

Young
00-037
00-051

IN THE SUPREME COURT OF THE STATE OF UTAH

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In re: Judicial Conduct Commission
Inquiry Concerning a Judge;
Hon. David S. Young
F00-3D-037 and 051

Case No. 20000521-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.

Nov. 7, 2000
Date

Richard C. Howe
Richard C. Howe
Chief Justice

CERTIFICATE OF SERVICE

I hereby certify that on November 8, 2000, a true and correct copy of the foregoing ORDER was deposited in the United States mail to the parties listed below:

DANIEL L. BERMAN
DAVID P. WILLIAMS
BERMAN GAUFIN TOMSIC SAVAGE & CAMPBELL
50 S MAIN ST STE 1250
SALT LAKE CITY UT 84144

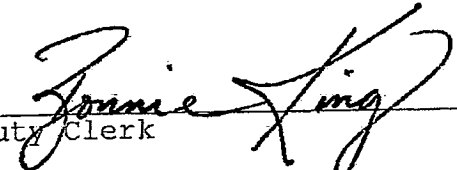
STEVEN H STEWART
JUDICIAL CONDUCT COMMISSION
645 S 200 E STE 104
SALT LAKE CITY UT 84111-3834

a true and correct copy of the foregoing ORDER was hand delivered through inter-departmental mail to the party listed below:

JUDGE DAVID S. YOUNG
THIRD DISTRICT COURT
450 S STATE
SALT LAKE CITY UT 84111

a true and correct copy of the foregoing ORDER was hand delivered through State Mail Services to the party listed below:

GOVERNOR MICHAEL O. LEAVITT
STATE CAPITOL BUILDING
OFFICE OF THE GOVERNOR
SALT LAKE CITY UT 84111

By 
Deputy Clerk

Case No. 20000521-SC
JUDICIAL CONDUCT COMMISSION, F00-3D-037 & 051

BEFORE THE JUDICIAL CONDUCT COMMISSION

In re:	:	FINDINGS OF FACT, CONCLUSIONS
	:	OF LAW, AND ORDER
Inquiry Concerning	:	
a Judge	:	F00-3D-037
	:	F00-3D-051

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. On November 17, 1999, at the conclusion of the *State v. Shawn L. Martin* criminal trial, Judge David S. Young criticized the jurors by making the following on-the-record comments in the courtroom:

COURT: I want to tell you [the jurors] that I am personally disappointed in your verdict in this case and that's all I'm going to say about it. I think that this was a pretty clear case. I don't know how you came out with this result and this is one of the very few times I have criticized a jury for their verdict. Thank you. You may be excused. Anything else?

COUNSEL: No, Your honor.

2. After the *Martin* trial, the jurors were escorted to the jury room, where Judge Young spoke with the jury and expressed his disagreement with their verdict.

3. On December 1, 1993, at the conclusion of the *State v. Travis A. Johnson* criminal trial, Judge Young criticized the jurors by making the following on-the-record comments in the courtroom:

I will tell you from my perspective that the jury and the jurors in normal circumstances err on the side of compassion. This is a case in which they did that. I do not believe the testimony of Mr. Johnson. From my perspective I don't know how the jury does, but I believe that the circumstances, Mr. Johnson, you were not candid in this case and I think you were very fortunate to have a not guilty verdict.

That being the verdict of the jury the court will accept it as the decision of the court and the case is dismissed. And you are released from any further obligation on these cases.

And I will suggest to you, Mr. Case, that I believed your story and that I believe that the jury was out of line. And that's the end of the case.

4. Canon 3B(10) of the Code of Judicial Conduct prohibits judges from commending or criticizing jurors for their verdict other than in a court order or opinion in a proceeding.

5. By the way in which he treated the jurors in the *Martin* and *Johnson* cases, as described above, Judge Young violated Canon 3B(10) of the Code of Judicial Conduct.

CONCLUSIONS OF LAW

Judge Young engaged in conduct prejudicial to the administration of justice which brought a judicial office into disrepute, in violation Section 78-7-28(1)(e) of the Utah Code, because he prejudiced public esteem for the judicial office and violated Canon 3B(10) of the Code of Judicial Conduct, which prohibits judges from commending or criticizing jurors for their verdict other than in a court order or opinion in a proceeding.

ORDER

Judge Young is publicly reprimanded for engaging in conduct prejudicial to the administration of justice which brought a judicial office into disrepute, in violation of Section 78-7-28(1)(e) of the Utah Code, because he prejudiced public esteem for the judicial office and violated Canon 3B(10) of the Code of Judicial Conduct, which prohibits judges from commending or criticizing jurors for their verdict other than in a court order or opinion in a proceeding.

DATED this 13 day of June, 2000

THE JUDICIAL CONDUCT COMMISSION

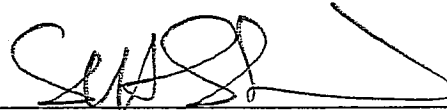


David Nuffer, Chair

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of JUNE, 2000, I served a copy of the foregoing **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER** on the Hon. David S. Young by mailing a copy thereof, postage prepaid, to:

Hon. David S. Young
Third District Court
450 South State
Salt Lake City, Utah 84111-3101



Steven H. Stewart

Young / Larson

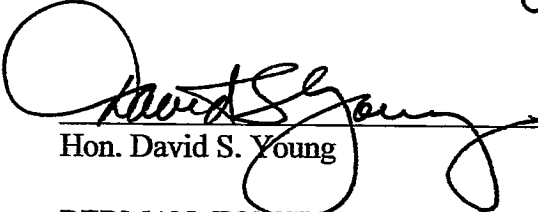
**BEFORE THE JUDICIAL CONDUCT COMMISSION
INQUIRY CONCERNING A JUDGE**

In re: : **INFORMAL RESOLUTION OF**
Inquiry Concerning : **COMPLAINT**
: :
a Judge : **Case No. F-95-3D-016**

The Judicial Conduct Commission (Commission) and Judge David S. Young (Judge Young) stipulate that the formal complaint in this matter may be informally resolved as follows:

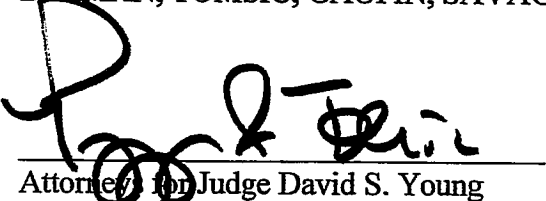
Judge Young is admonished that certain of his comments in the summer of 1994 to *Salt Lake Tribune* reporter Kurt Repanshek and to *Redbook* reporter Sheila Weller appear improper. Judge Young is warned of the ethical responsibilities imposed by Utah Code Ann. section 78-7-28(1)(e) and Canons 1, 2, and 3B(9) of the Code of Judicial Conduct.

DATED this 4th day of May, 1999.

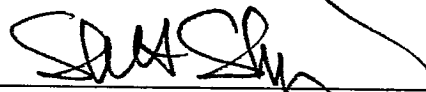


Hon. David S. Young

BERMAN, TOMSIC, GAUFIN, SAVAGE & CAMPBELL



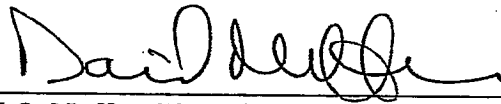
Attorney for Judge David S. Young
50 South Main, Suite 1250
Salt Lake City, UT 84111
801/328-2200



Steven H. Stewart, A-3114
Judicial Conduct Commission
Executive Director and Examiner
645 South 200 East, Suite 104
Salt Lake City, UT 84111
801/533-3200

APPROVED this 11th day of May, 1999

THE JUDICIAL CONDUCT COMMISSION



David O. Nuffer, Vice Chair

CERTIFICATE OF SERVICE

I hereby certify that on the 13 day of ~~April~~ May, 1999, I served a copy of the foregoing **INFORMAL RESOLUTION OF COMPLAINT** on the Hon. David S. Young, Third District Court Judge, by mailing a copy thereof, postage prepaid, to the following

Daniel L. Berman
Peggy Tomsic
D. Frank Wilkins
Berman Gaufin Tomsic Savage & Campbell
50 South #1250, Salt Lake City, Utah 84111.



Kay Carlsson

BEFORE THE JUDICIAL CONDUCT COMMISSION

In re: :
: **SETTLEMENT STIPULATION**
Inquiry Concerning :
a Judge : **F00-3D-037**
: **F00-3D-051**

Third District Court Judge David S. Young and the Judicial Conduct Commission

(Commission) stipulate as follows:

A. Stipulated Facts.

1. On November 17, 1999, at the conclusion of the *State v. Shawn L. Martin* criminal trial, Judge Young criticized the jurors by making the following on-the-record comments in the courtroom:

COURT: I want to tell you [the jurors] that I am personally disappointed in your verdict in this case and that's all I'm going to say about it. I think that this was a pretty clear case. I don't know how you came out with this result and this is one of the very few times I have criticized a jury for their verdict. Thank you. You may be excused. Anything else?

COUNSEL: No, Your honor.

2. After the *Martin* trial, the jurors were escorted to the jury room, where Judge Young spoke with the jury and explained his disagreement with their verdict.

3. On December 1, 1993, at the conclusion of the *State v. Travis A. Johnson* criminal trial, Judge Young criticized the jurors by making the following on-the-record comments in the courtroom:

I will tell you from my perspective that the jury and the jurors in normal circumstances err on the side of compassion. This is a case in which they did that. I do not believe the testimony of Mr. Johnson. From my perspective I don't know how the jury does, but I believe that the circumstances, Mr. Johnson, you were not candid in this case and I think you were very fortunate to have a not guilty verdict.

That being the verdict of the jury the court will accept it as the decision of the court and the case is dismissed. And you are released from any further obligation on these cases.

And I will suggest to you, Mr. Case, that I believed your story and that I believe that the jury was out of line. And that's the end of the case.

4. Canon 3B(10) of the Code of Judicial Conduct prohibits judges from commending or criticizing jurors for their verdict other than in a court order or opinion in a proceeding.

5. By the way in which he treated the jurors in the *Martin* and *Johnson* cases, as described above, Judge Young violated Canon 3B(10) of the Code of Judicial Conduct.

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

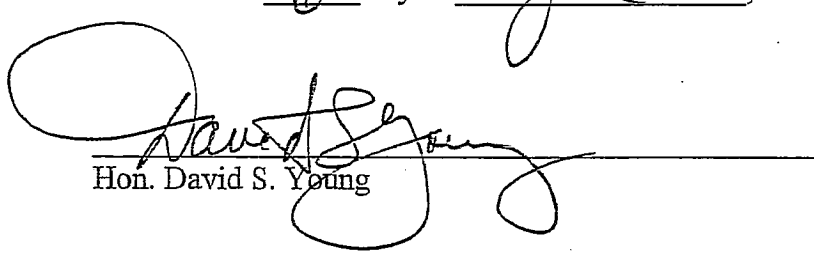
1. The Commission shall enter the foregoing stipulated facts in its formal Findings of Fact.

2. The Commission shall enter conclusions of law and an order publicly reprimanding Judge Young for engaging in conduct prejudicial to the administration of justice which brought a judicial office into disrepute, in violation of Section 78-7-28(1)(e) of the Utah Code, because he prejudiced public esteem for the judicial office and violated Canon 3B(10) of the Code of Judicial Conduct, which prohibits judges from commending or criticizing jurors for their verdict other than in a court order or opinion in a proceeding.

C. **Formal hearing.** Judge Young waives the formal hearing required by Section 78-7-30(2)(b) of the Utah Code and consents that 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) of the Utah Code, the record of the proceedings, which shall consist of this Stipulation and the Findings of Fact, Conclusions of Law and Order, shall be certified to the Utah Supreme Court for review. Judge Young 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 Judge Young 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, the Commission and Judge Young 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 Judge Young shall make any other recommendation to, nor argue any other position before, the Utah Supreme Court. This Stipulation will become void if the Utah Supreme Court refuses to implement or chooses to modify the Commission's Findings of Fact, Conclusions of Law, and Order.

DATED this 6th day of June, 2000



Hon. David S. Young

DATED this 13 day of June, 2000

THE JUDICIAL CONDUCT COMMISSION



David Nuffer, Chair

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of JUNE, 2000, I served a copy of the foregoing **SETTLEMENT STIPULATION** on the Hon. David S. Young by mailing a copy thereof, postage prepaid, to:

Hon. David S. Young
Third District Court
450 South State
Salt Lake City, Utah 84111-3101



Steven H. Stewart

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