

Payne, D.

IN THE UTAH SUPREME COURT

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Re: Inquiry Concerning A Judge
David Young Payne, Justice Court
Judge F-97-2JC-028, F-97-2JC-055

No. 981489-SC

ORDER

Pursuant to the authority vested in the Supreme Court by article VIII, section 13 of the Utah Constitution, and section 78-7-30(4)(a) of the Code, the court accepts the stipulation consenting to the implementation of the Commission's Findings of Fact, Conclusions of Law, and Order, in this matter.

For The Court



Richard C. Howe
Chief Justice

Date Oct. 5, 1998

MAILING CERTIFICATE

I certify that on the 13th day of October, 1998, I mailed a true and correct copy of the foregoing Order, postage prepaid, to the following addresses:

Steven H. Stewart, Executive Director
Judicial Conduct Commission
645 South 200 East, Suite 104
Salt Lake City, Utah 84111

David Young Payne
249 Deerhollow Circle
North Salt Lake, Utah 84054

David Nuffer
SNOW, NUFFER, ENGSTROM, & DRAKE
192 East 200 North
St. George, Utah 84770

Oct. 13, 1998
Date

Pat H. Bartholomew
Pat H. Bartholomew
Clerk of Court

BEFORE THE JUDICIAL CONDUCT COMMISSION

In re:	:	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER
Inquiry Concerning a Judge	:	F97-2JC-028 F97-2JC-055

A quorum of the Judicial Conduct Commission, having considered the record in this case, enters the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. In an affidavit signed by him on April 3, 1998, David Young Payne admitted that in the *Payne v. Payne* and *Hansen v. Payne* divorce cases, he knowingly or intentionally made misrepresentations concerning his assets.
2. On April 3, 1998, Mr. Payne entered a plea of "guilty" to two counts of "attempted false or inconsistent material statements," a class A misdemeanor, and resigned as the North Salt Lake Justice Court Judge.
3. Although Mr. Payne's resignation as the North Salt Lake Justice Court Judge moots the question of whether he can be removed or suspended from office for judicial misconduct, his criminal conviction for "attempted false or inconsistent material statements," a class A misdemeanor, would have provided a reasonable basis for his removal from judicial office if, before his resignation, a formal hearing had been conducted in this case.

CONCLUSIONS OF LAW

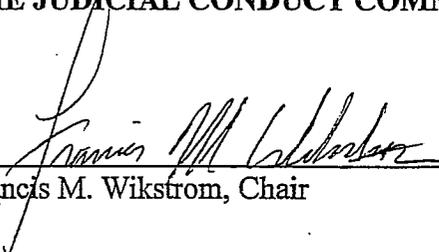
Mr. Payne engaged in conduct prejudicial to the administration of justice which brought a judicial office into disrepute, in violation of Utah Code Ann. Section 78-7-28(1)(e), because he prejudiced public esteem for the judicial office and violated Canon 4A of the Code of Judicial Conduct, which requires judges to conduct their extra-judicial activities so that those activities do not demean the judicial office; Canon 2, which requires judges to avoid impropriety and the appearance of impropriety in all activities; and Canon 1, which requires judges to personally observe high standards so that the integrity and independence of the judiciary will be preserved.

ORDER

Mr. Payne is publicly censured for engaging in conduct prejudicial to the administration of justice which brought a judicial office into disrepute, in violation of Utah Code Ann. Section 78-7-28(1)(e), 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 that those activities do not demean the judicial office; Canon 2, which requires judges to avoid impropriety and the appearance of impropriety in all activities; and Canon 1, which requires judges to personally observe high standards so that the integrity and independence of the judiciary will be preserved.

DATED this 3 day of August, ~~1997~~ 1998.

THE JUDICIAL CONDUCT COMMISSION



Francis M. Wikstrom, Chair

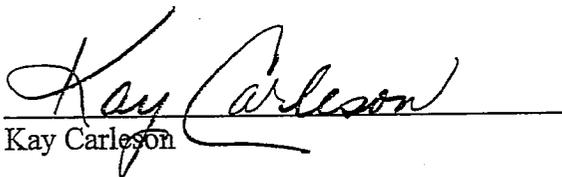
APPROVED AS TO FORM AND CONTENT:



David Young Payne

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of August, 1998, I served a copy of the foregoing **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER** on David Young Payne by mailing a copy thereof, postage prepaid, to him at ~~4168 Bountiful Blvd, Bountiful, Utah, 84010~~ 249 Deerhollow Circle, North Salt Lake, UT 84054.



Kay Carleson

BEFORE THE JUDICIAL CONDUCT COMMISSION

In re:	:	
	:	SETTLEMENT STIPULATION
Inquiry Concerning a Judge	:	F97-2JC-028
	:	F97-2JC-055

Former Second District Justice Court Judge David Young Payne (Mr. Payne) and the Judicial Conduct Commission (Commission) stipulate as follows:

A. Stipulated Facts.

1. In an affidavit signed by him on April 3, 1998, Mr. Payne admitted that in the *Payne v. Payne* and *Hansen v. Payne* divorce cases, he knowingly or intentionally made misrepresentations concerning his assets.

2. On April 3, 1998, Mr. Payne entered a plea of "guilty" to two counts of "attempted false or inconsistent material statements," a class A misdemeanor, and resigned as the North Salt Lake Justice Court Judge.

3. Although Mr. Payne's resignation as the North Salt Lake Justice Court Judge moots the question of whether he can be removed or suspended from office for judicial misconduct, his criminal conviction for "attempted false or inconsistent material statements," a class A misdemeanor, would have provided a reasonable basis for his removal from judicial office if, before his resignation, a formal hearing had been conducted in this case.

B. Findings of Fact, Conclusions of Law, and Order.

1. The Commission shall enter the foregoing stipulated facts in its formal

Findings of Fact.

2. The Commission shall enter conclusions of law and an order publicly censuring Mr. Payne for engaging in conduct prejudicial to the administration of justice which brought a judicial office into disrepute, in violation of Utah Code Ann. Section 78-7-28(1)(e), 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 that those activities do not demean the judicial office; Canon 2, which requires judges to avoid impropriety and the appearance of impropriety in all activities; and Canon 1, which requires judges to personally observe high standards so that the integrity and independence of the judiciary will be preserved.

3. Before entry, the Commission shall obtain approval as to form from Mr. Payne with respect to its proposed Findings of Fact, Conclusions of Law, and Order.

C. Formal hearing. Mr. Payne waives the formal hearing required by Utah Code Ann. Section 78-7-30(2)(b) and consents that after approval as to form by him, the Commission's Findings of Fact, Conclusions of Law, and Order may be entered by the Commission and certified to the Utah Supreme Court for review.

D. Mandatory Supreme Court Review. Consistent with Section 78-7-30(4), Utah Code Annotated, the record of the proceedings, which shall consist of the original complaint, Mr. Payne's response, the Notice of Formal Proceedings, the First Amended Notice of Formal Proceedings, Mr. Payne's response, all returns or acceptances of service of process, this Stipulation, and the Findings of Fact, Conclusions of Law and Order, shall be certified to the Utah Supreme Court for review. Mr. Payne consents that the Findings of Fact, Conclusions of

Law and Order may be implemented by the Utah Supreme Court without a hearing. Neither the Commission nor Mr. Payne shall file additional pleadings with, or request oral argument before, the Utah Supreme Court. If, on its own motion, the Utah Supreme Court schedules oral argument, counsel for the Commission and Mr. Payne shall appear for oral argument and jointly recommend that the Supreme Court implement the Commission's Findings of Fact, Conclusions of Law, and Order. Neither the Commission nor Mr. Payne shall make any other recommendation to, nor argue any other position before, the Utah Supreme Court, unless requested to do so pursuant to Utah Code Ann. Section 78-7-30(5). This Stipulation will become void if the Utah Supreme Court refuses to implement, or chooses to modify pursuant to Article VIII, Section 13 of the Utah Constitution, the Commission's Findings of Fact, Conclusions of Law, and Order.

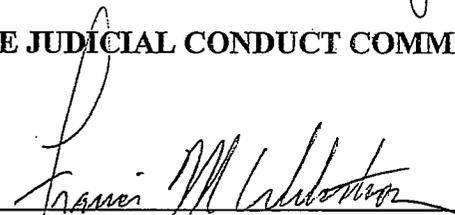
DATED this 8 day of July, 1998.



David Young Payne

DATED this 3 day of August, 1998.

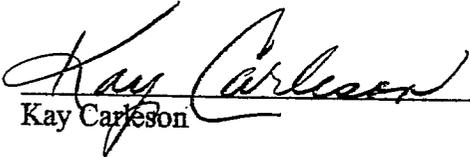
THE JUDICIAL CONDUCT COMMISSION



Francis M. Wikstrom, Chair

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of August, 1998, I served a copy of the foregoing **SETTLEMENT STIPULATION** on David Young Payne by mailing a copy thereof, postage prepaid, to him at 249 Deerhollow Circle, North Salt Lake, UT 84054



Kay Carlson