

IN THE SUPREME COURT OF THE STATE OF UTAH

---oo0oo---

In re: Inquiry Concerning A  
Judge:

Case No. 20070082-SC  
JCC 06-3D-069

Leslie A. Lewis

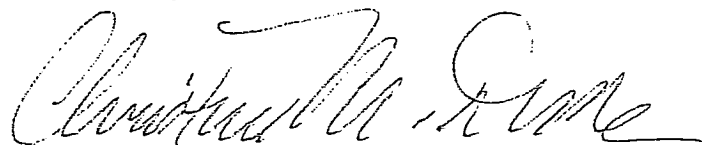
---

ORDER

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

For The Court:

April 26, 2007  
Dated

  
Christine M. Durham  
Chief Justice

MAILING CERTIFICATE

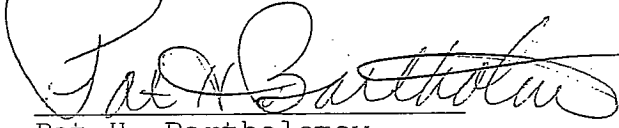
I certify that on the 20<sup>th</sup> day of March, 2007, I mailed a true and correct copy of the foregoing ORDER, postage prepaid, to the following addresses:

Colin R. Winchester  
Executive Director  
Utah Judicial Conduct Commission  
2540 Washington Blvd., Suite 703  
Ogden, Utah 84401

Edward Brass  
Elizabeth Hunt  
175 East 400 South, Suite 400  
Salt Lake City, Utah 84111

Date

April 30, 2007

  
Pat H. Bartholomew  
Clerk of Court

Case No. 20070082-SC  
JCC 06-3D-069

---

BEFORE THE UTAH JUDICIAL CONDUCT COMMISSION

---

IN RE: )  
  ) ORDER OF REPRIMAND  
HON. LESLIE A. LEWIS )  
  ) Case No. 06-3D-069  
  )

---

Having conducted a confidential hearing, having fully deliberated, having agreed upon a decision, having issued a memorandum decision as to the issue of judicial misconduct, and having issued Findings of Fact and Conclusions of Law, the Judicial Conduct Commission hereby orders that the Hon. Leslie A. Lewis be reprimanded.

This order shall only take effect upon implementation of the same by the Utah Supreme Court.

DATED this 12<sup>th</sup> day of January, 2007.

  
\_\_\_\_\_  
Ruth Lybbert, Chair

CERTIFICATE OF SERVICE

I certify that on the 12<sup>th</sup> day of January, 2007, I served a true and correct copy of the foregoing Order of Reprimand of Law on each of the following by mailing the same via postage prepaid first-class mail:

Edward Brass  
Elizabeth Hunt  
175 East 400 South, Suite 400  
Salt Lake City, Utah 84111

Colin Winchester  
Judicial Conduct Commission  
2540 Washington Blvd., Suite 703  
Ogden, Utah 84401

Heidi Matwen

---

BEFORE THE UTAH JUDICIAL CONDUCT COMMISSION

---

IN RE: ) FINDINGS OF FACT AND  
 ) CONCLUSIONS OF LAW  
HON. LESLIE A. LEWIS )  
 ) Case No. 06-3D-069  
 )

---

PROCEDURAL BACKGROUND

The subject complaint was received on March 14, 2006.

Pursuant to stipulation of counsel, the confidential hearing was bifurcated, with the first portion scheduled for November 21 to address the issue of judicial misconduct. The stipulation further provided that if the JCC found that Judge Lewis had committed judicial misconduct, then a second hearing would be scheduled for a later date to address the appropriate sanction, if any.

On November 7, Judge Lewis was not retained by the voters of the Third Judicial District. On November 17, Judge Lewis was granted administrative leave for the balance of her current term of office.

During the first confidential hearing, the JCC determined that Judge Lewis had committed judicial misconduct. It then scheduled a second confidential hearing for December 12.

JURISDICTION

The issue of jurisdiction was raised and addressed during both confidential hearings. Utah Administrative Rule R595-1-2 states:

- A. Judges. The Commission has jurisdiction over judges in evaluating allegations that misconduct occurred before or during service as a judge and in evaluating allegations of disability during service as a judge.

- B. Former judges. The Commission has continuing jurisdiction over former judges regarding allegations that misconduct occurred during the judicial appointment process or during service as a judge if a complaint is received before the judge left office.

The JCC's jurisdiction to hear and resolve the subject complaint is therefore established regardless of whether Judge Lewis was a sitting "judge" or "former judge".

NOVEMBER 21 CONFIDENTIAL HEARING

On November 21, 2006, the JCC held a confidential hearing to determine whether Judge Lewis had committed "conduct prejudicial to the administration of justice which brings a judicial office into disrepute." Constitution of Utah, Article VIII, Section 13; Utah Code Ann. § 78-8-103(1)(e).

Present from the JCC were: Chair Ruth Lybbert, Judge Russell Bench, Senator Gene Davis, Dr. Elaine Englehardt, Judge Darwin Hansen, Representative Neal Hendrickson, Flora Ogan, Rod Orton, Ronald Russell and Senator Michael Waddoups.

The Examiner's position was presented by Colin Winchester. Judge Lewis was voluntarily absent, but was represented by Edward Brass and Elizabeth Hunt.

The confidential hearing was transcribed by a certified court reporter.

Pursuant to stipulation, the following items were admitted as evidence: (1) copy of videotape of Judge Lewis's Law & Motion hearings held February 24, 2006; (2) copy of printed calendar for Judge Lewis's Law & Motion hearings held February 24, 2006; and (3) copy of Administrative Order dated November 17, 2006.

The JCC viewed selected portions of the videotape. The following witnesses were then called, examined, cross-examined, and questioned by JCC members: Kent Jacobson, complainant; and Sgt. Scott White, Division of Wildlife Resources.

At the conclusion of the evidence and arguments, the JCC excused the Examiner and Judge Lewis's counsel, deliberated upon and considered the evidence, and concluded that Judge Lewis had committed "conduct prejudicial to the administration of justice which brings a judicial office into disrepute."

#### DECEMBER 12 CONFIDENTIAL HEARING

On December 12, 2006, the JCC held a confidential hearing to determine whether to recommend a sanction, and if so, the sanction to be recommended.

Present from the JCC were: Chair Ruth Lybbert, Judge Russell Bench, Dr. Elaine Englehardt, Judge Darwin Hansen, Representative Neal Hendrickson, Rod Orton, Ronald Russell and Senator Michael Waddoups.

The Examiner's position was presented by Colin Winchester. Judge Lewis was voluntarily absent, but was represented by Elizabeth Hunt.

The confidential hearing was transcribed by a certified court reporter.

At the conclusion of counsels' presentations, the JCC excused the Examiner and Judge Lewis's counsel and deliberated upon and considered counsels' recommendations.

#### FINDINGS OF FACT

1. On February 24, 2006, Michael Jacobson ("Michael") appeared before Judge Lewis for entry of a plea in abeyance, having been charged with a felony

related to poaching. Michael's brother, Kent Jacobson ("Kent"), was sitting near the back of the courtroom when Michael appeared before Judge Lewis.

2. At a bench conference with counsel at the beginning of Michael's hearing, Judge Lewis informed counsel that she was going to recuse herself, noting that she had "very, very strong feelings about people who kill deer."

3. After calling Michael to the podium, Judge Lewis announced that she had a "prejudice concerning deer hunters and people who kill deer and transport deer that have been shot" and consequently, that she was going to recuse herself from Michael's case.

4. While Judge Lewis's clerk and counsel were facilitating the re-assignment of Michael's case, and despite her recusal, Judge Lewis asked Michael two questions about his experiences with shooting deer. When Michael did not answer, Judge Lewis stated, "I am asking you a question. I expect an answer." Judge Lewis then asked Michael two similar questions that Michael answered.

5. Shortly thereafter, Kent, whose identity and reason for attending the hearing was unknown to Judge Lewis at the time, sighed loudly (loudly enough for the sigh to be captured on the videotape even though there were no microphones near Kent's location), stood up, and began to leave the courtroom.

6. Judge Lewis instructed her bailiff to bring Kent back into the courtroom.

7. Kent was brought to the podium by the bailiff, and Judge Lewis asked him why he had felt the need to make "such an explosive and clear indication of [his] displeasure or boredom."



8. When Kent attempted to explain his actions, Judge Lewis interrupted him and asked, "What are you talking about?"

9. When Kent attempted to answer that question, Judge Lewis interrupted him again and instructed her bailiff to place him in custody in the holding cell.

10. While Kent was being taken from the courtroom, Judge Lewis and Kent continued to speak with each other. Among other things Judge Lewis stated:

- I am not going to argue with you;
- You have no business chastising me sir;
- I did not make a comment that you have any right to correct;
- I do not want to hear a word from you;
- You and I are not in the same position;
- We are not having a dialogue;
- Take him back, I don't want to look at him; and
- You're bored? Let's see how you feel in the holding cell.

11. Approximately three minutes later, Judge Lewis ordered her bailiff to release Kent.

12. Judge Lewis has served continuously as a district court judge since her initial appointment in 1991. During that time, she held many positions of leadership, has instituted various programs which benefit the community, the judicial system and those who participate in them, and has been recognized for her contributions as more fully described in the "Position of Judge Lewis Regarding Sanction" filed by Judge Lewis's counsel.

13. Judge Lewis has never been publicly or privately sanctioned by the Utah Supreme Court or the JCC, however, she has received two informal resolutions from the JCC.

- On June 30, 1997, the JCC issued an admonition to Judge Lewis for having gone out to dinner with members of the defense team while the jury was deliberating in a felony trial. No one from the prosecution team was present.
- On May 20, 1999, the JCC entered into a Case Resolution Agreement with Judge Lewis resolving four separate complaints. The Agreement recites that the judge "has from time-to-time lost her temper in connection with the performance of her professional duties, and has from time-to-time treated court personnel and others discourteously and with unnecessary displays of anger." The four cases were dismissed at the time the Agreement was entered, and the judge successfully completed 18 months of counseling and mentoring.

14. The exchange between Judge Lewis and Kent was originally reported in The Salt Lake Tribune on March 5, 2006. In October 2006: a video clip of portions of the subject hearing was posted on the internet; portions of the subject hearing were broadcast on several local television stations; and the subject hearing was widely reported in the local print media.

#### CONCLUSIONS OF LAW

1. Judge Lewis failed to treat Kent with patience, dignity and courtesy, as required by Code of Judicial Conduct Canon 3B(4).

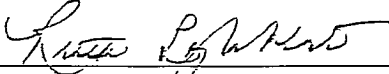
2. Judge Lewis's actions constitute "conduct prejudicial to the administration of justice which brings a judicial office into disrepute" in violation of Article VIII, Section 13 of the Constitution of Utah, and Utah Code Ann. § 78-8-103(1)(e).

3. Utah Code Ann. § 78-8-107(6)(a) requires the JCC to order a public sanction in this matter. That statute states, in pertinent part, "After the [confidential] hearing . . . , if the commission finds by a preponderance of the evidence that misconduct occurred, it shall order the reprimand, censure, suspension, removal, or involuntary retirement of the judge." (Emphasis added.) In addition, because the exchange between Judge Lewis and Kent has been widely reported in the media and widely viewed by members of the public, it is appropriate that the complaint be publicly resolved.

4. In mitigation, the JCC recognizes that Judge Lewis has served on the bench for 15 years, and that she has never been publicly sanctioned.

5. The JCC concludes that Judge Lewis should be reprimanded in this matter.

DATED this 12<sup>th</sup> day of January, 2007.

  
\_\_\_\_\_  
Ruth Lybbert, Chair

CERTIFICATE OF SERVICE

I certify that on the 12<sup>th</sup> day of January, 2007, I served a true and correct copy of the foregoing Findings of Fact and Conclusions of Law on each of the following by mailing the same via postage prepaid first-class mail:

Edward Brass  
Elizabeth Hunt  
175 East 400 South, Suite 400  
Salt Lake City, Utah 84111

Colin Winchester  
Judicial Conduct Commission  
2540 Washington Blvd., Suite 703  
Ogden, Utah 84401

Heidi McEwen