

IN THE SUPREME COURT OF OHIO

Disciplinary Counsel,

Relator,

vs.

Honorable George Mathew Parker,

Respondent.

CASE NO: 2007-1157

**RELATOR'S ANSWER TO
RESPONDENT'S OBJECTIONS
TO THE BOARD OF
COMMISSIONERS ON GRIEVANCES
AND DISCIPLINE'S REPORT AND
RECOMMENDATIONS**

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TO THE BOARD OF COMMISSIONERS ON
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REPORT AND RECOMMENDATIONS**

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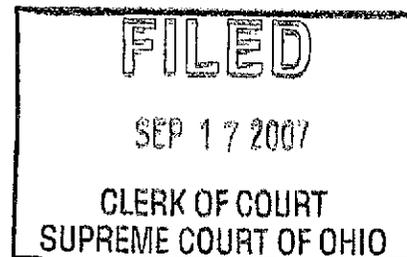


TABLE OF CONTENTS

	PAGE(S)
Table of Contents	i
Table of Authorities	ii
Introduction	1
Relator's Answers to Respondent's Objections	2
I THE PANEL APPROPRIATELY CONCLUDED THAT RESPONDENT'S NARCISSITIC PERSONALITY DISORDER DID NOT CONSTITUTE MITIGATION UNDER BCGD REG.PROC 10(B)(2)(G)	2
II THE PANEL CORRECTLY CONCLUDED THAT RESPONDENT FAILED TO COOPERATE IN THE DISCIPLINARY INVESTIGATION	9
III THE PANEL'S FINDINGS OF SEVERAL AGGRAVATING FACTORS WAS SUPPORTED BY THE EVIDENCE IN THE RECORD	10
IV RESPONDENT'S MISCONDUCT WARRANTS AN 18-MONTH SUSPENSION FROM THE PRACTICE OF LAW WITH SIX MONTHS STAYED	18
Conclusion	22
Certificate of Service	24
Report and Recommendation of the Board of Commissioners on Grievances and Discipline	Appendix A
Board of Commissioners on Grievances and Discipline Order dated January 17, 2007	Appendix B

TABLE OF AUTHORITIES

DESCRIPTIONS

CASES	PAGE(S)
<i>Disciplinary Counsel v. Bowman</i> , 110 Ohio St.3d 480, 854 N.E.2d 480, 2006-Ohio-4333	5
<i>Cleveland Bar Assn. v. Cleary</i> , 93 Ohio St.3d 191, 207, 2001-Ohio-1326, 754 N.E.2d 235	18
<i>Disciplinary Counsel v. Hoague</i> (2000), 88 St.3d 321, 725 N.E.2d 1108	18
<i>Disciplinary Counsel v. Karto</i> , 94 Ohio St.3d 109, 760 N.E.2d 412, 2002-Ohio-61	21
<i>Disciplinary Counsel v. Medley</i> , 104 Ohio St.3d 251, 819 N.E.2d, 2004-Ohio-6402	22
<i>Disciplinary Counsel v. O'Neil</i> , 103 Ohio St.3d 204, 2004-Ohio-4704	10, 19, 23
<i>Disciplinary Counsel v. Scacchetti</i> , 114 Ohio St.3d 36, 2007-Ohio-2713	7, 8
<i>Disciplinary Counsel v. Spitz</i> , 89 Ohio St.3d 117, 2000-Ohio-122, 729 N.E.2d 345	17
<i>Kloepfer v. Comm. On Judicial Performance</i> (Cal. 1989), 49 Cal.3d 826, 865	23
<i>State of Ohio ex rel. Allen, et. al., v. Warren County Board of Elections, Et. Al.</i> , Ohio Supreme Court Case No. 2007-1291	19

PAGE(S)

DISCIPLINARY RULES

DR 1-102(A)(4)

21

RULES FOR THE GOVERNMENT OF THE BAR

BCGD Proc.Reg. 10(B)(2)(g)

3, 6, 7, 8, 22

- Reinstatement and the resultant six-month stay shall be conditioned upon respondent's participation in psychotherapy with a qualified health care practitioner of his choosing at a frequency and duration determined by the health care professional.
- Prior to reinstatement, respondent must submit a certification stating that respondent has successfully completed psychotherapy or other appropriate treatment as determined by a health care provider and an opinion to a degree of medical certainty that respondent is then able to practice law in a competent, ethical and professional manner without conditions or under conditions specified in the certification.
- Respondent must maintain contact with OLAP until the stay is effective and for four years thereafter.
- No further disciplinary violations.
- Respondent must submit to monitoring for a period of two years after the expiration of his four year OLAP contract.

Report at 42.

At its June 2007 meeting, the board adopted the panel majority's recommendation that respondent be suspended from the practice of law for 18 months with six months stayed, subject to the aforementioned conditions. The board's report was certified to this Court and on July 2, 2007 and this Court issued an Order to Show Cause. Respondent filed his objections on August 10, 2007. Following is relator's answer to respondent's objections.

RELATOR'S ANSWER TO RESPONDENT'S OBJECTIONS

I. THE PANEL APPROPRIATELY CONCLUDED THAT RESPONDENT'S NARCISSITIC PERSONALITY DISORDER DID NOT QUALIFY AS A MITIGATING FACTOR UNDER BCGD PROC.REG. 10(B)(2)(g)¹

¹ Throughout his brief, respondent consistently refers to the panel, as opposed to the board. In an attempt to avoid confusion, relator will refer to the panel, despite the fact that the board adopted the panel's findings of fact, conclusions of law, and recommendations. It is the board's report that is before this Court for its consideration.

In evaluating whether a mental disability qualifies as a mitigating factor, the mental disability must be supported by all of the following:

- a. The diagnosis of a mental disability by a qualified health-care professional;
- b. A determination that the mental disability contributed to the cause of the misconduct;
- c. A sustained period of successful treatment; and,
- d. A prognosis from a qualified health care professional that the attorney will be able to return to competent, ethical professional practice, under specified conditions

BCGD Proc.Reg. 10(B)(2)(g).

Relator concurs with the panel's finding that respondent suffers from a mental disability—namely Narcissist Personality Disorder (“NPD”), and that respondent's NPD, in part, contributed to the misconduct alleged in the formal complaint. Consequently, respondent satisfied the first two elements of BCGD Proc.Reg. 10(B)(2)(g). Relator also concurs with the panel's finding that respondent failed to establish the third and fourth elements of a mental disability—namely (3) a sustained period of successful treatment and (4) a prognosis from a qualified health care professional that the respondent will be able to return to competent, ethical professional practice under specified conditions. For the reasons mentioned below, respondent's assertion that he satisfied the third and fourth elements of BCGD Proc.Reg. 10(B)(2)(g) is without merit.

There is simply no evidence that respondent has undergone a sustained period of successful treatment for his NPD. Respondent was not diagnosed with NPD until October 2006²--in the midst of the hearing on this formal complaint. By the February 2007 hearing date, respondent had participated in nine counseling sessions relating to his NPD. When one

² Respondent testified that he had been in counseling since March 2006; however, he was not diagnosed with NPD until October 2006, at which time, he began treatment for his NPD.

considers the early life origin of respondent's chronic disorder, it is inconceivable that nine counseling sessions could be viewed as a sustained period of successful treatment. Tr. p. 491.

Equally important was the fact that no one—not even respondent—testified that he had undergone a sustained period of successful treatment for his NPD. In fact, on his own accord, respondent reduced the frequency of his counseling sessions from weekly to bi-weekly. Report at 28. Dr. Douglas Beech, who was appointed by the panel to evaluate respondent, was incapable of providing evidence of a sustained period of successful treatment as his contact with respondent was limited to one three-and-a-half-hour session. Dr. Beech's purpose was to assess respondent—not treat him.

The only person who may have provided any insight into respondent's treatment was his treating psychologist. The psychologist did not testify at the hearing. Rather, the following stipulation was read into the record:

There is a PhD psychologist named M. Douglas Reed who practices with Warren County Forensic Psychology Center in George Parker's geographic area, and Dr. Reed has treated Judge Parker for the conditions that were diagnosed by Dr. Beech.
Tr. p. 512.

The stipulation does not address respondent's progress or prognosis. Respondent's closing remarks emphasized the sheer lack of evidence regarding a sustained period of successful treatment. "And we also know that Judge Parker is under treatment, and Dr. Beech testified that the treatment could be expected to be successful." Report at 587. (Emphasis added.)

With no evidence to prove a sustained period of successful treatment, respondent relies upon the panel's observation that on the final day of the hearing, respondent appeared "less animated, more contrite, and made a concentrated effort to answer the questions posed in a

timely and direct fashion.”³ Report at 27. Respondent’s argument that the panel’s observations prove a sustained period of successful treatment directly contradicts the panel’s finding that respondent did not undergo a sustained period of successful treatment. In fact, just as the panel noted some improvement in respondent’s demeanor, it also noted respondent’s continued volatility. “However, throughout the hearing he reverted to dysfunctional behavior when faced with difficult or stressful questions.” Id.

Respondent relies upon *Disciplinary Counsel v. Bowman*, 110 Ohio St.3d 480, 854 N.E.2d 480, 2006-Ohio-4333, for the proposition that even incomplete or interrupted treatment qualifies as a sustained period of successful treatment for purposes of mitigation. For several reasons, respondent’s reliance upon *Bowman* is misplaced.

First, even after considering Kevin Bowman’s depression as a mitigating factor, this Court increased the sanction recommended by the board by suspending Bowman for two years with no stay. Id. at 487. Second, unlike respondent, Kevin Bowman was diagnosed with dysthemia—a low level form of depression, which was amenable to treatment—including medication. On the contrary, respondent has been diagnosed with a personality disorder that is not amenable to treatment or medication. Dr. Beech testified that NPD is a “chronic” condition and that personality disorders, in general, are “very, very complicated.” Id. at 509. Finally, despite respondent’s assertions to the contrary, there was no evidence that Mr. Bowman’s treatment was interrupted. Rather, the testimony was that Mr. Bowman failed to contact OLAP on a daily basis, but that he had continued therapy throughout the time period. Id. at 485.

Respondent had the benefit of an eight-month delay between the first and second hearing sessions. On the first day of the hearing, when respondent was subject to cross-examination, his behavior was bizarre and his testimony was replete with inconsistencies, contradictions, and lies.

³ On the third day of the hearing, respondent testified on direct examination.

Report at 30, 34. As noted above, eight months later, on the third and final day of the hearing, respondent testified on direct examination and appeared less animated and more controlled. However, the direct examination was limited to respondent's family history, professional background, accomplishments, and counseling. As soon as respondent was subjected to cross examination by relator and the panel on substantive issues, he immediately reverted to his typical behavior—"hedging, excuses, and evasiveness." Report at 28. As noted in the report, "However, we note that respondent's testimony on the final day of the hearing showed elements of improvement as well as evidence of obvious relapse into non functional and self-serving distortions of thought." Id. at 27. "The panel concludes that while respondent has benefited from psychological counseling, he has not yet demonstrated a sustained period of successful treatment. Therefore, the third element of Section 10(B)(2)(g) has not been established." Id. at 29.

In light of the above, it is inconceivable how respondent could argue that the panel determined that respondent's brief treatment for his NPD was successful. It was the panel that called Dr. Beech as a witness and questioned him; therefore, the panel was acutely aware of the requirements of BCGD Proc.Reg. 10(B)(2)(g). The panel performed an exhaustive analysis of the requirements and ultimately concluded that respondent's NPD did not qualify as a mitigating factor.

It is remarkable that respondent is asking this Court to treat respondent's NPD as a mitigating factor when just two months before the final hearing date, respondent argued that Dr. Beech's report was inadmissible and announced that respondent had no intention of calling Dr. Beech as a witness. See Appendix B. Despite respondent's objection to Dr. Beech's report, the panel concluded that Dr. Beech's report was admissible and that the panel intended to subpoena

Dr. Beech to testify at the hearing, i.e. the panel—not respondent—called Dr. Beech to testify at the hearing. Without Dr. Beech’s testimony, respondent may not have received credit for his treatment and could be facing a panel recommendation of an indefinite suspension. Report at 41.

Although the panel correctly concluded that respondent’s mental disability did not meet the criteria established in BCGD Proc.Reg. 10(B)(2)(g), the panel nonetheless considered respondent’s treatment as a mitigating factor. In the panel’s report, under the heading entitled, “Mitigating factors,” the panel stated, “However, the Panel did consider respondent’s testimony concerning his ongoing treatment and its evident initial effect on his conduct as proof of respondent’s willingness to seek out and maintain an on-going treatment for a chronic condition which substantially impairs his judgment and behavior.” Report at 27.

In the section entitled, “Recommended Sanction,” the Panel again explained the mitigating effect of respondent’s treatment. “However, respondent has taken the steps towards treatment, and should be given credit for that effort, notwithstanding such treatment was precipitated by the filing of grievances and the Panel’s request for a psychiatric examination.” Report at 41. (Emphasis added.) In arriving at its recommended sanction, the panel stated, “All panel members have considered and rejected an indefinite suspension because respondent has demonstrated some improved conduct.” Report at 41. [Emphasis added]. In other words, the panel (and board) gave considerable weight to respondent’s continued treatment efforts.

Respondent cites *Disciplinary Counsel v. Scacchetti*, 114 Ohio St.3d 36, 2007-Ohio-2713, for the proposition that BCGD Proc.Reg. 10(B)(2)(g) does not require completed treatment or a clean bill of health. While this statement is accurate, the *Scacchetti* Court did not find that Scacchetti’s recovery efforts constituted “successful” treatment under BCGD Proc.Reg. 10(B)(2)(g). Rather, the *Scacchetti* Court considered the lawyer’s recovery efforts as a

mitigating factor independent of BCGD Proc.Reg. 10(B)(2)(g). Similarly, in the case at bar, the panel treated respondent's treatment as a mitigating factor, but they did not find that it qualified as a sustained period of successful treatment under BCGD Proc.Reg. 10(B)(2)(g).

Respondent also asserts that the panel erred in finding that respondent failed to establish the fourth requirement under BCGD Proc.Reg. 10(B)(2)(g), which states, "A prognosis from a qualified healthcare professional that the attorney will be able to return to competent, ethical professional practice under specified conditions." (Emphasis added.) The panel correctly concluded that respondent failed to establish this element. "On this point, Dr. Beech can only say that respondent could modify his behavior." Report at 29. (Emphasis added.)

Counsel for respondent: And you believe with appropriate treatment that he will be able to return to the competent, ethical, and professional practice?

Dr. Beech: I believe he can.

Tr. p. 507 (Emphasis added.)

Dr. Beech's use of the word "can"—as opposed to "will"—was deliberate and consistent with his testimony. Aside from the fact that Dr. Beech was incredibly articulate, it would have been irresponsible for Dr. Beech—who was not treating respondent—to assert that respondent "will" be able to return to the ethical, competent practice of law after testifying that NPD is generally not amenable to treatment and that "one has to see and observe whether it [behavior] has changed or not." Tr. p. 497.

In his effort to convince this Court that he has met the BCGD Proc.Reg. 10(B)(2)(g) requirements, respondent has attempted to interject ambiguity into the rule. Despite respondent's attempts, there simply is no uncertainty about the requirements. Respondent failed to elicit

testimony from a healthcare professional establishing that he will be able to return to the ethical, competent professional practice under specified conditions. Accordingly, respondent's NPD was not considered a mitigating factor. Nonetheless, as mentioned previously, the panel considered respondent's treatment as a mitigating factor.

II. THE PANEL CORRECTLY CONCLUDED THAT RESPONDENT FAILED TO COOPERATE IN THE DISCIPLINARY INVESTIGATION

Respondent asserts that the panel erred in concluding that respondent failed to cooperate in the disciplinary process. In support of this assertion, respondent points to the fact that relator stipulated that respondent cooperated in the disciplinary process and that Dr. Beech testified that respondent was cooperative during the psychiatric evaluation. While both of these facts are true, respondent offers no rebuttal to the panel's sound reasoning for rejecting the stipulation and actually finding respondent's "cooperation" to be an aggravating, rather than a mitigating, factor.

The panel drew an important distinction between compliance and cooperation in the disciplinary process:

While respondent answered the complaint and appeared at his deposition and at the hearing, we do not view that compliance as mitigating in the face of substantially false and misleading statements and testimony.

Respondent's lack of cooperation is reflected in his lies and in the contradictions in his testimony, deposition and answers to the Letters of Inquiry as well as in his efforts to refute his own stipulations.

Report at 34.

In a technical sense, respondent participated in the disciplinary process leading up to the hearing. But respondent's participation consisted of providing relator with false, malicious, and fictitious accounts of what actually transpired in many of the circumstances alleged in the complaint. A review of respondent's responses to the Letters of Inquiry illustrates the depth of

respondent's dishonesty and his willingness to fabricate to avoid discipline. See e.g. Ex. 79, 80. When presented with the opportunity to tell the truth, respondent opted to lie, distort, and fabricate.

Respondent's sworn testimony at the hearing contradicted his previous responses and further exposed respondent's deceit during the disciplinary process. It was respondent's false and misleading testimony that led the panel and board to conclude that respondent's "cooperation" during the disciplinary process was nothing more than a calculated, deceitful attempt to conceal his misdeeds. "Respondent's tactics of misrepresentation, fabrication, and obstruction in the face of discipline are unacceptable for any attorney, let alone a judge." Report at 36. "A judge who misrepresents the truth tarnishes the dignity and the honor of his or her office because truth and honesty lie at the heart of the judicial system, and judges who conduct themselves in an untruthful manner contradict this most basic ideal." Report at 37, citing *Disciplinary Counsel v. O'Neill*, 103 Ohio St.3d 204, 2004-Ohio-4704, ¶27.

By adopting the panel's determination that respondent's ostensible "cooperation" was actually an aggravating factor, this Court has an opportunity to put members of the legal profession on further notice that deceitful conduct—especially in a disciplinary proceeding—will not be tolerated.

III. THE PANEL'S FINDING OF SEVERAL AGGRAVATING FACTORS WAS SUPPORTED BY THE EVIDENCE IN THE RECORD

The panel found the presence of the following aggravating factors:

1. Dishonest or selfish motive;
2. A pattern of misconduct;
3. Multiple offenses;

4. Lack of cooperation in the disciplinary process;
5. Submission of false evidence, false statements, or other deceptive practices during the disciplinary process; and,
6. Refusal to acknowledge the wrongful nature of the conduct.

Respondent does not contest the panel's determination that respondent engaged in a pattern of misconduct or that respondent committed multiple offenses. However, respondent objects to the remaining aggravating factors. With regard to the lack of cooperation, that issue was previously addressed in Section II and will not be repeated herein. Relator will address the remaining aggravating factors in the order that they appear in respondent's brief.

1. Refusal to acknowledge the wrongful nature of the conduct

In support of his contention that respondent acknowledged the wrongful nature of his conduct, respondent points to the stipulations, respondent's testimony on the third day of the hearing, and respondent's interview with Dr. Beech, wherein he allegedly admitted some wrongdoing. Respondent overlooks several instances in which he refused to admit any wrongdoing—despite overwhelming evidence of misconduct.

For example, in Count III, respondent presided over a matter entitled *State v. Graham*. Melody Graham was arrested and charged with a fifth-degree felony (theft of a credit card) and misdemeanor drug possession. It was undisputed that Graham was pregnant when she appeared before respondent. Present with her lawyer, Graham executed a written waiver of her right to a preliminary hearing. Instead of binding Graham over to the common pleas court, as required under Crim. Rule 5, respondent rejected the signed waiver and ordered the prosecution to put on its case to show probable cause regarding the felony charged. Report at 9. During the

preliminary hearing, respondent stated, “They say no good deed goes unpunished. I should have accepted the waiver and let you move on, but I just couldn’t do it, not in good conscience.” (Stipulation “Stip.” 73). After the preliminary hearing, respondent refused to find probable cause of a felony, stating that the prosecutor had failed to establish that the credit card was active, despite the fact that this was not an element of the crime. (Stip. 74, Ex. 20, 21). When the prosecutor moved to dismiss the case for direct presentment to the grand jury, respondent denied the prosecutor’s request and ordered the prosecutor to refile the charge as a misdemeanor. *Id.* Off the record, respondent expressed his personal desire to help a pregnant Graham by keeping the case in Municipal Court. *Id.*

With regard to *Graham*, the panel concluded:

In *Graham*, respondent once again pre-determined the outcome of a case and actively worked to achieve that result. Respondent stated on the record that he could not in good conscience allow the case to be bound over. Off the record, respondent expressed a desire to “help” a pregnant Graham by keeping the case in Municipal Court. Respondent was required to follow Crim. R. 5, which states, “If the defendant waives preliminary hearing, the judge or magistrate shall forthwith order the defendant bound over to the court of common please.” Respondent violated the impartiality of the judiciary by advocating a position and using his authority as a judge to impose it.

Id. Despite the overwhelming evidence of respondent’s misconduct, respondent refused to admit wrongdoing.

Relator: In the *Graham* matter, did you feel that you crossed the line in involving yourself in the resolution of the preliminary hearing?

Respondent: No, not in the resolution of the preliminary hearing.

Relator: Do you feel that any of your conduct in the *Graham* matter was—constituted misconduct?

Respondent: No.

Tr. p. 533.

Similarly, with regard to the *Jane Doe* matter, respondent steadfastly refused to acknowledge the impropriety of photographing a domestic violence victim with his probation officer's cell phone in open court. Not only did respondent refuse to acknowledge the wrongful nature of his misconduct, but he fabricated reasons in an attempt to justify his bizarre, inappropriate conduct. As determined by the panel, "when questioned regarding the propriety of photographing a domestic violence victim with a camera phone, respondent, in spite of his therapy, stubbornly refused to admit any wrongdoing. Instead he reverted to his past behavior of hedging, excuses and evasiveness." Report at 28.

In the *Ambrose* matter, respondent admitted that it was generally inappropriate for a judge to preside over a matter when a judge had knowledge of the underlying facts. However, in a futile attempt to justify his actions, respondent refused to admit that he recognized the defendant at the time of the plea as the person he saw being arrested at the scene. Tr. 516. Respondent testified that the attorneys in the matter had given him "nothing" with which he could have recalled his involvement in the case. Report at 6.

Respondent's testimony was preposterous and underscores his inability to accept the wrongful nature of his conduct. It is inconceivable that respondent did not recognize Ambrose at the time of the plea when one considers:

- The audio transcript of the *Ambrose* plea hearing reveals that one of the attorneys advised respondent that respondent had signed the search warrant;
- Respondent, by his own-admission, had signed only three search warrants in his judicial career;
- The facts were unique as Ambrose was arrested for stealing large neon signs from a local bar;
- The "ride-along" took place at 3:00 am;

- Respondent stipulated that he saw Ambrose at the scene in cuffs with the contraband, and stated to the deputies, “You got the signs.”
- Only five weeks elapsed between the arrest and plea;
- Deputy Faine was present at counsel table during the plea;
- Ambrose apologized directly to respondent.
- During the plea, respondent asked the victim, “Did you get your signs back?”

Report at 6, Panel Ex. A.

In summary, while it is true that respondent eventually acknowledged some of his misconduct, he refused to accept responsibility for many of his actions, despite overwhelming evidence of misconduct.

2. Dishonest or Selfish Motive and Submission of False Evidence, False Statements, Other Deceptive Practices During the Disciplinary Process.

Respondent asserts that the panel erred in finding that respondent acted with a dishonest or selfish motive and that respondent submitted false evidence, false statement or engaged in other deceptive practices during the disciplinary process. Consistent with respondent’s penchant to deflect blame, respondent now asserts that the “differences” between respondent’s testimony, stipulations, and responses to the Letters of Inquiry, which were characterized by the board as “lies” and “contradictions,” were a product of his NPD. Respondent’s argument is specious at best and must fail.

Respondent’s attempt to create a nexus between his pervasive dishonesty and his NPD underscores his inability to accept responsibility for his dishonesty and acknowledge the wrongful nature of his misconduct. Despite respondent’s assertions to the contrary, there was not one shred of evidence connecting respondent’s pervasive dishonesty to his NPD. Nor is

there any scientific evidence to support such a correlation. According to the DSM-IV-TR, a person can be diagnosed with NPD when five (or more) of the following exist:

1. Has a grandiose sense of self-importance
2. Is preoccupied with fantasies of unlimited success, power, brilliance, beauty, or ideal love
3. Believes that he or she is “special” and unique and can only be understood by, or should associate with, other special or high-status people (or institutions)
4. Requires excessive admiration
5. Has a sense of entitlement, i.e., unreasonable expectations of especially favorable treatment or automatic compliance with his or her expectations
6. Is interpersonally exploitative, i.e., takes advantage of others to achieve his or her own ends
7. Lacks empathy: is unwilling to recognize or identify with the feelings and needs of others
8. Is often envious of others or believes that others are envious of him or he
9. Shows arrogant, haughty behaviors or attitudes

Panel Ex. D.

Conspicuously absent from the nine descriptors is conduct involving dishonesty, deceit, misrepresentation, or any variation thereof. Dr. Beech’s testimony supports the absence of a correlation.

Because persons with Narcissistic Personality Disorder have grandiose self-esteem, they are vulnerable to intense reactions when their self-image is damaged. They respond with strong feelings of hurt or anger to even small slights, rejections, defeats or criticisms. As a result, persons with Narcissistic Personality Disorder usually go to great lengths to avoid exposure to such experiences, and when that fails, react by becoming devaluative or rageful.

Panel Ex. D, p. 5. There simply is no correlation between respondent’s blatant, calculated dishonesty and his NPD. Respondent intentionally lied to try to avoid discipline.

In his brief, respondent goes one step farther by suggesting that respondent's stipulations and testimony provided evidence of respondent's progress and that the panel erred when it classified respondent's shift in testimony as a deception. Respondent asserts:

It is significant that respondent started undergoing psychological counseling in March 2006—after responding to the Letters of Inquiry—and later entered into Stipulations on June 27, 2006. He was certainly less protective of his ego and more willing to accept responsibility for his acts than he was in some of his responses to the Letters of Inquiry.

* * *

Comparing respondent's actions during the underlying events and his responses to the Letters of Inquiry—which occurred before he was diagnosed and began treatment for NPD—to the stipulations and testimony he provided after seeking treatment demonstrates NPD was a causative factor in respondent's behavior.

* * *

The Panel recommended penalizing Respondent's progress by labeling the clarity that accompanied his psychological improvement as a deception, merely because it is inconsistent with his earlier characterizations (which were impacted by his NPD).

* * *

Respondent's NPD clearly affected his ability to address each of these situations with a clear focus when he was responding to the Letters of Inquiry.

The critical flaw in respondent's argument is that it overlooks the glaring fact that the majority of respondent's false testimony occurred after the stipulations and after four months of therapy.

Despite respondent's alleged improved clarity, respondent's bizarre, erratic, and false testimony during the first day of the hearing prompted the panel to request that respondent undergo a psychiatric evaluation.

Respondent places too great an emphasis upon his "performance" on the third day of the hearing. Respondent's behavior on the third day of the hearing improved when compared to his behavior on the first day of the hearing.⁴ While the counseling sessions may have contributed to respondent's improved demeanor, it is also possible that respondent modified his demeanor to

⁴ Respondent did not testify on the second day of the hearing.

capitalize on the potential mitigation evidence (i.e. Dr. Beech) that the panel injected into the proceedings. This is especially true when one considers that as late as December 2006, respondent was objecting to Dr. Beech's report and testimony. (Appendix B) Recognizing that respondent could not avail himself of the potential mitigation evidence without first admitting misconduct, respondent altered his strategy and admitted some misconduct. But even on the third day of the hearing—and in spite of respondent's therapy—when pressed with difficult and sensitive questions, respondent reverted to “dysfunctional behavior,” which included “hedging, excuses, and evasiveness.” Report at 28.

Respondent's assertion that his NPD impacted his “focus” at the time he authored the responses to the Letters of Inquiry is absurd. Even a cursory review of respondent's responses confirms the clarity and detail of the content. Respondent's responses represent a painstaking recreation of the facts in an attempt to conceal his misdeeds, deflect blame, and avoid discipline.

There are consequences for engaging in deceptive practices, especially in a disciplinary proceeding. In *Cincinnati Bar Assn. v. Spitz*, 89 Ohio St.3d 117, 2000-Ohio-122, 729 N.E.2d 345, this Court indefinitely suspended a previously suspended attorney for sharing a legal fee with a nonlawyer. This Court noted, “The panel concluded that the fee-splitting arrangement did not ‘by itself warrant a harsh sanction, [respondent's] conduct and actions in attempting to cover-up the fee splitting were particularly egregious.’ The panel also concluded that respondent was not truthful in his testimony at the hearing.” In imposing an indefinite suspension, the Court stated, “When confronted with an investigation for his improper conduct in this case, respondent responded with lies and another sham document. We must reply with a more serious penalty than in respondent's previous case.” *Id.* at 118 Like the lawyer in *Spitz*, respondent fabricated

multiple stories in an attempt to conceal his misconduct—even throughout the disciplinary process.

Similarly, in *Cleveland Bar Assn. v. Cleary*, 93 Ohio St.3d 191, 207, 2001-Ohio-1326, 754 N.E.2d 235, this Court imposed an actual suspension, rather than a stayed suspension, stating, “Unlike in *Hoague*, however, we decline to stay any part of Cleary’s suspension in light of the board’s finding that Cleary made false and deceptive statements to the panel in an attempt to exculpate herself.” *Cleary*, 93 Ohio St.3d. at 207, citing *Disciplinary Counsel v. Hoague* (2000), 88 Ohio St.3d 321, 725 N.E.2d 1108.

In order to illustrate respondent’s dishonest and selfish motive, one need look no further that respondent’s conduct in Count V (9-1-1 Matter). It is undisputed that while in chambers with an assistant prosecutor, Matt Graber, and defense attorney, Mike Davis, respondent called 9-1-1 in a non-emergency situation to have a prisoner transported to the courthouse. Report at 13. On the following Saturday, a newspaper article appeared concerning respondent’s improper use of the 9-1-1 system. Report at 13. In response to the article, respondent telephoned Davis at home, and tried to coerce Davis into corroborating respondent’s false version of events (namely that it was Graber’s idea to call 9-1-1 and that Graber used profanity) in an attempt TO absolve respondent of wrongdoing to the detriment of Graber. *Id.* at 17. The panel concluded, “Respondent’s conduct has been unprofessional, unjudicial, lacking in integrity, improper and dishonest.” *Id.*

**IV. RESPONDENT’S MISCONDUCT WARRANTS AN 18-MONTH
SUSPENSION FROM THE PRACTICE OF LAW WITH SIX MONTHS
STAYED, WITH CONDITIONS**

In advocating for a reduced sanction, respondent asserts that the panel relied upon several cases, “all of which are distinguishable from the case at bar.” The panel’s reference to a litany of cases was not to rely upon them for their factual similarities, but to illustrate the broad spectrum of facts upon which many judicial discipline cases have been decided. It is axiomatic that each judicial discipline case is unique in its facts and that no case will be “on all fours” with the case at bar. In an effort to ensure an appropriate recommendation, the panel methodically analyzed multiple Ohio judicial discipline cases “ranging from the flagrant to the relatively benign.” Report at 38.

It is critical to note that the board’s starting point was an actual suspension from the practice of law. “Respondent’s pervasive conduct of misrepresentation and evasion by itself warrants an actual suspension from the practice of law for an appropriate period of time.” Report at 37, citing *O’Neill*, supra, 103 Ohio St.3d 204, 2004-Ohio-4704, ¶52. It also bears repeating that the panel as a whole considered an indefinite suspension from the practice of law. “All Panel members have considered and rejected an indefinite suspension because Respondent has demonstrated some improved conduct.” Report at 41. But for respondent’s therapy, he could be facing a board recommendation of an indefinite suspension from the practice of law.

In advocating for a reduced sanction, respondent asserts that at the time of this Court’s decision, respondent will no longer be on the bench, as he is not on the 2007 ballot. Respondent’s statement is irrelevant and, equally important, it fails to address the fact that respondent has filed a Writ of Mandamus with this Court asking to have his name placed on the November 2007 ballot. (See *State of Ohio ex rel. Allen, et. al., v. Warren County Board of Elections, et. al.*, Ohio Supreme Court Case No. 2007-1291). The likelihood that respondent

may no longer be a judge in the Mason Municipal Court when this Court issues its decision should in no way impact this Court's ruling.

Respondent asserts that there is no evidence to suggest that respondent poses a risk to potential clients, as an attorney. Respondent's contention is not only absurd, but contrary to his own futile attempt to create a correlation between respondent's NPD and his dishonest conduct. Assuming, arguendo, that respondent's NPD contributed to respondent's dishonesty, then so long as respondent suffers from NPD, he will be prone to dishonesty and therefore poses a risk to future clients. But the fact is that respondent's dishonesty is wholly unrelated to respondent's NPD. Respondent is a lawyer first. And respondent's gross lack of integrity and honesty is a fundamental character flaw that strikes at the heart of the legal profession. In its 42-page opinion, the panel repeatedly commented on respondent's pervasive dishonesty:

- The Panel finds that respondent is not credible. Tr. p. 14
- Respondent's testimony as to virtually all allegations has shifted constantly throughout these proceedings with respondent retracting his own testimony and stipulations on multiple occasions. Where he has not retracted or contradicted, he has engaged in revisionist explanations that have no foundation in fact for the purpose of protecting his own self image to the detriment of others. Id.
- Respondent's conduct has been unprofessional, unjudicial, lacking in integrity, improper, and dishonest. Id. at 17
- * * * the Panel can only conclude that respondent intentionally misrepresented facts and was untruthful in his testimony. Id. at 30
- This assertion is completely false. Id. at 31
- The stipulations, respondent's testimony, the testimony of others involved in the matter, and the audio record clearly demonstrate that respondent lied in the First Answer and misrepresented events in his testimony. Id. at 32. (Emphasis added.)
- This claim is patently untrue. Id.

- Respondent's wavering testimony and his asserted belief that being ordered by a judge is the same as being in agreement only solidifies the Panel's conclusion that respondent was deceptive and misrepresented events. Id. at 33.
- We note that he changed his story and added new, and from his perspective, increasingly more plausible justifications for making the [9-1-1] call at each progressive stage of the proceedings. Id. at 34.
- Respondent's lack of cooperation is reflected in his lies and in the contradictions in his testimony, deposition and answers to the Letters of Inquiry as well as in his efforts to refute his own stipulations. Id. (Empahsis added.)
- Respondent's effort to distort in order to justify his misconduct is an aggravating factor. Id. at 36.
- Respondent's tactics of misrepresentation, fabrication and obstruction in the face of discipline are unacceptable for any attorney, let alone a judge. Id.
- Further, respondent's prevarications and excuses indicate a failure to fully acknowledge responsibility for his conduct and a lack of insight as to its cause and ramifications. Id. at 41.

Respondent contends that *Disciplinary Counsel v. Karto*, 94 Ohio St.3d 109, 760 N.E.2d 412, 2002-Ohio-61, is most analogous to the case at bar. In *Karto*, this Court suspended Judge Karto for six months for various acts of misconduct, including: abusing his contempt power, engaging in ex parte communications, using an outdated rule book to impose a sentence, and exhibiting bias. Id.

In some respects, *Karto* is similar to the case at bar. But the distinguishing factors far outweigh the similarities. The fundamental difference is that when confronted with the allegations, respondent lied. And throughout the process, unlike Judge Karto, respondent engaged in dishonest and deceptive practices in an effort to avoid discipline, exhibited a dishonest or selfish motive, and failed to cooperate in the disciplinary investigation. Further, unlike Judge Karto, respondent engaged in conduct involving fraud, deceit, dishonesty, or

misrepresentation in violation of DR 1-102(A)(4). Finally, respondent's misconduct was far more pervasive than Judge Karto's misconduct. Respondent's misconduct involved 31 violations of the Code of Judicial Conduct and the Code of Professional Responsibility stemming from respondent's participation in 19 separate incidents. Judge Karto's misconduct stemmed from his participation in four separate proceedings.

In *Disciplinary Counsel v. Medley*, 104 Ohio St.3d 251, 819 N.E.2d, 2004-Ohio-6402, this Court suspended Judge Medley for 18-months with six months stayed—the same sanction recommended by the board in the instant matter. Judge Medley's misconduct arose from his participation in two isolated cases and the improper procedure he employed in his small claims court; however, unlike respondent, Judge Medley had previously been disciplined. When compared to *Medley*, it is apparent that respondent's misconduct was much greater in scope and volume. And again, unlike Judge Medley, respondent acted with a dishonest or selfish motive, failed to cooperate, and engaged in deceptive and dishonest practices throughout the disciplinary process. When one considers the scope of respondent's misconduct, coupled with the presence of several aggravating factors, the board's recommendation is consistent with this Court's decision in *Medley*.

CONCLUSION

Although respondent's NPD did not qualify as a mitigating factor under BCGD Proc.Reg 10(B)(2)(g), the panel treated respondent's continued therapy as a mitigating factor and tempered its recommended sanction accordingly.

Respondent does not dispute the board's findings that he committed 23 violations of the Code of Judicial Conduct and eight violations of the Code of Professional Responsibility,

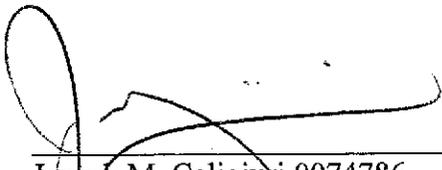
including engaging in conduct involving fraud, dishonesty, deceit, or misrepresentation. Based upon respondent's misconduct and his actions throughout the disciplinary process, the panel found the presence of seven aggravating factors:

- A dishonest or selfish motive
- A pattern of misconduct
- Multiple offenses
- Lack of cooperation in the disciplinary process
- Submission of false evidence, false statements, or other deceptive practices during the disciplinary process
- Refusal to acknowledge the wrongful nature of the misconduct

Most disturbing is respondent's pervasive dishonesty. "Honesty and good legal knowledge are minimum qualifications which are expected of every judge." *Kloepfer v. Commission on Judicial Performance* (Cal. 1989), 49 Cal.3d 826, 865. The panel correctly concluded, "Respondent's pervasive conduct of misrepresentation and evasion by itself warrants an actual suspension from the practice of law for an appropriate period of time." Report at 37, citing *Disciplinary Counsel v. O'Neill*, supra, 103 Ohio St.3d 204, 2004-Ohio-4704, ¶52. Taking into account respondent's treatment for his NPD, the scope of respondent's misconduct, and the depth of his dishonesty, relator urges this Court to adopt the board's recommended sanction of an 18-month suspension with six months stayed, subject to the conditions stated in the report.



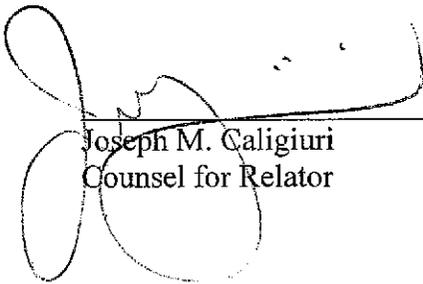
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Disciplinary Counsel



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CERTIFICATE OF SERVICE

I hereby certify that the foregoing answer brief was served via U.S. Mail, postage prepaid, upon respondent's counsel, George D. Jonson, Montgomery, Rennie and Jonson, 36 East 7th Street, Suite 2100, Cincinnati, OH 45202, and upon Jonathan W. Marshall, Secretary, Board of Commissioners on Grievances and Discipline, 41 S. High Street, Suite 2320, Columbus, Ohio 43215 this 17th day of September, 2007.



Joseph M. Caligiuri
Counsel for Relator

**BEFORE THE BOARD OF COMMISSIONERS
ON
GRIEVANCES AND DISCIPLINE
OF
THE SUPREME COURT OF OHIO**

RECEIVED
JMC / JEC / SCAN
JUN 27 2007

In Re:	:		
Complaint against	:	Case No. 05-091	DISCIPLINARY COUNSEL SUPREME COURT OF OHIO
Honorable George Matthew Parker Attorney Reg. No. 0046664	:	Findings of Fact, Conclusions of Law and Recommendation of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio	
Respondent	:		
Disciplinary Counsel	:		
Relator	:		

This matter was heard on June 27 and 28, 2006, upon the Complaint of the Disciplinary Counsel, Relator, against Judge George Matthew Parker, Attorney Registration No. 0046664. The members of the hearing panel were Judge Beth Whitmore, Attorney Francis E. Sweeney, Jr., and Theresa B. Proenza. None of the panel members resides in the appellate district from which the complaint arose or served on the probable cause panel that certified the matter to the Board of Commissioners on Grievances and Discipline of the Supreme Court. Joseph M. Caligiuri appeared as counsel for Relator. Respondent appeared and was represented by George D. Jonson. Prior to the hearing, the parties entered into stipulations which are attached hereto. The hearing was continued on June 28, 2006 pending a psychiatric assessment of Respondent. The parties agreed before the assessment that its results were admissible in the grievance proceedings.

The Panel and parties reconvened on February 19, 2007 at which time the Panel took the testimony of Dr. Douglas Beech and Respondent. Dr. Beech had submitted a written report that was admitted into evidence and testified to his diagnosis that Respondent has a narcissistic personality disorder. Respondent stipulated that his treating psychologist, Dr. Reed, had reviewed

APPENDIX A

Dr. Beech's written report and agreed with the diagnosis of narcissistic personality disorder. The Panel will further discuss Dr. Beech's report, its findings, and the implications of the diagnosis in the section on Aggravation and Mitigation.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Panel notes that this matter stems from alleged conduct by Respondent in a highly charged environment in a small municipality. The complaints filed against him were highly publicized at the time, and the publicity continued during the disciplinary process. The panel is aware of the claims of ill will between Respondent and city officials and the purported reasons behind such claims. We must, nonetheless, review Respondent's conduct against the standards set forth in the Judicial Canons and the Code of Professional Responsibility.

Relevant stipulated facts, rule violations, and one dismissal are set forth in the attached stipulations. The Panel adopts in full the stipulated facts and rule violations, as well as the stipulated dismissal of the alleged violation of Canon 1 as contained in Count Seven. The stipulations also include two mitigating factors: (1) that Respondent has no prior disciplinary record; and (2) that Respondent cooperated in the disciplinary proceedings. We adopt the first, but reject the second stipulated mitigating factor.

Respondent was admitted to practice in Ohio in 1990. Prior to his current position as Municipal Court Judge for the city of Mason, he practiced at both a small law firm and as a sole practitioner. He has served as the coordinator for mediation services for Butler County and as a magistrate in Butler County. In 1998, Respondent was defeated for a state appellate court seat. Respondent won his current seat in 2001 and took the bench in January of 2002. Respondent is married, has three children and has no known physical health problems.

Based on the stipulations, depositions, Respondent's answers to letters of inquiry, other evidentiary materials, and testimony adduced at the hearing, the Panel finds by clear and convincing evidence that Respondent violated:

Canon / Rule	Violation Found (By Count)
Canon 1: A judge shall uphold the integrity and independence of the judiciary	2, 3, 5
Canon 2: A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary	1, 2, 3, 4, 5, 6, 7
Canon 3(B)(3): A judge shall require order and decorum in proceedings before the judge	3
Canon 3(B)(4): A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, and of staff, court officials, and others subject to the judge's direction and control	1, 3, 6, 7
Canon 3(B)(7): A judge shall not initiate, receive, permit, or consider communications made to the judge outside the presence of the parties or their representatives concerning a pending or impending proceeding	2, 3
Canon 3(B)(8): A judge shall dispose of all judicial matters promptly, efficiently, and fairly and comply with guidelines set forth in the Rules of Superintendence for the Courts of Ohio	1
Canon 3(E)(1)(a): A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including where the judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of disputed evidentiary facts concerning the proceeding	2
Canon 4: A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities	1, 3, 5, 6
DR 1-102(A)(4): A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation	5
DR 1-102(A)(5): A lawyer shall not engage in conduct that is prejudicial to the administration of justice	1, 2, 3, 4, 5, 6
DR 1-102(A)(6): A lawyer shall not engage in conduct that adversely reflects on the lawyer's fitness to practice law	5

Because of the breadth of the complaints against Respondent, the Panel will address each count separately.

Count One: The Gadberry Matter

In summary, as to Count One, Respondent stipulated that on November 5, 2003, he ordered Naomi Gadberry out of the courtroom for raising her hand and held her in contempt for muttering under her breath as she left. Mrs. Gadberry was handcuffed, transported to the Warren County Jail and sentenced to 24 hours in jail. The video record shows Respondent's demeanor as aggressive and erratic. The video further demonstrates that Respondent's outburst was precipitated by Mrs. Gadberry raising her hand. The video also shows that prior to Mrs. Gadberry raising her hand, another person in the courtroom stood, walked through the area in front of the bench into the gallery, and then crossed behind Mrs. Gadberry to approach another person seated in the gallery. A close examination of the video reveals that Mrs. Gadberry subsequently reached into her purse, took out a piece of paper, and turned towards another person seated behind her in the gallery. That person then rose and came forward to sit next to Mrs. Gadberry. Mrs. Gadberry subsequently raised her hand without waving it around as originally asserted by Respondent, and her actions were no more distracting than the normal ebb and flow of a typical courtroom. Further, as discussed in the Aggravation and Mitigation section, Mrs. Gadberry did not utter a profanity, as initially asserted by Respondent, but simply muttered under her breath, "I can't believe this." – a fact to which Respondent later stipulated.

In a previous judicial discipline case, *Disciplinary Counsel v O'Neill*, 103 Ohio St.3d 204, 2004-Ohio-4704, the Supreme Court of Ohio held that "unbecoming, unprofessional, and discourteous" conduct towards those with whom a judge interacts violates Canons 1, 2, 3, 3(B)(4), and 4 as well as DR 1-102(A)(5). *Id.* at ¶40. In support of this principle, the Supreme Court cited an instance in which Judge O'Neill ejected the victim of an attempted murder from the courtroom for whispering to a companion. Respondent's behavior in the face of a raised hand was equally unbecoming, unprofessional, and discourteous. Moreover, his abuse of the contempt power and the outburst which accompanied it surely undermined the public perception of the fairness and integrity

of the judiciary, and thus prejudiced the administration of justice. Accordingly, based upon the evidence before us and applying the *O'Neill* standard, the Panel finds by clear and convincing evidence that Respondent violated Canons 2, 3(B)(4), 3(B)(8), 4 and DR 1-102(A)(5).¹

Count Two: The Ambrose Matter

In summary, as to Count Two, Respondent stipulated as follows: that in the early morning hours of March 7, 2003, he was picked up at his residence by Deputy Faine and transported to the courthouse where Respondent signed a search warrant; that while en route back to Respondent's residence, Respondent asked Deputy Faine if he could accompany him to the suspect's residence; that Respondent stayed in the police car while the warrant was executed; that Respondent returned to the Warren County Jail with the deputies; that he waited in the sally port while the suspect was booked in the adjoining room; and that he signed the commitment order. Approximately five weeks later, Respondent presided over the defendant's guilty plea / sentencing despite his involvement in the events of March 7.

It is undisputed that Respondent presided over a proceeding in which he had been at the scene of the defendant's arrest. It is clear to the Panel that by requesting to accompany the deputies while they executed the warrant, and then accompanying them to the jail and signing the commitment order, Respondent blurred the lines between law enforcement and the judiciary. To an objective observer, a judge signing a warrant and then riding along to enforce the warrant would impugn the independence of the judiciary and would reflect poorly on the court's integrity and impartiality. Such events would suggest that Respondent was "in league" with the police. The

¹ As briefly discussed *supra*, with regard to Count Seven, the Relator stipulated to a dismissal of its allegation that Respondent's conduct violated Canon 1. Count Seven consists of several incidents, including the events comprising Counts One (*Gadberry*), Four (*Jane Doe*) and Six (*McConnell*). Therefore, as to Count Seven, Relator has dismissed the allegation that Respondent's conduct in the *Gadberry*, *Jane Doe* and *McConnell* matters violated Canon 1. Accordingly, the Panel will also apply the stipulated dismissal to Counts One, Four and Six as well.

Ambrose record also demonstrates that Respondent failed to disqualify himself from a matter in which his independence and impartiality could be reasonably be questioned.

In an effort to explain his failure to disqualify himself, Respondent went to great lengths at his deposition and in the hearing to refute any knowledge as to the identity of the defendant. For instance, Respondent testified that the attorneys in the matter had given him “nothing” with which he could have recalled his involvement in the case. However, the Panel does not agree. The audio transcript reveals that one of the attorneys in the matter advised Respondent that Respondent had signed the search warrant. While this revelation alone may not have been sufficient to jar Respondent’s memory, this statement, coupled with other pertinent facts, leads the Panel to conclude by clear and convincing evidence that Respondent was aware that the defendant was the same Mr. Ambrose who was arrested during his “ride-along.” First, Respondent, by his own admission had only signed three search warrants in his career as a judge. Second, the facts of the case were unique - Mr. Ambrose was arrested for stealing large, neon signs from a local bar. Third, the ride along took place at about 3:00 a.m. Fourth, Respondent stipulated that he saw Ambrose in cuffs at the scene, along with the contraband, and stated to the deputies “You got the signs.” Fifth, only five weeks had elapsed between the arrest and the guilty plea / sentencing.

Respondent acted unprofessionally in this situation. The nature of his conduct and the injury to public confidence in the impartiality, independence, and integrity of the judiciary justify violations of Canons 1 and 2 and DR 1-102(A)(5). Respondent’s failure to disqualify himself from the *Ambrose* matter when his impartiality could reasonably be questioned is a violation of Canon 3(E)(1)(a). Further, by the sheer nature of his improper “ride-along,” it is clear that Respondent engaged in ex parte communication regarding an impending case. For example, when Respondent asked or stated to the deputies “you got the signs,” it was more than a mere passing comment. It was a communication with police regarding evidence in a case that was destined for Respondent’s

courtroom. Therefore, based on the record before us, the Panel finds by clear and convincing evidence that Respondent violated Canons 1, 2, 3(B)(7); and 3(E)(1)(a) as well as DR 1-102(A)(5).

Count Three: The Garcia and Graham Matters

In summary, as to Count Three, Respondent has stipulated that in the *Garcia* matter, he presided over a jury trial for domestic violence. During that trial, Respondent allowed the jurors to eat lunch in the jury box while the prosecution was presenting its case and witnesses were testifying. Though the parties raised no objection, Respondent should have preserved the proper decorum in the courtroom and should not have placed jurors in a situation where they were distracted by eating and would likely be perceived as not giving full attention to the evidence offered and the demeanor of witnesses. This incident, standing alone, does not rise to the level of a violation.

Respondent has also stipulated that at one point in the trial, he recessed the jury, stepped down from the bench, and told defense counsel that the prosecutor was about to offer a plea to a minor misdemeanor and that the defendant was “about ready” to take the plea. Respondent then stipulated that the prosecutor never offered a plea before or during the trial. In fact, Respondent stipulated that after he had approached defense counsel about the prosecution’s “impending” plea offer, he left the courtroom and the prosecutor plainly told defense counsel that he was not willing to offer a minor misdemeanor, but that he would agree to a fourth degree misdemeanor.

Upon returning to the bench and learning that the prosecutor had not offered a minor misdemeanor, Respondent ordered counsel and the arresting officer into his chambers where he demanded to know why the plea was not going forward. Respondent stipulated to asking the prosecutor and the arresting officer if they were “listening to the same trial that [he was] listening to” and whether they knew they were “watching an acquittal.” The arresting officer informed Respondent that he was unwilling to offer a minor misdemeanor. Respondent stipulated that he

[Respondent] then “became unsettled and ordered everyone out of his chambers.” Respondent further stipulated that as the parties were leaving, Respondent told the arresting officer to remain behind. Respondent then spoke privately with the officer about the case.

At the hearing, Respondent testified that he had no concerns about speaking to the arresting officer *ex parte*.² Further, he admitted that he attempted to influence the arresting officer to change his position and agree to a plea more amenable to Respondent. The arresting officer testified that Respondent was “short” and “agitated” while speaking in chambers and that he slammed his hands down on the table in frustration. The prosecutor testified that Respondent was “serious” and clearly “wanted an answer” as to why the plea was not going forward. Defense counsel testified that Respondent appeared “frustrated” and that he, as counsel, felt powerless to change the court’s mind about how the case would be resolved.

Such behavior is biased and *per se* objectionable. Moreover, the record indicates that Respondent believed the prosecution would not be able to establish all of the essential elements of the crime. In Respondent’s own words, they were “watching an acquittal.” By aggressively trying to force a plea to a lesser charge, Respondent interfered with the defendant’s right to a jury trial and an acquittal if the state failed to meet its burden of proof. While Respondent may have felt, as he testified, that the physical skirmish only merited a conviction on a minor misdemeanor, the decision was not his to make. Garcia was ultimately found not guilty as charged. Respondent’s conduct was fundamentally unfair to the defendant and ignored the independence and impartiality of the judiciary.

² However, the record indicates that Respondent was well aware that *ex parte* communication involving a case constitutes an ethical violation. Attorney Michael Davis, whose testimony the Panel finds to be credible, testified that in another matter, Respondent had refused to speak with a police officer alone because it would be “inappropriate for him to talk in chambers in private to someone on [the] case when two attorneys were present” and available.

In summary, also as to Count Three, Respondent stipulated that in the *Graham* matter he presided over a preliminary hearing in which the defendant was charged with felony theft of a credit card and misdemeanor drug possession. At that time, Graham signed a written waiver of her right to a preliminary hearing. Instead of binding Graham over to the common pleas court, Respondent rejected the signed waiver and ordered the prosecution to put on its case to show probable cause regarding the felony charged. After hearing the evidence, Respondent concluded that the state had failed to meet its burden and suggested that Graham plead to a misdemeanor theft offense. At that point, the prosecution moved to dismiss the charges for direct presentment to the grand jury, but Respondent denied the motion and ordered the prosecutor to re-file the charge as a misdemeanor. The prosecutor complied and Graham pled guilty to misdemeanor theft.

In *Graham*, Respondent once again pre-determined the outcome of a case and actively worked to achieve that result. Respondent stated on the record that he could not “in good conscience” allow the case to be bound over. Off the record Respondent expressed a desire to “help” a pregnant Graham by keeping the case in Municipal Court. Respondent was required to follow Crim.R. 5 which states “[i]f the defendant waives preliminary hearing, the judge or magistrate shall forthwith order the defendant bound over to the court of common pleas.” Respondent violated the impartiality of the judiciary by advocating a position and using his authority as a judge to impose it.

It is clear to the Panel that with regard to both the *Garcia* and *Graham* matters, Respondent failed to uphold the integrity, impartiality, and independence of the judiciary and acted unprofessionally. As such, he violated Canons 1, 2, 3(B)(4), and 4. Further, he failed to require decorum in the *Garcia* proceeding and therefore violated Canon 3(B)(3). Respondent conducted ex parte communications concerning the *Garcia* matter and thus violated Canon 3(B)(7). Finally, Respondent engaged in conduct “that would appear to an objective observer to be unjudicial and

prejudicial to the public esteem for the judicial office,” and therefore “acted in a manner prejudicial to the administration of justice, as prohibited by DR 1-102(A)(5).” *O’Neill* at ¶27, quoting *Cleveland Bar Assn. v. Cleary*, 93 Ohio St.3d 191, 2001-Ohio-1326. Accordingly, based on the record before us, the Panel finds by clear and convincing evidence that Respondent violated Canons 1, 2, 3(B)(3), 3(B)(4), 3(B)(7) and 4 as well as DR 1-102(A)(5).

Count Four: The Jane Doe Matter

In summary, as to Count Four, Respondent stipulated that he presided over an arraignment for domestic violence and that his treatment of the alleged victim humiliated her. However, this stipulated recognition by Respondent came only after repeated attempts to justify his conduct. Moreover, as will be discussed in more detail in the section on Aggravation and Mitigation, Respondent tried to validate his behavior with bizarre and fundamentally illogical explanations at the hearing.

The alleged victim appeared and requested the charges be dismissed. Respondent denied the motion to dismiss and attempted to photograph the victim. The prosecutor then offered a plea to misdemeanor disorderly conduct. Respondent again attempted to photograph the victim, claiming he wanted to remember what he saw. When defense counsel and the victim objected, Respondent told defense counsel to make his record and ordered the victim to pull her hair back, stand in front of his bench facing the gallery, and allow his probation officer to photograph her with his cell phone.

Respondent clearly violated the judicial canons mandating courtesy, integrity, and impartiality of the court. First, Respondent displayed a bias against the defendant in open court by stating in response to defense counsel’s argument: “so that means he’s entitled to beat his wife? Or pushing or shoving, and leaving numerous scratches on his wife. I mean, she had a reason for calling 911[.]” Second, when the victim stated that it had never happened before, Respondent

stated “Oh yeah? Which is all the more reason for me not to let this be dismissed, because if it’s never happened before, we’ll make sure it never happens again.” Respondent denied that he had the photo taken as evidence. He asserted it was only to memorialize “the way she looked when she presented herself in court.” The Panel fails to see the distinction.

The audio transcript of this proceeding is compelling evidence of Respondent’s insensitive and arrogant conduct in court. It provides the following:

Respondent (to victim): Stand over here, move over here (inaudible). Now I can remember what I saw. I remember what I saw here today. Turn around, and we’re gonna get some pictures of the side of your head.

Victim: Do I have to? I mean –

Respondent: Yes, you have to. This is not your lawyer, he’s the lawyer for your husband. Turn your head.

Counsel: Your honor, we’re objecting to this –

Respondent: I hear ya.

Counsel: I don’t think – I don’t think the court should take an active part in selecting any evidence.

Respondent: Make your record. Are you finished?

Respondent’s conduct was abrasive and rude. He questioned the victim and then interrupted her response. His demeanor towards the victim bordered on interrogation.

By way of defense, Respondent introduced a written statement by Christopher Carrelli, the probation officer who took the photograph, in which Mr. Carrelli claims that Jane Doe initially agreed to the photo in an antechamber, but that a man the Panel presumes to be her husband’s attorney, objected to the photo. According to Mr. Carrelli, Jane Doe then asked if she could refuse the picture and he told her it was Respondent’s decision. At that point, the parties entered the courtroom where the exchange quoted above occurred. However, Mr. Carrelli’s statement creates more questions concerning Respondent’s motive than it does answers.

For instance, Respondent testified on numerous occasions that it was the conflict of interest inherent in defense counsel’s objection to the photo and Mr. Carrelli’s statement to him of the victim’s assent that prompted his insistence on taking the photo in the courtroom. However, Mr.

Carrelli stated that Respondent “decided he wanted a picture of victim’s face because there were marks on it” prior to Mr. Carrelli going into the antechamber and first learning of defense counsel’s objections. Therefore, what transpired in the antechamber could not have been the foundation for Respondent’s decision to photograph the victim. The record, including Mr. Carrelli’s statement, indicates that Respondent first decided to photograph the victim and then sent Mr. Carrelli to do it. After Mr. Carrelli and the parties returned from the antechamber, Respondent heard defense counsel and the victim’s objections in open court, and despite those objections, pressed ahead. The Panel also notes that the *Jane Doe* matter is the only instance where Respondent has taken an alleged victim’s photograph (whether of domestic violence or other crime) and that Respondent’s asserted justification – that he wanted to remember what he saw – rings hollow. Regardless of alleged consent given in an antechamber out of Respondent’s earshot, the victim clearly questioned and objected to being photographed on the record and Respondent still ordered her to comply.

“[D]iscourtesy *** on the part of a judge is particularly egregious because it undermines respect for the law in a most insidious manner. *** [A] litigant who is subjected to rude and insensitive treatment is left without recourse. Whether the litigant wins or loses, the end result is an irreparable loss of respect for the system that tolerates such behavior.” (Internal citations omitted). *Disciplinary Counsel v. O’Neill*, 103 Ohio St.3d 204, 213, 2004-Ohio-4704. Accordingly, the Panel finds by clear and convincing evidence that, with regard to Count Four, Respondent violated Canon 2 and DR 1-102(A)(5).³

Count Five: The 911 Matter

In summary, as to Count Five, Respondent has stipulated that on May 14, 2003, a visiting judge presided over a pretrial in the matter of *State v. Jason Michel*. However, Respondent was present in the building. Despite the fact that a conveyance order had been entered, the defendant

³ See FN 2, *supra*.

was not transported and the visiting judge instructed counsel to consult with Respondent as to how to proceed. Respondent has stipulated that while in chambers and in the presence of counsel, Respondent dialed 911 and requested that a police officer report to his chambers. When the officer arrived, Respondent ordered him to transport the defendant and the officer declined to do so. In response, Respondent took the bench, ordered the defendant released on his own recognizance, and continued the case. These stipulations make it clear that Respondent wanted the officer to report to his chambers for the sole purpose of obtaining the transport of a prisoner.

On the following Saturday, a newspaper article appeared concerning Respondent's allegedly improper use of 911. That same morning Respondent contacted defense counsel at home and asked him to write a letter summarizing what happened. Because the incident happened in Respondent's chambers, there is no official record of the events.

In his Answer to Relator's First Letter of Inquiry (the "First Answer"), Respondent claimed that the attorneys entered his chambers arguing and exchanging profanities, and that the situation appeared to be escalating. Specifically, Respondent alleged that Attorney Davis was screaming "that he always gets treated like 'fucking shit' when it comes to 'this fucking court' and that he had had 'a fucking 'nough of it.'" Respondent also alleged that Attorney Graber responded in kind to Attorney Davis by stating "Fuck me? Fuck you." In Respondent's Answer to Relator's Second Letter of Inquiry (the "Second Answer") Respondent alleged that Attorney Davis confronted him near his chambers and stated "every fucking time I come to this fucking court I get fucked."

Contrary to his later stipulation that he called for an officer and asked him to transport the missing prisoner, Respondent further alleged in the First and Second Answers that he felt the only way to "end the fray" between counsel was to have a police officer come to chambers to "*explain*" why the defendant was not transported.

During the investigation Respondent proffered numerous additional explanations for his calling 911. Respondent claimed in the First and Second Answers that he asked Attorney Graber how to contact a Mason police officer, and that Graber responded with “words to the effect” of “dial 911.” Respondent claimed that Attorney Graber’s directive prompted him to call 911. Respondent reiterated these explanations during his hearing testimony but also added that he dialed 911 to make a record of what was transpiring in chambers.

Both Attorney Graber and Attorney Davis have refuted these contentions. Both attorneys claim that while their debate was animated, profanities involving the “f” word were not used and that a physical altercation was in no way imminent. Both attorneys testified that Respondent called 911 of his own accord and for the apparent sole purpose of getting an officer to report to his chambers. Attorney Graber testified that Respondent inquired as to the best way to contact the police after hours and that neither attorney responded. Attorney Graber testified that Respondent was concerned that nobody would answer the phone if he called the station, and then stated that he knew how to contact an officer. Attorney Graber testified that Respondent then dialed 911 on his speaker phone.

Due to the lack of a record and given Respondent’s inconsistent explanations of what actually occurred in Respondent’s chambers, the issue becomes one of credibility between Respondent’s version of events and the testimony of both attorneys present at the time of the call. Under the totality of the circumstances, and for the reasons discussed in detail in the Aggravation and Mitigation Section, the Panel finds that Respondent is not credible. Respondent’s testimony as to virtually all allegations has shifted constantly throughout these proceedings with Respondent retracting his own testimony and stipulations on multiple occasions. Where he has not retracted or contradicted, he has engaged in revisionist explanations that have no foundation in fact for the purpose of protecting his own self image to the detriment of others. Though we acknowledge that

attorney Graber and Davis were less than calm professionals at the time of the meeting in chambers, we credit their version of events regarding the 911 call.

We further credit Attorney Davis' recollection of events concerning the second issue in this matter: Respondent's attempts to coerce Attorney Davis into substantiating Respondent's story that Respondent called 911 at Attorney Graber's suggestion. Here the evidence on the record is more subtle, but nonetheless compelling.

According to Attorney Davis, Respondent phoned him and wanted Davis to tell him what happened regarding the 911 call. Attorney Davis testified that he told Respondent what he believed occurred. Attorney Davis testified that at some point he told Respondent that he [Respondent] had called 911, to which Respondent stated he was only doing what Attorney Graber had told him to do. At his deposition, attorney Davis characterized Respondent's statement as "not accurate."

During the phone call Respondent asked Attorney Davis to write down what had happened in chambers. Attorney Davis testified that Respondent told him that Attorney Graber had suggested Respondent call 911 and that Attorney Graber had said "fuck you" to Attorney Davis. Attorney Davis testified that Attorney Graber had not used any variation of the word "fuck." Attorney Davis also testified that his [Davis'] recollection as to the events differed from Respondent's.

In his deposition, Respondent conceded that he asked Attorney Davis to write a statement of "what happened" including an acknowledgment that Attorney Graber told Respondent to call 911, because "that's what happened."

Q: And when – when Attorney Davis agreed to write the response, what did you tell him to include in the response?

A: Whatever happened, write everything down, soup to nuts.

Q: Did you ever indicate what he should put in that response?

A: No. I wanted him to write down everything that happened.

Deposition Tr., 81

Q: Did you ever suggest to him what he should write in the letter?

A: Yeah. I told him, write down what happened.

Q: Did you ever suggest anything else other than simply saying, write down what happened?

A: Probably.

Deposition Tr., 83

A: I wanted his story to be able to confirm this is what was happening, his client was refused to be brought down, that Matt Graber said what he said [about dialing 911] *** I wanted him to write it down *** so that what happened would be memorialized.”

Q: Did you ever tell Mike Davis to write down that it was Matt Graber’s idea to call 911?

A: Yeah, because it was. It was Mike – it was Matt Graber’s idea to dial 911.

Q: So why did you tell Mike Davis to write that down?

A: Because I wanted him to write down what happened. And I think I asked him the question *** wasn’t it Graber’s idea to [call] 911.”

Deposition Tr., 89-91

The Panel notes that there is a distinct difference between a judge telling an attorney who practices before him to simply write down what happened, without insinuations or promptings, and telling an attorney to write down “what happened” - including the judge’s version of events - because “that’s what happened.” Moreover, even had the phone call been limited to a simple request that Davis document the incident (without any discussion of events) it would have smelled of impropriety and implied coercion. The Panel finds that the above quoted testimony establishes that Respondent attempted to coerce Attorney Davis into supporting Respondent’s false contention that Attorney Graber directed him to dial 911.

Further, Respondent’s testimony that he told Attorney Davis to write down that it was Attorney Graber’s idea to call 911 because that is what happened, is followed immediately by Respondent’s statement that he “thought” he asked Attorney Davis whether it was Attorney Graber’s idea to call 911. Such testimony illustrates Respondent’s evasive and revisionist testimony throughout the proceedings. Respondent repeatedly used “I believe” or “I think” as mechanisms to avoid a direct answer or to deny reality.

Further, the Panel notes that Respondent did not also ask Attorney Graber for a written statement of what happened in chambers. We consider that omission significant as it indicates that Respondent's motive was self-serving, that is, he wanted to lock in Davis' testimony in a way that favored himself to the detriment of Graber. Moreover, even if the Panel was to accept Respondent's incredible contention that Attorney Graber "told him" to call 911, it does not excuse the fact that Respondent dialed 911 for a non-emergency. Simply put, Respondent is not absolved from responsibility for abusing 911 simply because a third party suggested that he do so.

The Panel finds that Respondent's use of 911 for a non-emergency was unprofessional, unjudicial and wholly improper. Moreover, we find by clear and convincing evidence that Respondent's efforts to rewrite history magnified what was initially a lapse in judgment (the improper use of 911) into a concealment involving dishonesty and deceit (Respondent's initial answers and attempt to coerce Attorney Davis). Respondent attempted to deflect blame from himself to a fellow practitioner. Respondent used his position as a judge to pressure Attorney Davis to corroborate his story. And, as previously noted, Respondent misrepresented the facts and conjured new theories and justifications for his behavior, all in an attempt to avoid responsibility. Respondent's conduct has been unprofessional, unjudicial, lacking in integrity, improper and dishonest. Accordingly, based on the record before us, the Panel finds by clear and convincing evidence that Respondent violated Canons 1, 2, and 4 and DR 1-102(A)(4); (A)(5); and (A)(6). The Panel found no violation of Canon 3(B)(2) in this Count.

Count Six: The McConnell Matter

In summary, as to Count Six, Respondent has stipulated that he presided over the probation violation of Katherine McConnell. McConnell pled no contest and Respondent asked for, and received, the name, address and telephone number of McConnell's drug dealer. Respondent then, from the bench, dialed the drug dealer's number on speaker phone. Respondent spoke with

McConnell's drug dealer, warned him that he would get caught and told him to stop selling drugs. Respondent then apologized to the drug dealer if he had made a mistake and hung up. Respondent then warned McConnell that she had best stay away from the drug dealer because he was going to get caught and advised her to not sell or give drugs to anybody else. Respondent told McConnell to go home and continue her probation. Respondent stipulated that McConnell left the courtroom visibly upset.

Respondent has claimed that he called the drug dealer in an effort to impress upon the defendant the gravity of the situation. Respondent, in open court, spoke in relevant part:

Respondent: Bill would you put that on speaker phone and dial *** Hi, is this Chad?"

* * *

Respondent: Chad, this is somebody who understands you're selling drugs to people. Chad, they're going to get you buddy. Stop selling drugs if you are. If not, sorry about the call. Have a good day.

* * *

Respondent: If somebody like me can think of that, imagine what the other people in the government will do. They'll find him. You don't need to be around him. He'd better not be selling drugs or giving drugs to anybody else. Continue your probation. Go home. Have a good day.

The Panel is unsure how Respondent's theatrics could reasonably achieve the result of impressing upon McConnell the gravity of her situation. No relevant purpose was served by Respondent's conduct. Respondent's bizarre behavior caused whispering and commotion in the courtroom – conduct far more distracting than the conduct for which Respondent held Mrs. Gadberry in contempt and imprisoned her for 24 hours. As did his conduct in the *Jane Doe* matter, Respondent's courtroom theatrics humiliated the defendant and she left the courtroom visibly upset.

Respondent's conduct in this matter undermined the integrity of the bench and was clearly "unbecoming, unprofessional, and discourteous" as detailed in *O'Neill*, supra. Accordingly, based

on the record before us, the Panel finds by clear and convincing evidence that Respondent violated Canons 2, 3(B)(4), and 4, as well as DR 1-102(A)(5).⁴

Count Seven: Various Matters

Count Seven alleges ten separate instances of Respondent treating participants in his court discourteously. Count Seven incorporates the *Gadberry*, *Jane Doe*, and *McConnell* matters detailed above. Respondent has stipulated that his conduct as alleged in Count Seven violated Canons 2 and 3(B)(4) and Relator has dismissed its allegation that said conduct violated Canon 1. Based on the record, the Panel accepts the stipulations. Accordingly, we find by clear and convincing evidence that Respondent violated Canons 2 and 3(B)(4) as alleged in the various matters set forth in Count Seven. We will briefly address some of the Count Seven incidents to illustrate Respondent's bizarre behavior and often incomprehensible lectures during court proceedings. We also discuss Respondent's behavior in greater detail in our treatment of applicable mitigating and aggravating factors.

In *Keene* Respondent was sentencing the spouse of a domestic violence victim. Respondent asked the victim whether she wished to come forward to make a statement saying that such a statement was optional, that he only wanted to let her know she had the right to speak at the sentencing. The victim declined to make a statement. However, Respondent ignored her decision not to make a statement, stated that he needed her help, and that he had the ability to incarcerate her husband for six months and fine him \$1500.00. The victim came forward reluctantly. Respondent then told her he had to punish her husband and that he would rely heavily on a victim's position [regarding the sentence]. Before the victim could say anything, Respondent asked her if she forgave her husband. Respondent has stipulated that the victim was appalled at the question and afraid to answer for fear of upsetting her husband. The victim then stated her husband was "doing

⁴ See FN 2, *supra*.

all the right things.” Respondent continued and demanded a direct answer to his question: “Do you forgive him?” Feeling pressured by Respondent she told him that “she was working on forgiving” him. Respondent then sentenced the defendant to one year community control and a \$100 “token” fine. Respondent stipulated that the victim left the courtroom visibly distraught.

In *Freeze* the defendant was charged with using his cane to break a vehicle headlight. Respondent found defendant to be an alcoholic and stated on the record that the defendant was “snake bit mean.” He also referred to the defendant as a “frequent flier.” Further, Respondent referred to the police work in the matter as “crack law enforcement.” Finally, while defendant was on the witness stand, Respondent asked to see defendant’s cane and then ordered him to return to his seat. The audio transcript provides the following:

Respondent: Let me see your cane. You can have a seat with your lawyer.

You can have a seat with your lawyer. Just have a seat. Go ahead.

Defense Counsel: Is the court introducing that into evidence.

Respondent: I might.

Defense Attorney: May the client have his cane to get to the table?

Respondent: We’ll see.

Ultimately, Respondent did not return Mr. Freeze’s cane and defense counsel assisted Mr. Freeze back to his seat. The Panel discussed Respondent’s numerous reasons for taking Mr. Freeze’s cane and ordering him to step down from the witness stand in the section of Aggravation and Mitigation. Briefly, however, while Respondent has proffered that he was attempting to gauge Mr. Freeze’s credibility regarding the necessity of the cane, the Panel does not see how Mr. Freeze’s need for a cane to walk is relevant to whether he used that cane to break a bar patron’s headlight. Respondent’s conduct is illustrative of his proclivity to be discourteous and disrespectful to those who appear before him.

In the *Spruance* matter, Respondent ordered a defendant charged with shoplifting to take a Kleenex and wipe off her “sticky fingers.” Respondent said the following: “you got some

proverbial sticky fingers, don't you? So take that Kleenex there right now. Set your papers down. Wipe your hands off. Today is the first day – this is a little hypnotism here – today is the first day of the rest of your life you will no longer take what is not yours. Do you understand me?” (The Board concluded the *Spruance* matter did not violate the Code of Judicial Conduct).

In reference to three other theft offenders, Respondent called them “spoiled brats” and told them to get their heads out of the sand. As a condition to imposing community control, Respondent appeared to require each offender to place his favorite item of personal property (a guitar, some compact discs) with the Court as security for good behavior.

As part of Count Seven, Respondent stipulated to a violation involving his treatment of an assistant prosecutor during a discussion of substantial compliance issues in regard to field testing for substance abuse in a DUI matter. The assistant prosecutor sought clarification of the Respondent's ruling that the officer had not substantially complied with the requirements for the horizontal gaze nystagmus test. Respondent answered: “[I]f I had to explain it to you, I doubt you'd understand it. The record speaks for itself on that matter.” The assistant prosecutor was embarrassed and humiliated. Respondent's finding was reversed on appeal.

On numerous separate occasions, Respondent ordered OVI defendants to admit in open court that they were alcoholics. Respondent stipulated that he ordered OVI offenders to take “imaginary” car keys out of their pockets and throw them into the jury box. One OVI offender was told in open court to look into Respondent's computer screen and to acknowledge she was an alcoholic. Further, on multiple occasions, Respondent ordered OVI defendants who entered guilty pleas to pretend that they were putting another person in a headlock, and when they did so, informed them that they were wrestling the alcohol demon.

In one case, Respondent asked a Xavier University student charged with underage consumption whether underage drinking was something that the “Jesuits teach good Catholic

boys?” When the defendant stated he was not Catholic, Respondent stated “what is a Jewish kid doing going to Xavier?”

Respondent’s behavior in the above incidents can only be described as bizarre, incomprehensible, and bordering on the mean-spirited. The above incidents are just a sampling of Respondent’s questionable procedure and in-court statements. Based on the foregoing and a complete review of the record, the Panel finds by clear and convincing evidence that Respondent violated Canons 2 and 3(B)(4) with regard to the instances alleged in Count Seven.

AGGRAVATION AND MITIGATION

Mitigating Factors

The parties have stipulated to the following mitigating factors: 1) Respondent has no prior disciplinary record; and 2) Respondent has cooperated in the disciplinary proceedings. As previously noted, the Panel rejects the stipulation that Respondent cooperated in the disciplinary process.

Respondent testified that he first sought psychological counsel in March of 2006, the primary reason being that “people who knew me well were concerned that I wasn’t reacting well to the way that I was being portrayed publically.” Respondent links his effort to seek counseling to two additional factors. First he was aware of a program provided by OLAP for mental health issues. Second he became aware of a disciplinary proceeding about a Columbus judge that resulted in a forty page decision. The Panel notes further that, while the record contains information about Respondent entering into a contract with OLAP, we are confident that the record as a whole does not contain evidence that Respondent has any past or present alcohol or substance abuse problems.

Respondent also submitted thirteen letters of character. The Panel notes that Respondent was prepared to offer the testimony of several character witnesses, but given time constraints and

for the convenience of the Panel he did not do so. We have reviewed each letter and find that the authors speak favorably about their appearances in Respondent's court, attest to his administrative and management skills (particularly in the area of computerization), and applaud his commitment to family and community service. It is apparent that Respondent has been a positive role model to others, both professionally and personally. We accept these testimonials in mitigation and note that this evidence has influenced our decision and supports our conclusion that Respondent is capable of moderating his conduct.

That said, of prime import to any discussion of mitigation is Dr. Beech's psychiatric assessment of Respondent as contained in his written report and testimony and his diagnosis that Respondent is afflicted with narcissistic personality disorder ("NPD"). Dr. Beech's medical opinion is that that Respondent's NPD *in part* caused the Respondent's misconduct, that NPD is a chronic personality disorder, that persons afflicted with NPD rarely have insight into their condition or an understanding of the need to change, that Respondent's condition does not meet the statutory criteria for "mental illness," that Respondent's condition presents "vulnerabilities" to the consistent practice of law in a safe and responsible manner, that NPD is not readily amenable to treatment, and that he [Dr. Beech] cannot predict to a reasonable degree of medical certainty *when* Respondent will be able to consistently return to the competent, ethical, and professional practice of law under specified conditions.⁵ Dr. Beech also opined that Respondent's condition *could* improve with treatment and that he is capable of making constructive behavioral modifications (emphasis added).

Dr. Beech summarizes the general features of NPD on page four of his written report. He writes:

⁵ Dr. Beech used the phrase "safe and responsible" in his written report. However, on cross examination, Dr. Beech affirmatively responded to the question: "And you believe with appropriate treatment that he *will be able to return* [emphasis added] to the competent, ethical and professional practice." We view the two phrases as synonymous for the purpose of our analysis in this matter.

“In order to understand the diagnosis of personality disorder, it is helpful to define personality. Personality may be thought of as a set of personality traits: characteristic patterns of inner experience and outward behaviour that are established by late adolescence and early adulthood, and that are relatively stable over time. A group of personality traits that consistently presents functional impairment or distress may be referred to as a personality disorder.”

Dr. Beech further describes the features of NPD on page five as follows:

“A pervasive pattern of grandiosity (in fantasy or behavior), need for admiration, and lack of empathy, beginning by early adulthood and present in a variety of contexts, as indicated by five (or more) of the following: [1] has a grandiose sense of self-importance (e.g., exaggerates achievements and talents, expects to be recognized as superior without commensurate achievements); [2] is preoccupied with fantasies of unlimited success, power, brilliance, beauty, or ideal love; [3] believes that he or she is ‘special’ and unique and can only be understood by, or should associate with, other special or high-status people (or institutions); [4] requires excessive admiration; [5] has a sense of entitlement, i.e., unreasonable expectations of especially favorable treatment or automatic compliance with his or her expectations; [6] is interpersonally exploitative, i.e., takes advantage of others to achieve his or her own ends; [7] lacks empathy: is unwilling to recognize or identify with the feelings and needs of others; [8] is often envious of others or believes that others are envious of him or her; [9] shows arrogant, haughty behaviors or attitudes.”

Dr. Beech quotes as follows from a psychiatric text:

“Because persons with narcissistic personality disorder have grandiose self-esteem, they are vulnerable to intense reactions when their self-image is damaged. They respond with strong feelings of hurt or anger to even small slights, rejections, defeats, or criticisms. As a result, persons with narcissistic personality disorder usually go to great lengths to avoid exposure to such experience and, when that fails, react by becoming devaluative or rageful.”

Dr. Beech testified that he is unable to give any any statistics on the success rate for treatment of NPD because “the vast majority of people who have this condition don’t go into treatment and don’t think they have any need for treatment.” He further states: “if a person is willing, that says that they are at the end that’s probably modifiable, because it says there’s an opening there of looking at one’s self.”

Before progressing with our analysis of Respondent's NPD as a mitigating factor, the Panel must first address the issue of what diagnoses actually constitute a "mental disability" under Section 10(B)(2)(g) of the Board's Rules and Regulations Governing Procedure. The rule does not provide a definition of "mental disability."

However, the Ohio Supreme Court clarified this issue in *Columbus Bar Ass'n. v. Winkfield*, 107 Ohio St.3d 360, 2006-Ohio-6. In *Winkfield*, the respondent submitted to a psychiatric evaluation and was diagnosed with a "long-standing personality disorder" that was "very debilitating." *Winkfield* at ¶48. The respondent had reported a 15 year history of depression, apparently untouched by various antidepressants, and had at least one hospitalization, due, in part, to his personality disorder. Respondent was also diagnosed with attention-deficit disorder. Experts also agreed that respondent's difficulties stemmed from his traumatic experiences beginning when he was two years old. Respondent had lived in the homes of numerous relatives before being shuttled through eleven different foster homes. Experts described his childhood and adolescence as marked by "chaos, insecurity, helplessness, feelings of abandonment, mistrust, betrayal and the absence of a practical blueprint for decision making." *Id.* at ¶ 51. The Supreme Court indefinitely suspended *Winkfield*, and held that he had presented proof of a diagnosed mental disability, to wit, his debilitating personality disorder and its causal connection to the misconduct. Therefore, the Panel concludes that the Supreme Court envisioned a definition of "mental disability" with regard to Section 10(B)(2)(g) which encompassed personality disorders that are severe and debilitating.

We note, however, that *Winkfield* made reference to *Columbus Bar Assn. v. Port*, 102 Ohio St.3d 395, 2004-Ohio-3204, a case in which the Supreme Court accepted the Board's recommendation for indefinite suspension, rather than disbarment, in the absence of any expert medical testimony. The Supreme Court inferred from lay testimony that the respondent might be able to establish qualifications for reinstatement at some time in the future. We do not view *Port* as

generally dispensing with the requirements set out in Section 10(B)(2)(g)(i) through (iv). Accordingly, we conclude that a personality disorder may be a “mental disability” under Section 10(B)(2)(g) if the evidence and the diagnosis indicate it to be sufficiently debilitating. And further, a personality disorder may then be considered a mitigating factor if the elements of Section 10(B)(2)(g) are shown.

We find, upon the facts and evidence in the record before us, that Respondent’s NPD qualifies as a mental disability as described in *Winkfield*. Respondent’s condition is intractable, and chronic. The magnitude and frequency of Respondent’s misconduct illustrate that the condition is very debilitating. Dr. Beech’s written report and expert testimony demonstrate that Respondent’s disorder will continue to present Respondent with ongoing vulnerabilities in his practice. Further, Dr. Beech was unable to testify that Respondent could currently return to the competent, ethical and professional practice. Moreover, Dr. Beech was unable to opine to the requisite degree of medical certainty when Respondent could return to the competent, ethical and professional practice of law. Respondent’s treating psychotherapist, Dr. Reed, reviewed Dr. Beech’s written report and concurred in the diagnosis.

While the Panel appreciates that Respondent’s behavior is in part controlled by his NPD, Section 10(B)(2)(g) states that a mental disability may only be considered in favor of recommending a less severe sanction where there has been: (1) a diagnosis of a mental disability by a qualified health care professional; (2) a determination that the mental disability contributed to the misconduct; (3) a sustained period of successful treatment; and (4) a prognosis from a qualified health care professional that the attorney can return to the competent, ethical, professional practice under specified conditions.

While the Panel finds that that there has been a diagnosis of a mental disability which in part contributed to Respondent’s misconduct, we cannot conclude that the third and fourth elements

have been established. With regard to these elements, it is clear to the Panel that Respondent has not yet completed a sustained period of successful treatment. Nor is there a prognosis for a time certain within which Respondent will be able to consistently return to the competent, ethical, and professional practice of law under specified conditions.

However, the Panel did consider Respondent's testimony concerning his ongoing treatment and its evident initial effect on his conduct as proof of Respondent's willingness to seek out and maintain on-going treatment for a chronic condition which substantially impairs his judgment and behavior.

To this end, we are mindful of the Supreme Court's willingness in *Port* to infer from lay testimony that the respondent might in the future be able to establish his qualifications to practice law. We are willing to infer, based upon Dr. Beech's testimony and our own observations of Respondent, that it is not impossible for Respondent to establish in the future that he has sustained a period of successful treatment in a way that will enable him to return to the competent, ethical and professional practice of law under specified conditions. As discussed *infra*, we are willing to give him that chance.

In making our decision regarding mitigation and an appropriate sanction we accept Dr. Beech's testimony that NPD is treatable and that relatively minor behavioral modifications (such as taking time to think before acting and questioning one's subjective perception of what is happening) can in some instances have a dramatic effect on conduct. However, we note that Respondent's testimony on the final day of hearing showed elements of improvement as well as evidence of obvious relapse into non functional and self-serving distortions of thought.

Beginning on the third day of the hearing, the Panel recognized a noticeable change in Respondent's demeanor and attitude. Respondent appeared less animated, more contrite, and made a concerted effort to answer the questions posed in a timely and direct fashion. Respondent testified

that he had been in psychological counseling since March of 2006 and that he intended to continue with treatment. Dr. Beech testified that Respondent had originally treated with his therapist weekly and then reduced his sessions to every other week. It is clear that Respondent has benefited from this therapy undertaken after the grievance was filed.

However, throughout the hearing he reverted to dysfunctional behavior when faced with difficult or stressful questions. Since the professional life of a lawyer, on and off the bench, inherently involves stressful circumstances, we cannot ignore Respondent's demonstrated reaction to stress. For instance, when questioned regarding the propriety of photographing a domestic violence victim with a camera phone, Respondent, in spite of his therapy, stubbornly refused to admit any wrongdoing. Instead, he reverted to his past behavior of hedging, excuses and evasiveness.

Initially, Respondent admitted that it was not his routine practice to photograph domestic violence victims who appeared in his courtroom. Respondent then explained that he ordered the victim's photo taken because the husband's attorney seemed to be attempting to represent the wife as well. When asked if the attorney's conflict of interest prompted the photo, Respondent backpedaled, stating that the victim presented with a scratch on her face. When pressed for an explanation why the case was significantly different from other domestic cases in which photos were not taken, Respondent stated that it was the first time somebody had presented with a noticeable injury. However, Respondent then testified that he had not taken photos of other domestic violence victims with noticeable injuries who appeared before him subsequent to the *Jane Doe* matter. Ultimately, Respondent never actually answered the question posed to him: why, in this particular domestic violence case, did he require the victim to be photographed?

Indicative of Respondent's inability to let go of the matter, Respondent continued to testify even after Relator and the Panel had stopped questioning him. Respondent seemingly attempted to

justify his failure to photograph all domestic violence victims who presented with visible injury by asserting that the courtroom had security cameras that essentially take pictures of everybody who appears before him. However, this answer poses the question that if security cameras photographed all people in the courtroom, then why was the security camera's footage insufficient in Jane Doe's case? Why did Respondent take the extra step of insisting upon taking the victim's picture with a camera phone and why was the *Jane Doe* matter the sole domestic violence case in which Respondent has so ordered? The preceding are questions to which the Panel never received an honest or adequate answer.

Based on the foregoing, the Panel concludes that while Respondent has benefited from psychological counseling, he has not yet demonstrated a sustained period of successful treatment. Therefore, the third element of Section 10(B)(2)(g) has not been established.

With regard to the fourth element, the Panel finds that there has been no definitive professional prognosis that Respondent is presently able to return to the competent, ethical, and professional practice of law under specified conditions. On this point, Dr. Beech can only say that Respondent could modify his behavior. Respondent's NPD is a chronic condition and Dr. Beech testified that NPD is not readily amenable to treatment. Accordingly, the Panel concludes that the fourth element of Section 10(B)(2)(g) has not yet been satisfied.

In conclusion, because two of the four Section 10(B)(2)(g) elements were not met in the present matter, the Panel concludes that Respondent's NPD is not a mitigating factor.

Aggravating Factors

The parties did not stipulate to any aggravating factors. However, based upon the evidence before us, the Panel finds the following aggravating factors exist: 1) dishonest or selfish motive; 2) a pattern of misconduct; 3) multiple offenses; 4) lack of cooperation in the disciplinary process; 5)

submission of false evidence, false statements, or other deceptive practices during the disciplinary process; and 6) refusal to acknowledge wrongful nature of conduct.

Respondent's conduct clearly demonstrates multiple offenses and a pattern of misconduct. Discussion in two specific areas will demonstrate the other enumerated aggravating factors.

Respondent's Misrepresentations and Inconsistencies

After a close and careful inspection of the record, the Panel can only conclude that Respondent intentionally misrepresented facts and was untruthful in his testimony. Regarding the *Gadberry* matter, Respondent's testimony and stipulations differed significantly from his Answer to Relator's First Letter of Inquiry (the "First Answer"). According to Respondent's First Answer, Mrs. Gadberry persisted in waving her hand *after* being instructed not to do so by Respondent, and at that point, Respondent told her to leave the courtroom. The courtroom video, which was available at the time Respondent submitted the First Answer, indicates otherwise. Respondent never cautioned Mrs. Gadberry not to waive her hand. The video shows that Mrs. Gadberry turned around and held out a piece of paper to a person behind her. Respondent said nothing at that time.

Later while facing forward, Mrs. Gadberry raised her hand, Respondent's outburst occurred, and he ordered her to leave the court. Respondent has also stated in his First Answer that Mrs. Gadberry uttered a profanity ("This is fucking bullshit") as she left the court room escorted by the bailiff. This contention is also untrue. The video shows that Mrs. Gadberry was complying with Respondent's directive to leave and was actually pushing open the door to the courtroom when Respondent held her in contempt. The sound track in the video does not provide any evidence of the asserted profanity. Further, Respondent has stipulated that Mrs. Gadberry did not use profanity, but in fact simply muttered "I can't believe this." At the hearing, Respondent refused to acknowledge the inconsistency and insisted that he remembered Mrs. Gadberry saying something other than "I can't believe this," even though he had already stipulated that she did not.

With regard to the *Ambrose* matter, Respondent's deposition testimony and stipulations once again conflicted with the First Answer. In the First Answer, Respondent stated that Officer Faine told him that the warrant was pressing, would not take long to serve, and then requested that they serve it prior to taking Respondent back to his home. According to the First Answer, Respondent assented to Officer Faine's request. Directly contradicting himself, Respondent then stipulated that he, in fact, asked Officer Faine if he could accompany law enforcement to the scene. Further, in his deposition, Respondent contradicted the First Answer by testifying that Officer Faine actually asked him if he wished to be dropped off at home, and that Respondent declined. At the hearing, Respondent acknowledged that he had stipulated that he requested to ride along, but then he insisted that he did not "believe that's the way the communication occurred."

Additionally, in the First Answer, Respondent stated that while the defendant was booked at the Warren County Jail, he stayed in the car. However, Respondent stipulated that he volunteered to ride to the jail and set bail. He further stipulated that he was in the sally port while the defendant was booked and that he signed the commitment order which appears in the record. Finally, Respondent stipulated, and confirmed at the hearing, that he saw the defendant, Ambrose, when he was being placed in the police cruiser. Yet in his deposition, Respondent stated that he did not see the person in the backseat. Respondent then testified that he did not remember seeing Ambrose when he signed the commitment order, which contradicted his deposition testimony wherein he stated that he saw Ambrose when they arrived at the jail.

With regard to the *Garcia* matter, Respondent stated the following in the First Answer: (1) that a Crim.R. 29 motion was made; (2) that he took counsel into chambers to discuss it; and (3) counsel then agreed that a plea to a lesser charge was an appropriate resolution to the case. This assertion is completely false. The audio record confirms that a Crim.R. 29 motion was never made.

Instead, as Respondent later stipulated, he recessed the jury, stepped down from the bench, approached defense counsel, and stated that the prosecutor “is about ready to offer you a minor misdemeanor to disorderly conduct and you are about ready to take it, I think.” Contrary to the First Answer, there was no initial meeting in chambers where counsel agreed to a plea. Respondent attempted to explain the inconsistency between the audio record and the First Answer by testifying at his deposition and the hearing that he stepped down from the bench during a “natural break” and that he acted on a “non-verbal cue” from the prosecutor to initiate the plea discussion. However, the testimony of the arresting officer, Officer Herlinger, prosecutor Graber and defense counsel Garvin all refute this notion.

All three testified that Respondent recessed, directed Graber to offer the plea, and resumed the trial when Graber refused. The audio transcript corroborates that testimony. According to the audio transcript, Respondent took a ten minute recess and one minute later told Garvin that Graber was going to offer a plea. Graber immediately stated that he would not agree to a plea. Although not clear from the audio transcript, Respondent apparently resumed the trial, because one hour later he then took another recess, at which time he directed counsel and Officer Herlinger into chambers. The stipulations, Respondent’s testimony, the testimony of others involved in the matter, and the audio record clearly demonstrate that Respondent lied in the First Answer and misrepresented events in his testimony.

In the *Jane Doe* matter, Respondent’s Answer to Relator’s second letter of inquiry (the “Second Answer”) originally stated that the domestic violence victim agreed to have her picture taken. This claim is patently untrue. Nowhere in the record does the victim ever assent to having her picture taken. In fact, she openly objected and was told by Respondent that she “had to” allow the photograph. In his deposition, Respondent attempted to back away from his statement by claiming that he did not remember whether she assented to the photograph or not. However, later in

his deposition, Respondent reiterated that she agreed to have her photo taken. In a similar vein as the non-verbal cue which he claimed he acted upon in *Garcia*, Respondent stated, effectively, that he knew the victim was assenting just by looking at her, despite her previous objections and lack of actual permission. At the hearing he stated “In my mind she had agreed because *** how do you agree when a judge is saying your picture is going to be taken[?] Your picture is going to be taken, isn’t it?” Respondent’s assertion that the victim agreed to have her picture taken conflicts with the audio record. Respondent’s wavering testimony and his asserted belief that being ordered by a judge is the same as being in agreement only solidifies the Panel’s conclusion that Respondent was deceptive and misrepresented events.

In one of the Count Seven allegations, the *Freeze* matter, the defendant was charged with criminal damaging. The prosecution alleged that Freeze broke the headlight of a truck with his cane. Mr. Freeze maintained that he did not strike the headlight. Respondent stated in the First Answer that he took Freeze’s cane and ordered him to walk without it in order to gauge Freeze’s credibility about the necessity of the cane, an issue the Panel finds to be of questionable relevance. However, in his deposition, Respondent claimed he took away the cane because he was concerned that Freeze might start swinging it at somebody on his way back from the witness stand. Respondent testified that he had safety concerns for the gallery. Immediately thereafter, Respondent testified that he took the cane because it appeared to have a bow in it. Then, Respondent reiterated that safety was his main concern. Additionally, in the First Answer, Respondent used the term “frequent flyer” to describe Freeze “because he had been in the courtroom during the explanation and demonstration of the protocol to be followed when a witness’ testimony was interrupted by the objections of counsel.” However, in his deposition, Respondent stated that “frequent flyer” meant “somebody [who has] been through the process.”

Regarding the 911 matter, we reiterate our previous discussion of Respondent's numerous conflicting accounts and our finding that Respondent was deceptive. We note that he changed his story and added new, and from his perspective, increasingly more plausible justifications for making the call at each progressive stage of the proceedings.

Additionally, with regard to the 911 matter, Respondent stated in the First Answer that it was his understanding that Attorney Davis refused Respondent's request to write down his [Davis'] recollection of events. This statement concerning Davis' refusal directly conflicts with Respondent's deposition testimony that Davis agreed to write a letter. Respondent's deposition statement is also internally inconsistent with the very next paragraph of the First Answer in which Respondent acknowledged that he asked his clerk of court to contact Attorney Davis regarding the requested letter. The Panel finds it odd that Respondent would inquire about a letter that he requested if he in fact understood that the letter was not going to be written. Further, Attorney Davis corroborated that not only did he not refuse, he actually told Respondent he would write the letter, despite his having no intention of doing so – a not so surprising concession from a lawyer who must continue to practice in Respondent's court.

Respondent's Lack of Cooperation with the Disciplinary Process

While Respondent answered the Complaint and appeared at his deposition and at the hearing, we do not view that compliance as mitigating in the face of substantially false and misleading statements and testimony.

Respondent's lack of cooperation is reflected in his lies and in the contradictions in his testimony, deposition and answers to the Letters of Inquiry as well as in his efforts to refute his own stipulations. Despite Respondent's improved behavior on the third day of the hearing, the Panel cannot ignore that Respondent was evasive in all previous phases of his testimony, both at his deposition and the hearing. Respondent went to great lengths to avoid answering questions directly. After numerous warnings he remained unable to answer a question "yes" or "no." For instance, we

note this exchange at pages 186, 187 of the hearing transcript between Respondent and the panel

Chair after a question posed by Relator (emphasis added):

Q: Did you have any concern that Melody Graham, if she was outside your jurisdiction, would continue to use drugs?

Chair: The answer is either yes, no, or I don't remember.

A: *It depends.* As a judge or as the person George Parker? I mean, I absolutely care about her as a human being about whether she was doing drugs before, after, or during the time that she might be subject to my authority and jurisdiction as a judge

Chair: Sir, excuse me. Is the answer yes?

A: Yes.

Further, Respondent repeatedly contested his own stipulations while testifying. For instance, Respondent stipulated that Mrs. Gadberry did not use profanity, but instead muttered "I can't believe this." However, Respondent's Answer asserted that she had said "This is fucking bullshit." When pressed by Relator regarding the inconsistency, the following exchange occurred:

Q: And you would admit today that your admission in the stipulations is completely inconsistent with your answer ***?

A: No.

Q: Why don't you explain to us how they are consistent.

A: I know what I remember her saying. She said something different.

Q: Tell us what she said.

A: She said the words that are written in the answer. That's what I believed she said.

Q: As you sit here today, do you recall that Mrs. Gadberry said "This is fucking bullshit"?

A: Well, that would be my recollection of what occurred. However, she has said something different. Either way, in my estimate, it doesn't make a difference because she wasn't a participant in the proceedings, had no right to speak, was exhibiting the behavior that had to be met with the appropriate response.

Q: That's not what I asked you, Judge. As you sit here today, do you recollect that Mrs. Gadberry said that, "This is fucking bullshit"?

A: That's the way I remember her inappropriate interaction. Tr., 39-40.

During testimony regarding Respondent's ride-along in the *Ambrose* matter, the following dialogue took place:

Q: The stipulation that you signed that you accompanied – that you asked Deputy Faine if you could accompany Faine to the suspect's home was accurate; correct?

A: That's what the stipulation is, yes, sir.

Q: Well, did you ask John Faine if you can accompany him to serve the warrant?

A: I don't believe that's the way the communication occurred. Tr., 66-67.

The above discourse demonstrates the extreme measures Respondent took to avoid answering questions openly and honestly. Respondent was uncooperative and unreasonable in his attempts to refute facts to which he had previously stipulated.

Finally, Respondent has constructed outlandish interpretations of his statements in an effort to avoid responsibility for making them. For instance, in his deposition, Respondent testified that he used the term "snake bit mean" to describe Mr. Freeze as an "alcoholic." Also, in his deposition, Respondent testified that when he told Angela Spruance to wipe off her hands and that it was "a little hypnotism," he really meant that they were putting the matter to rest. Respondent testified:

A: And hypnotism or hypnosis or -- has, in Webster's dictionary, at least four definitions, and [one] of them means to put the matter to rest.

Q: So by you -- you're telling me today then that your use of the word "hypnotism" was to inform the defense attorney that we're putting this matter to rest?

A: (Nodding head).

Q: It wasn't the use of the word hypnotism --

A: No.

Q: -- in the sense of you're hypnotizing a defendant?

A: No.

Respondent's effort to distort in order to justify his misconduct is an aggravating factor. It emphasizes Respondent's ongoing inability to accept the wrongfulness of his conduct. That lack of insight, unless corrected, portends a comparable inability to modify his behavior.

Respondent's tactics of misrepresentation, fabrication and obstruction in the face of discipline are unacceptable for any attorney, let alone a judge. "[A] judge who misrepresents the truth tarnishes the dignity and the honor of his or her office" because "[t]ruth and honesty lie at the heart of the judicial system, and judges who conduct

themselves in an untruthful manner contradict this most basic ideal.” (Quotations omitted).

O’Neill at ¶27.

RELATOR’S RECOMMENDED SANCTION

Relator recommended an eighteen month suspension with six months stayed.

RESPONDENT’S RECOMMENDED SANCTION

Respondent has recommended a sanction ranging between a public reprimand and eighteen month suspension with six months stayed.

RECOMMENDED SANCTION

Panel members Sweeney and Proenza accept Relator’s recommended sanction of an eighteen month suspension with six months stayed. Panel member Whitmore rejects both recommended sanctions and would impose a sanction of a two year suspension with one year stayed. All panel members agree that a stay is subject to the conditions which are set forth below.

Respondent’s pervasive conduct of misrepresentation and evasion by itself warrants an actual suspension from the practice of law for an appropriate period of time. *O’Neill* at ¶52.

In addition to *Winkfield*, and *Post*, discussed above, the Panel has reviewed the sanctions in multiple judicial grievance cases and one applicable attorney grievance case dealing with a personality disorder. In *O’Neill*, the Supreme Court imposed a two year suspension with one year stayed upon the conditions that Judge O’Neill submit to a mental health assessment; that she fully comply with recommended course of treatment; and that she submit to monitoring if reinstated. In *Cuyahoga County Bar Assoc. v. Maybaum*, 112 Ohio St.3d 93, 2006-Ohio-6507, the respondent was diagnosed with a personality disorder which included sociopathic elements and an inability to control his impulses. Based upon the sociopathic elements, respondent’s bi-polar disorder, his intractable attitude toward treatment, and expert predictions of likely danger to clients, the Supreme Court indefinitely suspended Attorney Maybaum with conditions for reinstatement, including:

complying with the four elements of Section 10(B)(2)(g), probation upon reinstatement, monitoring of his practice, and continued treatment with quarterly reports. In *In re: Complaint against Judge Carol H. Squire*,⁶ the Panel recommended a one year suspension, with six months stayed. However, the Board recommended a two year suspension with one year stayed. In *Squire*, there was no evidence of an existing mental disability or substance abuse. Further, there was no expert testimony regarding Judge Squire's fitness to practice law. According to the Board, Judge Squire's pattern of intemperance, discourtesy, indecision and dishonesty required a two year suspension, one year stayed, in order to protect the public.

Panel members Sweeney and Proenza find Respondent's misconduct less egregious than conduct found in *O'Neill* and *Squire* and that his NPD, in part, caused Respondent's misconduct. Panel Member Whitmore finds that Respondent's conduct is equally egregious in substance though not in frequency and that the NPD, in part, was a cause of Respondent's misconduct. As in *Maybaum*, the Panel finds that Respondent's personality disorder puts the public at risk. Therefore, a defined suspension of sufficient length to facilitate therapy is an appropriate sanction.

In determining the appropriate length of a suspension, the Panel has reviewed numerous judicial grievance opinions with similar code violations, ranging from the flagrant to the relatively benign. In *Disciplinary Counsel v. Mosely* (1994), 69 Ohio St.3d 401, the respondent was disbarred for "judicial misconduct in interfering with commerce by extortion through conspiracy to use position to unlawfully obtain property not due judge, in receiving illegal payments or kickbacks from persons such as court-appointed contractors, and in committing offenses of grand theft and theft while in office."

In *Disciplinary Counsel v. Cox*, 113 Ohio St.3d 48, 2007-Ohio-979, the respondent judge held a court participant in contempt for an alleged statement made to a third party outside the

⁶ A matter that was recently submitted by the Board to the Supreme Court, pending in Case No. 07-0492.

courtroom. Judge Cox had the man arrested and brought before him. The judge then conducted a hearing where he took the third party's testimony that the contemnor had stated "the judge is a crook." However, according to the stipulations, the contemnor stated more generally that "judges can be crooks too." Further, during the Relator's investigation, Judge Cox twice falsely represented that he had overheard contemnor's alleged statement. Judge Cox also told contemnor that he was "too dense to understand" the contempt proceedings and acted overtly hostile to the contemnor. In another count, Judge Cox was indicted for a felony offense of possession of drugs and eventually pled guilty to attempted possession of drugs, a first degree misdemeanor. In a third count, Judge Cox argued with two separate defense counsel, calling one a "pathological liar" and loudly taunting another with profanities and racial slurs. The Ohio Supreme Court indefinitely suspended Judge Cox for abusing his contempt power, berating counsel with profanities and slurs, and for pleading guilty to attempted possession of drugs while assigned as an acting judge.

In *Disciplinary Counsel v. Medley*, 104 Ohio St.3d 251, 2004-Ohio-6402, respondent was suspended for eighteen months with six stayed for accepting a guilty plea and dismissing other charges without the prosecutor or defense counsel present; for misrepresenting facts in a journal entry; for ex parte communications; for undue delay in disposing of a case; and a questionable procedure utilized by the judge in debt collection cases. There was no evidence that the respondent suffered from an intractable personality disorder that caused his misconduct. Respondent had cooperated in the disciplinary process.

In *Disciplinary Counsel v. Karto*, 94 Ohio St.3d 109, 2002-Ohio-61, the Court suspended respondent for six months for abusing his contempt power; for disrobing, testifying and making closing arguments in a contempt proceeding; for using an outdated statute; for conducting juvenile detention hearings without the juvenile's counsel present and asking the juvenile to cross examine state's witnesses; for conducting ex parte communications; for failure to recuse himself; and for

threatening and intimidating behavior. Judge Karto was not diagnosed with a personality disorder and he cooperated in the disciplinary proceedings.

In *Disciplinary Counsel v. Ault*, 110 Ohio St.3d 207, 2006-Ohio-4247, the respondent, a municipal court judge, was found to have abused prescription painkillers and had pled no contest to two counts of attempting to obtain a dangerous drug by deception, misdemeanors of the first degree. The Ohio Supreme Court suspended Judge Ault for two years, staying the entire suspension conditioned on Respondent's completion of a two year probation and compliance with a new two year OLAP recovery contract. The Supreme Court based its decision to stay respondent's entire suspension on several mitigating factors, including: lack of a prior disciplinary record; cooperation with the disciplinary process; a diagnosed chemical dependency; recognition of the dependency and desire for treatment; a completed OLAP contract and a demonstrated commitment to recovery; genuine remorse for his conduct; and an exemplary performance record as a judge.

Finally, in *Disciplinary Counsel v. Simonelli*, 113 Ohio St.3d 215, 2007-Ohio-1535, the respondent was suspended for one year with six months stayed for improper fee sharing, neglecting an entrusted legal matter, and conduct involving dishonesty. The Supreme Court noted that it had given a six month suspension in a prior case with similar facts, but imposed a harsher sentence on respondent Simonelli based solely on respondent's refusal to acknowledge the wrongfulness of his conduct. Essentially, the Supreme Court held that a respondent's steadfast insistence that no wrong has been committed in the face of clear and convincing evidence to the contrary justifies a harsher sentence.

It is the Panel's conclusion that a definite term of suspension is warranted. While Respondent's misconduct is not of the egregious nature warranting disbarment or indefinite suspension as in such cases as *Mosely*, *Maybaum* and *Cox*, the Panel concludes that the lack of significant mitigating factors and Respondent's chronic NPD take the case outside of a public

reprimand or a six month suspension as in *Karto*. Further, Respondent's prevarications and excuses indicate a failure to fully acknowledge responsibility for his conduct and a lack of insight as to its cause and ramifications.

It is of particular significance to the Panel that Respondent's NPD predisposes him to perceive events in a distorted and self-serving manner. For example, Dr. Beech testified that a "vast majority of people who have [NPD] don't ever go to treatment because they don't think they have problem[,] they think the problem is "outside of themselves." Such a perception of life's events, whether on or off the bench, whether related to Respondent's personal or professional life, is chronic and inherently difficult to alter. However, Respondent has taken the step towards treatment, and should be given credit for that effort, notwithstanding such treatment was precipitated by the filing of grievances and the Panel's request for a psychiatric assessment. Additionally, while the Panel recognizes that Respondent worked in a highly public and stressful environment, such external forces will often exist, whether Respondent is a judge or a private practitioner. For these reasons we believe that ongoing psychotherapy or other appropriate psychiatric treatment is essential to provide Respondent with the tools he needs to practice in a competent, ethical and professional manner.

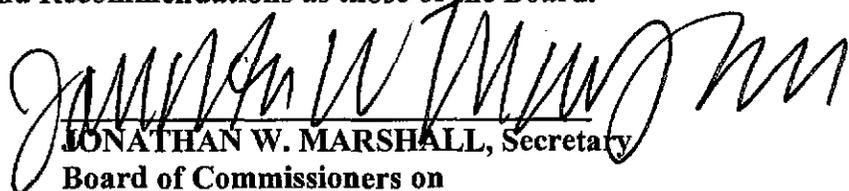
The majority of the Panel therefore recommends that Respondent be suspended from the practice of law for eighteen months with six months stayed. All Panel members have considered and rejected an indefinite suspension because Respondent has demonstrated some improved conduct. The six month stay shall be conditioned upon Respondent's participation in psychotherapy with a qualified health care practitioner of his choosing at a frequency and duration determined by that health care professional. The six month stay shall also be conditioned upon the Respondent first submitting a certification that Respondent has successfully completed psychotherapy or other appropriate treatment as determined by his health care provider and an opinion to a reasonable

degree of medical certainty that Respondent is then able to practice law in a competent, ethical and professional manner without conditions or under conditions specified in the certification. The six month stay shall also be conditioned on Respondent maintaining a contract with OLAP until the stay is effective and for four years thereafter. The six month stay is also conditioned upon there being no further violations and upon an agreement by Respondent that he will submit to monitoring for a period of two years after the expiration of his four year OLAP contract.

BOARD RECOMMENDATION

Pursuant to Gov. Bar Rule V(6)(L), the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio considered this matter on June 7, 2007. The Board adopted the Findings of Fact and Conclusions of Law of the Panel except that it found that the canons were not violated in the *Spruance* matter in Count Seven. It recommends that the Respondent, Honorable George Matthew Parker, be suspended from the practice of law for a period of eighteen months with six months stayed upon the conditions contained in the panel report. The Board further recommends that the cost of these proceedings be taxed to the Respondent in any disciplinary order entered, so that execution may issue.

Pursuant to the order of the Board of Commissioners on Grievances and Discipline of The Supreme Court of Ohio, I hereby certify the foregoing Findings of Fact, Conclusions of Law, and Recommendations as those of the Board.



**JONATHAN W. MARSHALL, Secretary
Board of Commissioners on
Grievances and Discipline of
The Supreme Court of Ohio**

BEFORE THE BOARD OF COMMISSIONERS
ON GRIEVANCES AND DISCIPLINE OF
THE SUPREME COURT OF OHIO

In re: :
Complaint against :
Hon. George Matthew Parker : Board No. 05-091
Respondent : **AMENDED STIPULATIONS**
Disciplinary Counsel :
Relator :

COME NOW the parties, and hereby stipulate to the following facts and violations, and to the admission of the attached exhibits.

STIPULATED FACTS AND VIOLATIONS

1. Respondent George Matthew Parker was admitted to the practice of law in the State of Ohio on November 5, 1990. Respondent is subject of the Code of Professional Responsibility and the Rules for Government of the Bar of Ohio.

COUNT ONE

The Gadberry Matter

2. On November 5, 2003, Respondent presided over the probation violation hearing under case 03CRB01148 involving the probationer, Brandi Keesler.

3. Respondent found the probationer Keesler, who appeared pro se, guilty of violating her probation.

EXHIBIT

84

4. While Respondent was speaking to Keesler, Naomi Gadberry, probationer's mother, who was seated in the gallery, raised her hand.

5. Respondent responded to Gadberry, stating "You know what, no. Don't raise your hand in the courtroom. Don't try and interrupt me. I've had enough out of you, I've had enough out of your daughter, just take - just walk on out, just leave, just leave."

6. Gadberry tried to explain, but Respondent interjected, telling Ms. Gadberry, "No. Just leave. That's it. I've heard enough out of you. Don't say another word or you are going to jail in your daughter's place. Just get up and leave."

7. As Gadberry was gathering her belongings and leaving the courtroom, she said, "I can't believe this."

8. Respondent slammed his gavel on the bench and ordered, "That's it. Take her into custody. Right now. I said no more words, from you ma'am."

9. Gadberry told respondent, "I didn't say anything," to which Respondent replied, "You just did." Respondent then stated, "You're a drug addict" to which Mrs. Gadberry responded, "I am not a drug addict." Respondent told Mrs. Gadberry, "I am not talking to you. That's it now you keep talking see you're going to spend more time in jail now. You are in contempt of court."

10. Respondent's bailiff escorted Gadberry to the jury box, where she was handcuffed and transported to the Warren County Jail.

11. Respondent sentenced Gadberry to 24 hours in the Warren County Jail.

COUNT TWO

The Ambrose Matter

12. In the early morning hours of March 6, 2003, Deputies Faine and Staverman responded to a call regarding theft of large neon signs from Crossroads Bar & Grill.

13. Faine and Staverman responded to the call and proceeded to the suspect's home. The suspect was David Ambrose.

14. Although the deputies knew Ambrose was in his residence located at 5140 Montego Lane, Unit 5, Maineville, Ohio 45039, he refused to answer the door.

15. Staverman and another deputy remained at Ambrose's residence, while Faine secured a search warrant.

16. At approximately 1:30 a.m., Faine called Respondent at home to see if Respondent would sign a search warrant.

17. Respondent agreed and asked Faine to pick him up.

18. Faine picked up Respondent, who was waiting outside when Faine arrived.

19. Respondent and Faine proceeded to the courthouse, where Faine typed up an affidavit and presented it to Respondent.

20. Respondent reviewed the affidavit and signed the warrant.

21. Since Respondent lived en route to the crime scene, Faine planned on taking the respondent home and then proceeding alone to Ambrose's residence.

22. On the way to Respondent's house, Respondent asked Faine if Respondent could accompany Faine to Ambrose's home.

23. Faine was uncomfortable with Respondent's request, but felt it would have been inappropriate to question Respondent.

24. At approximately 3:00 a.m., Faine and Respondent arrived at the suspect's residence, located at 5140 Montego Lane, Unit 5, Maineville, Ohio 45039.

25. Respondent did not accompany Faine and the other deputies into Ambrose's residence.

26. Faine and the other deputies entered Ambrose's residence and executed the warrant.

27. Faine arrested Ambrose, placed him in handcuffs, and retrieved the stolen neon signs and some marijuana.

28. When Faine and Staverman exited Ambrose's home with Ambrose and the contraband, they noticed that Respondent was asleep in the front seat of the police cruiser.

29. Faine tapped on the window to awaken the Respondent.

30. Respondent woke up, saw Ambrose in cuffs and the contraband and stated to the deputies, "You got the signs."

31. Faine transported Ambrose in his patrol car, while Staverman transported the Respondent.

32. Staverman transported Respondent to the jail.

33. Respondent waited in the salleyport while Faine booked Ambrose in the adjoining room.

34. Respondent then signed the commitment order.

35. Staverman then transported the Respondent back to Respondent's home.

36. On April 15, 2003, Respondent presided over Ambrose's plea to one count of theft, a first-degree misdemeanor.

37. Respondent never informed the prosecutor or the defense attorney of any of the events of March 7, 2003.

38. Respondent sentenced Ambrose to 60 days in jail, with 59 days suspended, a \$250 fine, and two years probation.

39. Under Gov. Bar R.V§(4)(I)(4), respondent waives notice and hereby consents to the addition of a Canon 4 violation [a judge shall avoid the impropriety and the appearance of impropriety in all of the judge's activities] to paragraph 46 of relator's complaint.

COUNT THREE

The Garcia Matter

40. On May 15, 2003, Officer Andrew Herrlinger arrested Jose Antonio Garcia and charged him with domestic violence, resulting in the case of *City of Mason v. Jose Antonio Garcia*, case no. 03CRB00485.

41. On October 16, 2003, Respondent presided over a jury trial in *City of Mason v. Jose Antonio Garcia*, case no. 03CRB00485.

42. During the prosecution's case-in-chief, and while witnesses were testifying, Respondent allowed the jurors to eat lunch in the jury box.

43. During the prosecutor's case-in-chief, a juror informed the judge that she could not hear the interpreter and that she "got lost five minutes ago."

44. Addressing the entire jury, Respondent replied, "You are about five minutes ahead of me, I got lost five minutes before that." Respondent then recessed the jury for a short break.

45. After the jury left the courtroom, Respondent stepped down from the bench, approached defense counsel, and stated, "Matt [Graber, the prosecutor] is about ready to offer you a minor misdemeanor to disorderly conduct and you are about ready to take it, I think."

46. Graber had never made a plea offer to defense counsel either before or during the trial.

47. Respondent left the courtroom and Graber informed Garvin that he was not willing to offer a minor misdemeanor, but that he would offer a fourth-degree misdemeanor.

48. When Respondent returned to the bench, Garvin [defendant Garcia's attorney] informed Respondent that his client was willing to accept a minor misdemeanor, but that the prosecutor was only willing to offer a fourth-degree misdemeanor.

49. Respondent then continued with the trial.

50. Approximately 15 minutes later, still during prosecution's case-in-chief, Respondent ordered the arresting officer and both attorneys into chambers and recessed the jury.

51. While in chambers, Respondent asked why the prosecutor and arresting officer were not offering a minor misdemeanor.

52. Respondent asked the prosecutor and arresting officer, "Are you listening to the same trial that I am listening to?" and "Do you know that you are watching an acquittal?"

53. When the arresting officer informed Respondent that he was not willing to offer a minor misdemeanor, Respondent became unsettled and ordered everyone out of his chambers.

54. As the parties were leaving, Respondent told the arresting officer, Andrew Herrlinger, to remain in chambers.

55. While in his chambers, Respondent asked why Herrlinger would not agree to a minor misdemeanor.

56. Herrlinger stated his reasons for not agreeing to a minor misdemeanor plea.

57. Respondent asked Herrlinger if he knew what happened on May 15, 2003, which was the date Herrlinger arrested Garcia.

58. Respondent informed Herrlinger that May 15, 2003 was the day that Respondent had to arrest the Mason police chief.

59. Herrlinger told respondent that he did not understand how the May 15, 2003 arrest of the police chief had anything to do with the current case.

60. Herrlinger felt uncomfortable and pressured to agree to a plea bargain.

61. Respondent returned to the bench and continued with the jury trial.

62. The jury returned a not-guilty verdict.

The Graham Matter

63. On April 18, 2003, Melody Graham was arrested and charged with theft of a credit card under Ohio Revised Code §2913.02, a fifth-degree felony, and misdemeanor possession of drug paraphernalia.

64. The court scheduled a preliminary hearing for May 7, 2003, at which time Attorney Craig Newburger appeared on Graham's behalf.

65. The Assistant Prosecuting Attorney, Matthew Graber, informed respondent that Graham was waiving her right to a preliminary hearing.

66. Shortly thereafter, Respondent inquired as to whether the matter could be resolved in municipal court rather than sending the matter to common pleas court.

67. Graber informed Respondent that the State did not wish to offer a misdemeanor plea, and that the case was going to remain a felony.

68. Respondent then informed the victim that the defendant had expressed a desire to plead guilty to a lesser-included offense (misdemeanor), but that the matter was now going to be bound over to the common pleas court.

69. Respondent instructed Newburger to sign the waiver form, as required under Criminal Rule 5(B)(1).

70. Newburger and Graham executed the required waiver.

71. Respondent then stated that he would not accept the waiver and ordered Graber to conduct a preliminary hearing.

72. Graber proceeded to call two witnesses.

73. Before the close of the preliminary hearing, Respondent stated, "They say no good deed goes unpunished. I should have accepted the waiver and let you move

on, but I just couldn't do it-not in good conscience. So therefore, these folks are sitting around from one til two til three til four til five, we'll be here til about eight."

74. At the close of the preliminary hearing, Respondent concluded there was not probable cause to believe the felony alleged in the complaint had been committed.

Respondent: State versus Webb. 'There is insufficient proof that the stolen guns were operable to support a conviction under 2913.71.' And the missing question, were your credit cards active? Could somebody have used your credit cards, signed your name, and used your good name and credit. And if they would have done that, guess what? They would have been guilty of a first-degree misdemeanor. That is what she is standing trial on. First-degree misdemeanor. Misuse of credit cards. And, she is going to stand trial on the fourth-degree possession of drug paraphernalia case. Now do want to proceed on those matters in the same manner that you previously stated?

Newburger: We would like to set this for pretrial.

Respondent: Well, I though you previously said she was going to make a plea?

Newburger: Let me discuss that with my client.

Respondent: Yeh, why don't you do that. Let's have the case with the trooper on it.

Newburger: Permission to approach your honor.

Respondent: Yep. Long time is the answer. Just in case you are wondering. That will be the answer. Just in case you were wondering. Long time.

Newburger: She'll get some jail time?

Respondent: Oh yeh. Make a plea - she' gonna do it today. Bind her over. Take your pick?

Newburger: What you're saying is plead to a first degree misdemeanor?

Respondent: I'd take your pick. They can dismiss anytime you want, can't you? Take a felony. Have to go up to common pleas court, spend about a week there, go through the whole process again, might end up being a misdemeanor again. So.

75. Graber attempted, through oral motion, to dismiss the charges for direct presentment to the grand jury.

76. Respondent denied the State's attempt to dismiss the charges.

77. On June 17, 2003, Graham pled guilty to theft – a first-degree misdemeanor.

COUNT FOUR

The Jane Doe Matter

78. On March 23, 2004, the defendant, hereinafter referred to as John Doe, along with his attorney, Alan Fischhoff, appeared in Respondent's courtroom for arraignment on the charge of domestic violence.

79. The victim, hereinafter referred to as Jane Doe, appeared at the arraignment and asked the prosecutor to drop the charges against her husband, but the prosecutor refused.

80. When Respondent called the case, Fischhoff requested that the charges be dismissed.

81. After Jane Doe explained her reasons for requesting dismissal of the charges, Respondent denied the motion to dismiss the charges and recessed the Court in order for the parties to try to reach a resolution.

82. Revised Code § 1901.20(A)(2) states:

A judge of a municipal court does not have the authority to dismiss a criminal complaint, charge, information, or indictment solely at the request of the complaining witness and over the objection of the prosecuting attorney, village

solicitor, city director of law, or other chief legal officer who is responsible for the prosecution of the case.

83. While defendant, his wife, the victim-advocate, and Attorney Fischhoff were discussing the matter in a conference room, Respondent sent his parole officer into the room to photograph the marks on the victim's face.

84. The prosecutor offered a plea to disorderly conduct, a 4th degree misdemeanor.

85. Once the Court reconvened, the parties returned to the courtroom, and Respondent ordered Jane Doe to allow the probation officer to photograph her.

86. Jane Doe expressed her reservation, but Respondent explained the necessity of the photograph, stating that he wanted to remember what he saw.

87. Fischhoff objected to Respondent's actions, stating that it was not Respondent's role to participate in the gathering of evidence.

88. Respondent told Fischhoff to make his record.

89. Respondent ordered Jane Doe to pull her hair back and to stand in front of Respondent's bench, facing the gallery, while the probation officer used his cell phone to photograph Jane Doe.

90. Jane Doe was humiliated by Respondent's conduct.

91. Two days later, John Doe entered a plea to disorderly conduct, a 4th degree misdemeanor.

COUNT FIVE

The 9-1-1 Matter

92. On Wednesday, May 14, 2003, Attorney Michael Davis appeared in Mason Municipal Court for trial in *State of Ohio v. Jason Michel*, case no. 03CRB00347 and for pre-trial in *State of Ohio v. Jason Michel*, case no. 03CRB00412.

93. Acting Judge James Whitaker was sitting for Respondent, although Respondent was present in the courthouse.

94. Attorney Davis' client, Jason Michel, was not transported from the Warren County Jail, despite the fact that a valid conveyance order had entered.

95. Attorney Davis asked for a dismissal of the charges and the prosecutor, Matt Graber objected.

96. Acting Judge Whitaker instructed the attorneys to consult with Respondent concerning the prisoner transport order.

97. While in Respondent's chambers, Davis informed Respondent that the police department would not transport his client and that his client had a right to attend the court proceeding.

98. In the presence of the attorneys, Respondent picked up his phone and dialed 911.

99. The emergency operator inquired if this was an emergency—Respondent replied that it was not an emergency, but that he wanted a police officer to report to his chambers.

100. Within minutes, Sergeant Peter Schultz arrived at Respondent's chambers.

101. Respondent ordered Schultz to transport Michel from the Warren County Jail to the Mason Municipal Court.

102. Schultz refused to honor Respondent's request.

103. Respondent took the bench, ordered Michel's release on his own recognizance and continued the case.

104. On Saturday May 17, 2003, the Cincinnati Enquirer printed a story entitled, "Judge Called 911 to Get Officer Sent."

105. That same morning, Respondent called Davis at his home and asked Davis to recall the incident that occurred in chambers last Wednesday evening.

106. Davis relayed to Respondent his recollections of events.

107. Respondent asked Davis to write a letter summarizing what had transpired.

108. Davis did not respond to Respondent's request.

109. Respondent's clerk, William Scherpenberg, called Davis' office on numerous occasions to check on the status of the letter.

110. Davis did not return the calls and never wrote the letter.

COUNT SIX

The McConnell Matter

111. On November 5, 2003, Katherine McConnell was convicted of Driving Under Suspension under case no. 03TRD04668 and placed on two years' probation.

112. On or before February 9, 2004, McConnell tested positive for marijuana and was charged with violating her probation.

113. On April 14, 2004, McConnell and her attorney, Jeff Stueve, appeared before Respondent on the probation violation.

114. After pleading no contest to the probation violation in open court, Respondent asked McConnell for the name, address, and telephone number of her drug dealer.

115. McConnell complied with Respondent's request.

116. Respondent then proceeded to call the number provided by McConnell:

Respondent: Bill, dial 850-4591. Bill would put that on speaker phone and dial 850-4591.

McConnell: It's 1-9 sir.

Respondent: Oh. 850-4519 – I'm sorry. 850-4519 (phone rings)

Respondent: Hi, is this Chad? Hi, is this – Hi is this Chad?

Unknown: Yes it is.

Respondent: Uh, Chad this is somebody who understands you are selling drugs to people. Uh, Chad, they're gonna getcha buddy. Stop selling drugs if you are. If not, sorry about the call. Have a good day.

Respondent: You can hang up on him now Bill.

Respondent: If someone like me can think of that, imagine what the other people in the government will do. They'll find him. You don't want to be anywhere around him. You better not be selling drugs or giving drugs to anybody else. Continue your probation. Go home. Have a good day.

117. McConnell then left the courtroom and was visibly upset.

COUNT SEVEN

The Gadberry Matter

118. Respondent incorporated herein by reference, as if full restated, his previous stipulations to paragraphs 2-11.

The Jane Doe Matter

119. Respondent incorporates herein by reference, as if fully restated, his previous stipulations to paragraphs 78 through 91.

The McConnell Matter

120. Respondent incorporates herein by reference, as if fully restated, his previous stipulations to paragraphs 111 through 117.

The Keene Matter

121. On July 23, 2004, David Keene was arrested and charged with domestic violence.

122. The Complaint alleged he punched and choked his wife, Laura Keene.

123. On August 10, 2004, Keene entered a guilty plea to domestic violence, a first degree misdemeanor.

124. The victim, Laura Keene, was present during the August 10, 2004 court appearance.

125. When Respondent called the case, Respondent asked, "Ms. Keene, you want to come on up? You don't have to. You can stay right there. Whatever's your pleasure. But I just wanted to let you know you have a right to address the court."

126. Laura Keene shook her head indicating that she did not want to come forward.

127. Respondent accepted the defendant's guilty plea and proceeded to sentencing.

128. Before sentencing Keene, Respondent stated that he needed the victim's help and that he had the ability to incarcerate her husband for six months and fine him \$1,000.

129. Laura Keene reluctantly came forward.

130. Respondent told Laura Keene that he had to punish her husband and that he relies heavily on the victim's position.

131. Respondent then asked Laura Keene if she forgave her husband.

132. Laura Keene was appalled by the question and afraid to answer for fear that a wrong answer would upset her husband and/or the Respondent.

133. Laura Keene stated that her husband was doing all the right things.

134. Respondent then told Laura Keene, "I am asking you a direct question, and I really need a direct answer. Do you forgive him?"

135. Laura Keene felt pressured by Respondent and stated that she was working on forgiving her husband.

136. Respondent then sentenced Keene to one year community control term, one year probation, Amend program, and a \$100 "token" fine.

137. The victim left the courtroom and was visibly distraught.

138. Conn apologized to the victim for Respondent's behavior.

The Freeze Matter

139. Attorney Jim Hardin represented the defendant, Jonathan Freeze, who was charged with criminal damaging, a first-degree misdemeanor, Case No. 04CRB00514.

140. Freeze entered a plea of not guilty and the matter was set for trial on May 25, 2004.

141. On May 25, 2004, Respondent presided over the bench trial.

142. Freeze testified on his own behalf.

143. During Freeze's testimony, an objection was made, but before Respondent ruled on the objection, Freeze began to answer the question.

144. Respondent interrupted Freeze and stated, "I explained to other gentleman; I should have explained to you; usually frequent fliers know the rules. Mr. Freeze, if either lawyer says the word objection, stop talking, alright? Until we sort it out. Ok?"

145. After Freeze finished testifying, Respondent asked to see Freeze's walking cane.

146. Respondent retained the cane and ordered Freeze to return to his seat at the defense table without the aid of his cane.

147. Hardin asked Respondent if his client could use the cane to return to his seat at the defense table.

148. Respondent refused to give Freeze his cane.

149. Hardin assisted his client in returning to his seat.

150. After closing arguments, Respondent stated, in the presence of the arresting police officer, "Well, I have to say, this is another crack law enforcement job of gathering the physical evidence to make the difference between two peoples' opinions."

151. Respondent then directed his comments towards Freeze, stating, "You are too old to be acting like that. Grow up...Why would you do that to a stranger? Tell me why?"

152. Consistent with his sworn testimony, Freeze stated that he didn't do it, to which Respondent replied, "Yeah, ok. There are a lot of people sitting in jail that didn't do it-is that what you want to be? You gonna come clean now and get it over with? ...Why did you do that to him?"

153. Again Freeze stated that he didn't do it.

154. Respondent stated, "Okay. I suspect the court of appeals – you'll be able to appeal an adverse decision then, Mr. Hardin, to the court of appeals."

155. Respondent also stated that he was making a factual finding that Freeze was "snake-bit mean."

The Wilson Matters

156. On July 9, 2003, Lisa Wilson, a victim-witness advocate, appeared in court with a domestic violence victim.

157. After Respondent continued the case, Wilson inquired of Respondent if the victim could be excused. The following exchange occurred:

Wilson: Your honor, the victim is here ... may she be excused?

Respondent: Ma'am, are you Mrs. Garcia?

Mrs. Garcia: Yes I am.

Respondent: Okay. Yes ma'am, you may be excused.

158. The victim in the Garcia matter (the same Garcia matter addressed in Count Three) was a male named Jose Alfredo Garcia).

159. Respondent then called the acting prosecutor, Martin Hubbell, to the bench and the following conversation ensued:

Respondent: Mr. Hubbell why don't you tell the lady that sits with you that in a court of law only lawyers are allowed to address the court and that the next time that she does that to you, you are going to tell her to get out. Fair enough? How 'bout that? Cause I know you can do a good enough job – that's why they asked you to do it...what do you think?

Mr. Hubbell: Yes sir.

160. Hubbell then returned to the prosecutor's table and told Wilson that if she spoke again, respondent would throw her out of court.

161. Wilson thought Hubbell was joking.

162. Later, Wilson asked Hubbell why Hubbell made that comment and Hubbell informed Wilson that the respondent was serious.

163. Wilson felt humiliated by respondent's comments.

164. On another occasion, respondent stated in open court that the court did not have to worry about making a mistake because Ms. Wilson was in court all the time so that whenever respondent makes a mistake, she can run and tell the newspaper.

165. Ms. Wilson was embarrassed by respondent's comments.

166. On another occasion, Ms. Wilson directed a female defendant that had appeared before Respondent, to the clerk's office to obtain a letter for her employer stating that the defendant was in court all day.

167. Shortly thereafter, the female defendant was brought back before Respondent for creating a disturbance in the lobby.

168. When a defendant informed Respondent that she was told by Ms. Wilson to obtain a letter from the clerk, Respondent stated, "That's what you get for taking advice from a random person in the courtroom – Ms. Wilson has nothing to do with the court and has no business giving anyone advice."

169. Ms. Wilson was embarrassed and humiliated by Respondent's comments.

Operating a Vehicle Under the Influence of Alcohol Offenses (OVI) –

170. On May 25, 2004, William Metzger pled guilty to Driving Under the Influence of Alcohol (2nd offense) a first degree misdemeanor.

171. After Metzger pled guilty and after Respondent pronounced sentence, Respondent ordered Metzger, in open court, to repeat the following words:

"My name is William Metzger and I am an alcoholic."

172. When Respondent asked Metzger what he was going to do about his alcoholism, Metzger replied that he needed to change his life, that he disappointed himself and let his family down.

173. Respondent replied, "Yeah, okay, this isn't the time to start talking about me, me, me, me, me, me, me...my name is William Lee Metzger and I am an alcoholic...I need help. I can't beat the alcohol demon on my own..."

174. On April 14, 2004, Gina Butler pled guilty to OVI (2nd offense) a first degree misdemeanor.

175. After Respondent accepted Butler's guilty plea and sentenced Butler, Respondent stated, "Repeat after me, my name is Gina Butler. And what? What is the next part of it? My name is Gina Butler and I am an alcoholic."

176. Butler repeated the words in open court, but took exception to Respondent classifying her as an alcoholic.

177. Respondent then turned his computer monitor toward Butler and, in open court, ordered her to look into the monitor and asked Butler if she saw her reflection on the monitor's screen.

178. Butler stated that she saw her reflection.

179. While Butler looked at the monitor, Respondent asked Butler, "Who is that (in the reflection)?"

180. On various occasions, Respondent had ordered OVI defendants who had entered guilty pleas, to reach into their pockets and pull out their "imaginary" car keys and throw them away.

181. On various occasions, Respondent ordered OVI defendants, who had entered guilty pleas, to pretend that they were putting another person in a headlock.

182. Respondent would show the defendants how to do this by using one hand to grip his other wrist and squeeze.

183. When the defendants imitated Respondent, Respondent would tell the defendants that by doing that, they were wrestling the alcohol demon.

Underage Consumption of Alcohol Offenses

184. In one case involving the underage consumption of alcohol, respondent chastised a defendant, who was a student at St. Xavier High School—a Roman Catholic institution.

185. Respondent stated, "Is that (alcohol consumption) what the Jesuits teach good Catholic boys?"

186. When the defendant stated that he was not Catholic, but Jewish, respondent stated, "What is a Jewish kid doing going to Xavier?"

187. On June 25, 2003, an 18 year-old female defendant appeared before Respondent on a charge of underage consumption of alcohol, case no. 03CRB00639.

188. The defendant stated that she wanted to enter a guilty plea.

189. When the defendant informed Respondent that her parents did not know of her arrest, Respondent suggested that the defendant call her mother before entering a plea.

190. While Respondent was talking to the defendant, she began to cry.

191. Respondent stated, "You have to stop doing that (crying). You are going to make me cry. That doesn't look very well."

192. On the same day, a 20 year-old female defendant, who was an Ohio University student, appeared before Respondent on a charge of underage consumption of alcohol, case no. 03CRB00635.

193. The defendant entered a no contest plea.

194. When Respondent asked the defendant if she studied American Government at Ohio University, the defendant replied that she was an anthropology

major, to which Respondent stated, "So that means you've been digging up old beer to drink?"

195. When Respondent asked the defendant why she was drinking while underage, the defendant replied that she "made a mistake."

196. Respondent then stated,

"You gotta pen there? Turn the piece of paper over. Add together 462 + 535. Ok. Now. You done? Give me your paper. You are done. Now, that's a mistake. Cause, let's see. Well, you did pretty well. You are a very intelligent person. Adding together math-it's a mistake right? (Respondent then gestured like he was drinking from a bottle). That's not a mistake young lady. Mistakes aren't intentional acts. All you had to wait was three months didn't you? That is all you had to wait-three months-drink 'til you throw-up on yourself. Is it illegal to drink and throw up on yourself-of course not. Now look, seriously, you can't cry. We are running out of tissues."

Theft Offenses

197. On June 25, 2003, Respondent presided over a theft case involving three college students who were accused of stealing two street signs, case numbers 03CRB00559, 03CRB00560, and 03CRB00561.

198. The three students appeared in court with their attorneys and parents.

199. The prosecutor offered pre-trial diversion and the defendants accepted.

200. During the proceedings, Respondent addressed all three defendants, stating,

Respondent: This was a stupid move by spoiled brats. Right? Stupid move by spoiled brats. Get your heads out of your proverbial sand young men. Grow up. Sign up for the military. They're willing to die for the rights that looks like you guys don't even care a whole lot about...Westchester, Maineville, and Cincinnati. Let's see, so you went to, did you go to Moeller High School.

Defendants: St. Xavier High School.

Respondent: Ok, so the Jesuits are not doing jumping jacks today in their-that's not a monastery-whatever you call it. Come on. Really. And then to be flip about enough about it to say, well 'it was Miami St. and College Street.' Come on. Y'know, you got all lawyered up-you talk about how we are going to get this pretrial diversion (pause) and ah yeh, that's a measure of mercy that the prosecutor is allowed to show from the executive branch of government because they are the charging agent. As the judicial officer, a person from the executive branch of government, which I know you guys understand because you went to St. X high school. Uh, that I have some responsibility and some discretion. Your parents, I am sure are here with you. Are they not? Ok. Where are the moms and dads. Ok. What an embarrassing, humiliating situation for you parents to have to come in here because you did this...why don't we just let the city workers or the township workers go...You guys still have rooms at your parents' house? Ok. And who is the president of the fraternity here? Which one of you? Oh, you are not in a fraternity together? You just are three kids doing stupid things.

Unidentified: They go to different schools now.

Respondent: Oh ok. So we are going to let the city workers go into your house and they are just going to take whatever they want out of that room. How's that? Sound good? What is the favorite thing in your room young man?

Defendant 1: Probably my guitar.

Respondent: Ok you bring that in. That's part of your community service. You are gonna let that sit here for how many-well I don't know what you (court personnel) are going to do with it-set it in the back-maybe I'll learn guitar. Bring your guitar in. What is your favorite thing?

Defendant 2: Probably my cds.

Respondent: Ok, bring 'em in. What's your favorite thing?

Defendant 3: Stereo.

Respondent: Yep. Well, until you are done with your community service. All three of you are bringing this stuff in. Have it here this

Saturday morning...that is where you are going to do your community service – in the Mason Reclamation Project. (Pause) and as St. X graduates, you all ought to realize what blessings you have as parents. Parents that will stick through you through thick and thin...that's love.

201. On July 9, 2003, Respondent accepted a guilty plea from the defendant Angela Spruance, who had been charged with theft.

202. While speaking to Spruance in open court, Respondent stated: "You got some proverbial sticky fingers, don't you? So take that Kleenex there right now. Set your papers down. Wipe your hands off. Today is the first day-this is a little hypnotism here-today is the first day of the rest of your life you will no longer take what is not yours. Do you understand me?"

203. Spruance complied with Respondent's order and wiped her hands with the Kleenex.

The Stendahl Matter

204. Respondent understands that the allegations contained in "The Stendahl Matter" were not part of the formal complaint.

205. Respondent understands that it was relator's intent to amend the formal complaint to add the allegations contained in The Stendahl Matter to Count VII of the formal complaint.

206. Under Gov. Bar R.V§(4)(l)(4), respondent waives notice of the allegations contained in The Stendahl Matter and stipulates to the following:

207. On September 22, 2004, David Stendahl was arrested for driving under the influence (DUI), resulting in Mason Municipal Court case *State. v. Stendahl*, no. 04 TRC 04619.

208. Attorney Jeffrey Meadows represented the defendant, Stendahl, while assistant prosecutor, Teresa Wade, represented the City of Mason.

209. Meadows filed a motion to suppress the results of the breathalyzer test and the horizontal gaze nystagmus (HGN).

210. On February 7, 2005, after an oral hearing and post-hearing written arguments, respondent granted defendant's motion to suppress the results of the breathalyzer test and the HGN.

211. In arriving at his decision, the following dialogue occurred:

Respondent: ...[h]aving heard the evidence in this case, I do not find that the officer made a determination based upon the horizontal gaze nystagmus test in a manner that was at least in substantial compliance. Question of what substantial compliance would be would require there to be some de minimus deviations. I don't think the assertion by the state that those deviations were de minimus is sufficient, so...

Wade: What specific deviations were there?

Respondent: Well Ms. Wade, if I had to explain it to you, I doubt you'd understand it. The record speaks for itself on that matter.

212. Wade was embarrassed and humiliated by respondent's comment

213. Respondent's entry suppressing the results of the breathalyzer and the HGN stated that the HGN test was not conducted in substantial compliance with the NHSTA manual and that the state "failed to establish substantial compliance with the Ohio Department of Health regulations regarding breath alcohol procedures."

214. Wade appealed Respondent's decision to the twelfth district court of appeals, case no. CA2005-03-034.

215. The court of appeals reversed Respondent's decision and remanded the case to the Mason Municipal Court.

STIPULATED DISCIPLINARY RULE VIOLATIONS

Respondent agrees that his comments and gestures recounted in Count Seven violate Canon 2 [A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary] and Canon 3(B)(4) [A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity.]

Respondent and Relator, while acknowledging that their agreement is not binding on the panel in any way, agree that a public reprimand would be an appropriate sanction for the violations set forth in Count Seven.

STIPULATED DISMISSALS

Relator dismisses the allegation in paragraph 224 of the complaint that Respondent's conduct in Count Seven violates Canon 1 [A judge shall uphold the integrity and independence of the judiciary].

STIPULATED MITIGATION EVIDENCE

Respondent has no prior disciplinary record.

Respondent has cooperated in the disciplinary proceedings.

Respondent reserves the right to submit character evidence.

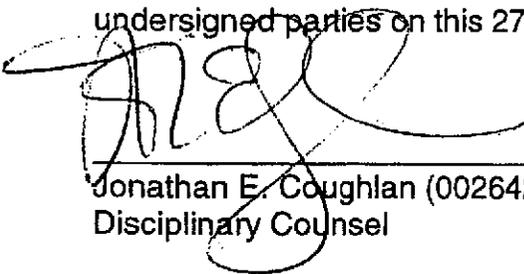
STIPULATED EXHIBITS

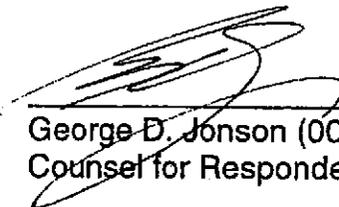
Exhibit	Count One
	The Gadberry Matter
1.	Entry in Contempt, 03 CRB 01215
2.	Commitment—Sentenced
3.	Cincinnati Enquirer Newspaper Article
4.	Audio/Video of Court Proceedings
5.	Miscellaneous Documents from Court File
	Count Two
	The Ambrose Matter
6.	Criminal Complaint, 03 CRA 00199
7.	Commitment Order
8.	Waiver of Counsel and Right to Jury Trial
9.	Praecipe and Subpoenas
10.	Journal Entry, April 15, 2003
11.	Journal Entry, April 15, 2003
12.	Map (Mason/Maineville)
13.	Audio Recording of Proceedings
14.	Miscellaneous Documents from Court File
	Count Three
	The Garcia Matter
15.	Criminal Complaint, 03 CRB 00485
16.	Court's Docket Sheet
17.	Journal Entry, October 16, 2003
18.	Audio Recording of Proceedings on October 16, 2003
19.	Miscellaneous Documents from Court File
	The Graham Matter
20.	Ohio Revised Code §2913.02
21.	Ohio Revised Code §2913.71
22.	Ohio Criminal Rule 5
23.	Criminal Complaint for Theft
24.	Criminal Complaint for Possession of Drug Paraphernalia
25.	Commitment
26.	Journal Entry, April 23, 2003
27.	Journal Entry, April 30, 2003
28.	Waiver of Right to a Preliminary Hearing
29.	Waiver of Right to a Preliminary Hearing (rejected)
30.	Prosecutor's Request to Dismiss F5 Theft
31.	Journal Entry dated May 7, 2003
32.	Journal Entry, June 17, 2003

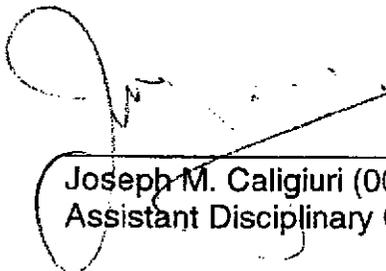
33.		Facsimile to Craig Newburger re: Opioid Dependency
34.		Appearance Bond
35.		Pretrial conference report
36.		Judgment Entry
37.		Letter to Respondent
38.		<i>State v. Webb</i> , 1992 WL 1028
39.		<i>State v. Busch</i> , 76 Ohio St.3d 613
40.		Audio Recording of Proceedings
41.		Miscellaneous Documents from Court File
		Count Four
		The Jane Doe Matter
42.		Criminal Complaint, 04 CRB 00357
43.		Designation of Trial Attorney
44.		Case Worksheet
45.		Pretrial Conference Report
46.		Sentencing Entry, April 25, 2004
47.		Waiver of Issuance of New Complaint
48.		Waiver of Counsel & Right to Jury Trial
49.		Journal Entry, April 25, 2004
50.		Photograph
51.		Audio Recording of Proceedings
52.		Miscellaneous Documents from Court File
		Count Five
		The 9-1-1 Matter
53.		Criminal Complaint, 03 CRB 00412
54.		Notice of Appearance, 03 CRB 00412
55.		Discovery Demand, 03 CRB 00412
56.		Request for Evidence Notice, 03 CRB 00412
57.		Request for Bill of Particulars, 03 CRB 00412
58.		Motion to Suppress, 00 CRB 00412
59.		Motion to Release from Jail and/or to Review Bond
60.		Commitment, May 13, 2003
61.		Facsimile to Deputy Wyatt, May 13, 2003
62.		Entry Order to Convey. 03CRB00412, 03CRB00347
63.		Journal Entry, May 14, 2003
64.		Journal Entry, May 13, 2003
65.		Bail Order, May 14, 2003
66.		Cincinnati Enquirer Newspaper Article
67.		Audio Recording of Proceedings
68.		Miscellaneous Documents from Court File
		Count Six
		The McConnell Matter

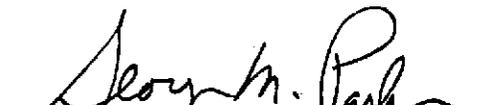
69.		Criminal Complaint, 04 CRB 00268
70.		Case Worksheet
71.		Arrestment Procedures and Understanding of Rights Form
72.		Pretrial Conference Report
73.		Waiver of Counsel and Right to Jury Trial
74.		Journal Entry
75.		Judge's Sheet for Preparation of Sentencing Entry
76.		Audio Recording of Proceedings
77.		Miscellaneous Documents from Court File
		Count Seven
78.		Selected Audio Recordings of Proceedings
79.		Respondent's February 21, 2005 Reply to Letter of Inquiry and selected documents
80.		Respondent's July 25, 2005 Reply to Letter of Inquiry and selected documents
81.		Deposition Transcripts from Selected Witnesses
82.		Respondent's Character Letters
83.		Respondent's OLAP contract

The above are stipulated to and entered into evidence by agreement of the undersigned parties on this 27th day of June, 2006.


 Jonathan E. Coughlan (0026424)
 Disciplinary Counsel


 George D. Jonson (0027124)
 Counsel for Respondent


 Joseph M. Caligiuri (0074786)
 Assistant Disciplinary Counsel


 George M. Parker (0046664)
 Respondent

**BEFORE THE BOARD OF COMMISSIONER
ON
GRIEVANCES AND DISCIPLINE
OF
THE SUPREME COURT OF OHIO**

FILED

JAN 17 2007

**BOARD OF COMMISSIONERS
ON GRIEVANCES & DISCIPLINE**

In Re: :

Complaint against :

George M. Parker : **Case No. 05-091**

Respondent :

Disciplinary Counsel :

Relator :

On December 12, 2006 this matter was hear by telephone conference. Participating in that conference were Judge Beth Whitmore, Chair, George Johnson, counsel for Respondent, and Joseph Caligiuri for Relator. The purpose of the conference was to ask the parties how they intended to treat a psychiatric report issued by a forensic psychiatrist after an assessment of Respondent on September 22, 2006. The assessment report is dated October 20, 2006. Attached as Panel Exhibit A is a letter dated July 11, 2006, signed by Respondent and his attorney. Panel Exhibit A waives the doctor-patient privilege between Respondent and the examining psychiatrist. Panel Exhibit A is fully incorporated herein. The waiver applies to all records submitted by Respondent to the examining psychiatrist, to all of the examining psychiatrist's office notes, Respondent's medical history, test results and substance abuse history, if any. The waiver also provides that the psychiatrist doing the assessment may give deposition or live testimony in these proceedings.

APPENDIX B

The Panel decision to request a psychiatric assessment was made on June 28, 2006, and was pursuant to authority granted in Section 7 of Gov Bar Rule V. It was the Panel's unanimous decision that the conduct testified to at the hearing, and Respondent's own behavior at the hearing, demonstrated a possible mental or emotional impairment and that Respondent's ability to practice law had been placed at issue as provided by the rule. When informed of this decision, counsel for Respondent and Relator requested that the assessment be by consent, rather than by court order. The Panel agreed, but noted that treating the assessment as "by consent" would not impair the admissibility of the assessment in the proceedings nor the ability to call the psychiatrist to testify when the proceedings continued. The proceedings in this matter were adjourned on June 28, 2006, until January 22, 2007 for the purpose of completing the psychiatric assessment of Respondent.

At a December 12, 2006 pre-trial conference counsel for Respondent argued that the assessment report was not admissible in the proceeding because it did not establish a mental disease. Counsel for Relator indicated the he did not intend to proffer the assessment report into evidence. Neither counsel intended to call the examining psychiatrist to testify. The Panel Chair indicated that she would report this information to the full Panel and advise the parties how the Panel intended to proceed.

It is hereby ordered, pursuant to Gov. Bar R. V(7)(C)(2) that the mental health ability of Respondent to practice law was placed at issue through testimony at the proceeding and by Respondent's conduct at the proceedings. Accordingly the Panel unanimously orders: (i) that Respondent undergo a psychiatric examination, pursuant to Gov. Bar R. V(7)(C)(2). The Panel further orders that the psychiatric assessment that

took place on September 22, 2006 constitutes the compulsory assessment as herein ordered and that this assessment report is a valid report of the compulsory assessment as herein ordered. The Panel further finds that the assessment is relevant to mitigation and aggravation and is fully admissible in these proceedings.

By separate order the Panel intends to subpoena the psychiatrist who did the assessment for testimony by deposition or live at trial and for copies of all materials set forth in Panel Exhibit A that are subject to Respondent's waiver of the doctor-patient privilege of confidentiality.

It is so Ordered.

Beth Whitmore
Hon. Beth Whitmore, Panel Chair

151 Jan,
Secretary

Theresa Proenza
Theresa Proenza, Panel Member

151 Jan,
Secretary

Francis E. Sweeney, Jr.
Francis E. Sweeney, Jr.

151 Jan,
Secretary

Permission granted
for each
signature.

EXHIBIT A

July 11, 2006

Hon. Beth Whitmore
Ninth District Court of Appeals
161 South High Street #504
Akron, Ohio 44308

Re: *Disciplinary Counsel v. Judge George M. Parker*
Letter of Inquiry No. A4-1734J

Dear Judge Whitmore:

This letter will confirm that I will voluntarily submit to an evaluation by a forensic psychiatrist of the Panel's choosing. I will authorize the disclosure of any and all pertinent medical and/or psychological records to that psychiatrist, and I waive any doctor-patient privilege that may be formed between the psychiatrist and myself so that the psychiatrist may release to the Panel and Disciplinary Counsel a report and evaluation, including discussion or inclusion of any background information I have agreed to provide herein. The Psychiatrist may also release his original office notes including but not limited to substance abuse history, if any, medical history and test results. The psychiatrist may also give deposition testimony and/or live testimony at the continuation of my hearing. Should I decide to enter into an ongoing relationship with the psychiatrist, I consent to the disclosure of any medications prescribed me by him and his treatment plan.

I will cooperate fully with the examining psychiatrist and will voluntarily and freely provide any and all information the psychiatrist may request.

Very truly yours,


JUDGE GEORGE PARKER

July 21, 2006

Page 2

HAVE SEEN AND APPROVED:



GEORGE D. JONSON