

The Order of the Court is stated below:  
Dated: July 06, 2023 /s/ Paige Petersen  
02:40:48 PM Justice



THE SUPREME COURT OF THE STATE OF UTAH

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In re: Inquiry of a Judge

ORDER

Supreme Court Case No. 20221095-SC

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Pursuant to the authority vested in the Supreme Court by Article VIII, Section 13 of the Utah Constitution and Utah Code Section 78A-11-111, the Court approves the implementation of the Judicial Conduction Commission's Order of Public Reprimand.

Associate Chief Justice John A. Pearce dissents from the Court's decision because he concludes that a public reprimand is an inappropriate sanction for the judge's conduct. Justice Pearce would have imposed a thirty-day suspension without pay.

The Court orders that the complaints, papers, testimony, and the record of the Commission's hearing are no longer confidential under Utah Code Section 78A-11-112.

Chief Justice Matthew B. Durrant recused himself from the matter.

**End of Order - Signature at the top of the First Page**

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BEFORE THE UTAH JUDICIAL CONDUCT COMMISSION

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IN RE: )  
          ) ORDER OF REPRIMAND  
          ) )  
HON. BROOK SESSIONS ) Case No. 22-4JC-058  
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The Judicial Conduct Commission after a Confidential Formal Hearing wherein evidence was received, argument was heard and deliberations were conducted, issued Findings of Facts and Conclusions of Law in the above case. Finding misconduct, the Judicial Conduct Commission determined an appropriate sanction was the issuance of a public reprimand. The Judicial Conduct Commission recommends the same to the Utah Supreme Court.

The Judicial Conduct Commission hereby orders that the Hon. Brook Sessions be reprimanded. This Order shall only take effect upon implementation of the same by the Utah Supreme Court.

DATED this 3<sup>rd</sup> day of November, 2022.

  
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Cheylynn Hayman, Chair  
Judicial Conduct Commission

CERTIFICATE OF SERVICE

I certify that on the 28 day of November 2022, I hand delivered, a true and correct signed copy of the foregoing JCC Findings of Facts and Conclusions of Law to:

Hon. Brook Sessions via counsel  
Gregory Skordas  
124 S. 400 E.  
Suite 220  
Salt Lake City, Utah 84111

A handwritten signature in red ink, appearing to read "at Red", is written over a horizontal line.

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BEFORE THE UTAH JUDICIAL CONDUCT COMMISSION

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IN RE:

HON. BROOK SESSIONS

FINDINGS OF FACT AND  
CONCLUSIONS OF LAW

Case No. 22-4JC-058

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The Judicial Conduct Commission (the "Commission"), having conducted a confidential formal hearing with all parties present, having reviewed the parties' Stipulation ("Stipulation") and having approved the same, having reviewed Judge Sessions' Judicial Conduct Commission's case history, having received and considered testimony from Judge Sessions and his wife, Nicole Sessions, having reviewed matters and briefings submitted by Judge Sessions and the Examiner, having heard arguments from Judge Sessions and the Examiner, now enters the following:

FINDINGS OF FACT

1. Hon. Brook Sessions ("Judge Sessions") has served as a full-time justice court judge serving Wasatch County and Lindon City Justice Courts since 2015.
2. Judge Sessions has never been the subject of judicial discipline.
3. During March of 2022, Judge Sessions self-reported potential

violations of two provisions of the Code of Judicial Conduct.

4. On March 11, 2022, this conduct was also referred to the Commission by the Idaho State Police, Lieutenant Winans.

5. The violations involved 1) an arrest, citation and charge for Driving Under the Influence on February 26, 2022, in Idaho by Idaho State Police Sergeant A. Nakashima, 2) a subsequent conviction by plea of guilty to Inattentive Driving (I49-1401(3)), and 3) the circumstances preceding the arrest.

6. Prior to his arrest at approximately 10:00 pm on February 26, 2022, Judge Sessions had beer with lunch while skiing at Park City and then drove himself home.

7. During the early afternoon of that same day, Judge Sessions worked in his garage and had more to drink. These drinks were a mixture of Rum and Diet Coke.

8. Although Judge Sessions could not recall exact quantities or amounts, he had more than one of these self-made mix drinks.

9. He then drove to McCammon, Idaho, just west of Lava Hot Springs to visit a property that he was considering purchasing and meet with a realtor.

10. While in McCammon, Judge Sessions had more to drink. He purchased a six-pack of beer and finished drinking it in the parking lot of the gas station where he purchased it.

11. While returning to Utah, Judge Sessions realized he had too much to drink and tried to find a rest stop to pull over and sleep it off.

12. Instead, while driving, Judge Sessions was pulled over by Sergeant

Nakashima after 911 dispatch received multiple phone calls from members of the public reporting Judge Session's erratic driving and expressing concern that he posed a danger to others.

13. Sergeant Nakashima described Judge Sessions pre-arrest driving behavior as erratic (swerving between the two lanes of travel) with other cars stacked behind (not wanting to pass).

14. Sergeant Nakashima smelled alcohol emanating from the back window which was down. Sergeant Nakashima described Judge Sessions as stumbling out of the car and walking slowly.

15. Sergeant Nakashima conducted the "eye test" and the "walk & turn" test and based on the results of those tests, he arrested Judge Sessions.

16. Sergeant Nakashima conducted "two breath tests" at the scene, and at the station that showed the presence of alcohol over the legal limit in Idaho.

17. Sergeant Nakashima recorded the results of the alcohol testing as .22 and .21.

18. These results were not proved in court and Judge Sessions contests the accuracy of the "Blood Alcohol Content" testing.

19. Notwithstanding, Judge Sessions admits he well over the legal alcohol limit to drive.

20. Sergeant Nakashima called an Oneida County deputy to transport the judge to the Sheriff's office while Sergeant Nakashima stayed with the vehicle and inventoried it.

21. During the inventory of the vehicle, Sergeant Nakashima first became

aware of Judge Sessions' judicial status.

22. Sergeant Nakashima described Judge Sessions behavior as drunk, but professional, both at the arresting location and later at the office.

23. Sergeant Nakashima made the sole decision to release Judge Sessions as a "professional courtesy" after issuing the citation.

24. Sergeant Nakashima confirmed that Judge Sessions did not bring up judicial status as the time of the arrest or at the Sheriff's office.

25. Judge Sessions did not request any professional courtesy or accommodation based on his judicial status.

26. The citation was resolved through plea negotiations resulting in a plea to Inattentive Driving (I49-1401(3)).

27. The plea is treated under Idaho law as a first offense eligible for withheld judgment to be dismissed upon completion of the terms set by the court.

28. Judge Sessions agreed and stipulated that his actions violate the following provisions of the Code of Judicial Conduct:

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| Rule 1.1 | A judge shall comply with the law.   |
| Rule 1.2 | A judge . . . shall not undermine . . . public confidence in the independence, integrity, and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety. |

29. He also agreed and stipulated that these violations constitute conduct prejudicial to the administration of justice, which may bring a judicial office into disrepute, in violation of Article VIII, Section 13 of the Constitution of Utah and Utah Code Ann. § 78A-11-105(1)(e).

30. Subsequent to the citation, Judge Sessions took numerous actions to

prevent future inappropriate conduct and mitigate the effect of the conduct. His wife also testified and confirmed these mitigating actions.

31. Judge Sessions cancelled all court proceedings for several weeks and/or arranged to have another judge cover his calendar.

32. Judge Sessions cancelled a mediation he was set to conduct the following week.

33. Judge Sessions excused himself from participation in leadership meetings related to the administration of the courts.

34. Judge Sessions sought medical advice for appropriate treatment and immediately enrolled in ongoing testing to verify sobriety.

35. Judge Sessions sought and commenced individual counseling to address issues that contributed to the circumstances leading up to the arrest.

36. Judge Sessions retained legal counsel to help navigate the proceedings in Idaho and to self-report to the Commission.

37. During the course of these proceedings, Judge Sessions self-reported to the Commission and to the State Court Administrator of the Administrative Office of the Courts ("AOC"), to the AOC Administrator for the Justice Courts, and to the Utah Judicial Council.

38. Judge Sessions also self-reported to his Presiding Judge.

39. The Commission's investigator contacted staff at each of Judge Sessions' courts and other potential witnesses to determine if Judge Sessions exhibited any sobriety issues related to his work performance.

40. No work-related performance issues or sobriety issues were reported.



41. Judge Sessions has fully cooperated with the Commission's investigation.

42. He voluntarily submitted a statement outlining the events leading up to this investigation as part of the Full Investigation into this matter.

43. Judge Sessions voluntarily removed himself from ongoing participation in leadership positions with the courts while he worked through these Commission and the Idaho legal proceedings.

44. Judge Sessions proactively continued with treatment pending the resolution of the Idaho proceedings.

45. Judge Sessions has complied with the sentence for Inattentive Driving including abiding by Idaho driver's license suspension, installing an ignition interlock device in his personal vehicle, paying a fine and all administrative fees, completing required community service, completing individual therapy, and providing regular updates to the Idaho court.

46. Although not required, Judge Sessions completed a drug and alcohol evaluation and completed all the recommendations from that evaluation.

47. Judge Sessions committed to and has abstained from all alcohol use since the date of the arrest. His wife also testified as to this abstinence.

48. Judge Session completed individual counseling related to this matter to identify issues and prevent further substance abuse problems.

49. On September 20, 2022, Judge Sessions, at his request, participated in a confidential formal hearing to answer the Commission's questions and explain his conduct under oath.

50. At that confidential formal hearing, Judge Sessions again acknowledged his misconduct, expressed remorse and provided detailed sworn testimony about this matter.

51. After accepting agreed-to matters submitted by Judge Sessions and the Examiner, taking sworn testimony from Judge Sessions and his wife, and considering arguments by Judge Sessions and the Examiner, the Commission found that Judge Sessions violated the following provisions of the Utah Code of Judicial Conduct:

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|----------|--|
| Rule 1.1 | A judge shall comply with the law.   |
| Rule 1.2 | A judge . . . shall not undermine . . . public confidence in the independence, integrity, and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety. |

52. Judge Sessions understands the wrongful nature of his conduct.

53. Judge Sessions has taken responsibility for his actions and did not intend any violation of the Code of Judicial Conduct. He is apologetic, and has assured the Commission as well as taken affirmative steps to ensure that he will not engage in this kind of behavior in the future.

54. The Commission found Judge Sessions conduct of violating the law, and his drinking and driving behavior throughout that day, to be a serious lapse in judgment.

55. This conduct by Judge Sessions was prejudicial to the administration of justice and brought a judicial office into disrepute.

CONCLUSIONS OF LAW

56. Based on the testimony from the Hearing, the Stipulation, the other evidence received, the arguments proffered, and the Commission's findings of fact, the Commission concludes this conduct violated Rule 1.1 in that Judge Sessions did not comply with the law.

57. Based on the testimony from the Hearing, the Stipulation, the other evidence received, the arguments proffered, and the Commission's findings of fact, the Commission concludes Judge Sessions' conduct violated Rule 1.2 in that public confidence in the judiciary was eroded by Judge Sessions' improper conduct and that the conduct would create in reasonable minds a perception that the judge engaged in impropriety.

58. Accordingly, Judge Sessions' 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. § 78A-11-105(1).

#### Appropriate Sanction

59. Pursuant to Administrative Rule R595-4-2, the Commission considered various non-exclusive factors established by the Supreme Court.

60. The misconduct occurred in Judge Sessions' private capacity (although, in his private capacity, the public, Sergeant Nakishima and Lieutenant Winans later became aware of his judicial office).

61. The misconduct occurred in various private locations (home, garage, in his vehicle in Idaho) and public settings (drinking while skiing then driving; driving after drinking from Heber to Idaho; driving after drinking from Idaho to Utah; the

stop, arrest, transport, and confinement in Idaho).

62. The misconduct was deliberate, in that as a judge that regularly adjudicates this type of behavior, Judge Sessions decided to drive after numerous drinking instances. His drinking, driving, and related behavior involved both appearance of and actual impropriety.

63. Actual impropriety given his conviction by plea, and also appearance of impropriety given that Sergeant Nakishima and other law enforcement officials were aware of his judicial office. They took extraordinary steps regarding his arrest circumstances, releasing him as a "professional courtesy" (albeit not at Judge Sessions request or knowledge). In addition, they submitted a complaint to the Commission.

64. To date, his seven years of judicial service included no sanctions for similar or other misbehavior. Judge Sessions has shown remorse and accepted responsibility for the misconduct. He has also made significant and ongoing efforts to avoid repeating the same or similar misconduct by enrolling in substance abuse counseling.

65. While court employees and participants have become aware of his misconduct by his resignation from various Judicial Council positions, Judge Sessions retains the confidence of the Justice Court employees and continues to fulfill his responsibilities as a Justice Court judge.

66. The Commission concluded that considering all these factors, a public

reprimand<sup>1</sup> is the most appropriate sanction for Judge Sessions' violations of the Utah Code of Judicial Conduct identified in these findings and conclusions

DATED this 3<sup>rd</sup> day of November, 2022.

  
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Cheylynn Hayman, Chair  
Judicial Conduct Commission

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<sup>1</sup> The terms "reprimand" and "censure" are not defined in the Utah Code of Judicial Conduct. The Commission spent considerable time deliberating how the public would view a reprimand versus censure. Absent a clear definition of those terms, and given the different meaning and effect of censure in other contexts, the Commission decided that the public would view a reprimand as the more severe sanction. To provide guidance to the Commission and public, however, the Commission respectfully requests the Supreme Court to provide more clarity on the differences between a reprimand and censure. See, e.g., Reprimand vs. Censure, Center for Judicial Ethics of the National Center for State Courts, Blog (July 28, 2014), available at <https://ncscjudicialethicsblog.org/2014/07/28/reprimand-vs-censure/>.

CERTIFICATE OF SERVICE

I certify that on the 28 day of November 2022, I hand delivered, a true and correct signed copy of the foregoing JCC Findings of Facts and Conclusions of Law to:

Hon. Brook Sessions via counsel  
Gregory Skordas  
124 S. 400 E.  
Suite 220  
Salt Lake City, Utah 84111

A handwritten signature in red ink, appearing to be "Gregory Skordas", is written above a horizontal line.