerned about the manner in which bail was being collected, the manner in which it was being returned, and the claimed failure of the Wellsville City Justice Court to adhere to bail schedules.

8. Judge Bylsma appeared in the Wellsville City offices on more than one occasion, at least two, perhaps as many as four, seeking return of his bail. He was informed by Leesa Cooper, an employee of Wellsville City, that only the Justice Court could return his bail and that he would have to appear on a regularly scheduled evening to have those bail amounts returned, and he could then pay his \$40 fine. The panel finds that the testimony of Ms. Cooper regarding the conduct of Judge Bylsma at the time that he was told that she could not return his bail money to be accurate. Judge Bylsma was angry and discourteous to Ms. Cooper, telling her that he

wanted his "damn money" and threatened to report her to Wellsville City auditors. He also at that time demanded phone numbers of city auditors, and at other times, other officials within Wellsville City.

9. Judge Bylsma, while his matter was pending before the Wellsville City Justice Court, did, on a date he was not scheduled to appear, attend the Wellsville City Justice Court where he sat as a spectator. Michelle Erickson, an Assistant Court Clerk, was tapped on the shoulder by Judge Bylsma, who was sitting behind her while court was in session, at which time Judge Bylsma made a throat-cutting motion with his finger across his own throat, suggesting to Ms. Erickson that the defendants that were appearing before Judge Moore as the proceedings were going on would not be receiving fair treatment from Judge Moore. The evidence shows that this happened at least two times the evening in question.

10. While Judge Bylsma's matter was pending before the Wellsville City Justice Court, he appeared and in a manner that was perceived as intimidating by City employees, measured Judge Moore's courtroom and took photographs of the courtroom.

11. Finally, Judge Bylsma contacted Wellsville City Mayor, Ruth Maughan, while his matter involving the citation continued to pend and told her, in a threatening manner, that if the Wellsville City Justice Court did not make changes so as to correct its deficiencies, he would report those deficiencies to various news media organizations.

12. Ultimately, at the request and insistence of Mr. Jorgensen, the Wellsville City Prosecutor, the Wellsville City Justice Court clerk returned \$60 of the pretrial bail to Judge Bylsma, who had refused to travel to the Wellsville City Justice Court while it was in session to enter the appropriate plea in accordance with his agreement with the City Prosecutor, obtain

return of his pretrial bail, and pay the fine. The \$60 above-referenced was forwarded to Judge Bylsma in January of 2000, thus concluding the matter regarding Judge Bylsma's citation before the Wellsville City Justice Court.

**CONCLUSIONS OF LAW**

1. Having identified Judge Bylsma's relevant unjudicial conduct and having assessed whether that conduct would appear to an objective observer to prejudice public esteem for the judicial office, the Commission concludes that Judge Bylsma engaged in conduct prejudicial to the administration of justice which brought a judicial office into disrepute in violation of Section 78-8-103(1)(e) of the Utah Code.

2. While none of the single episodes in and of themselves would necessarily constitute sufficient evidence to support a finding of judicial misconduct, when the activities of Judge Bylsma are taken together, they clearly show personal conduct that has brought the judicial office into disrepute. Rather than merely address the citation and pay the fine in accordance with his agreement with the Wellsville City Prosecutor, Judge Bylsma took it upon himself to engage in conduct that could reasonably be perceived as an attempt to influence the outcome of his matter before the Wellsville City Justice Court. The Commission finds no evidence that the intent of Judge Bylsma was to gain advantage for himself, but rather finds that the conduct could be perceived by a reasonable person to be such, and that Judge Bylsma should have been aware of that potential perception.

3. Judge Bylsma inappropriately confuses his concern about the operation of the Wellsville City Justice Court with his own conduct. How the Wellsville City Justice Court operates is not a defense to Judge Bylsma's conduct.

4. Being an experienced jurist of a number of years and having received training from the Office of the Court Administrator, Judge Bylsma should have been aware that the appropriate approach to any concerns he may have had about the operation of the Wellsville City Justice Court should be addressed to the Administrative Office of the Courts or, in the appropriate case, the Judicial Conduct Commission, and threats of taking the matter to the media are inappropriate.

5. While none of the matters with which the panel has found fault would be sanctionable for a non-judge defendant appearing before a justice court, the Code of Judicial Conduct requires more of a judge, even in that judge's personal conduct off the bench.

6. The conduct of Judge Bylsma as set out heretofore was in fact conduct that is prejudicial to the administration of justice which has brought the judicial office into disrepute, all in violation of Section 78-8-103(1)(e) of the Utah Code, in that Judge Bylsma violated Canon 4A of the Code of Judicial Conduct, which requires judges to conduct their extra-judicial activities so that those activities do not demean the judicial office; Canon 2, which requires judges to avoid impropriety and the appearance of impropriety; and Canon 1, which requires judges to personally observe high standards of conduct so that the integrity of judiciary will be preserved.

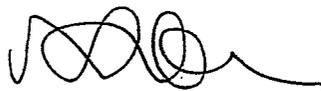
7. The Commission has considered its guidelines to determine a proper sanction. There is no evidence that this series of events was other than an isolated series of events, as opposed to a regular pattern of conduct by Judge Bylsma. The nature, extent and frequency of the acts of misconduct while repetitive, were not extensively offensive. The Commission has considered the fact that the misconduct occurred outside of Judge Bylsma's courtroom and involved his personal matters. The Commission has taken into account that Judge Bylsma has,

even through the hearing in this matter, failed to recognize that his acts could be interpreted as being a violation of the Code of Judicial Conduct and otherwise inappropriate when he had a matter pending before the Wellsville City Justice Court, and further that Judge Bylsma has sought to defend the allegations of misconduct by suggesting that the Wellsville City Justice Court was not being run in a fashion that is in conformity with law, one having no relevance to the other. The Commission, while having no direct evidence, is under the impression that Judge Bylsma has been on the bench for some period of time. The panel is not aware of any prior complaints against Judge Bylsma, and while the misconduct has had a negative impact upon the integrity of the judiciary, it is less egregious than other matters the Commission has considered. Finally, while it may be perceived by others to be an attempt on the part of Judge Bylsma to exploit his position to satisfy his personal ends, to wit: an advantage position on his traffic citation, the Commission is not of the opinion that that was his purpose.

8. Considering all of the foregoing, the Commission is of the opinion that the minimum sanction which can be imposed after a formal hearing, that of a public reprimand, is the appropriate sanction in this case.

DATED this 22nd day of June, 2000

**THE JUDICIAL CONDUCT COMMISSION**



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David Nuffer, Chair

CERTIFICATE OF SERVICE

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