

**STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE**

**IN THE MATTER CONCERNING
FORMER JUDGE TIMOTHY J.
STAFFORD**

**DECISION AND ORDER IMPOSING
PUBLIC ADMONISHMENT
PURSUANT TO STIPULATION
(Rule 116.5)**

INTRODUCTION AND SUMMARY

This disciplinary matter concerns Judge Timothy J. Stafford, a former judge of the Orange County Superior Court. Judge Stafford retired from judicial office, effective September 30, 2018.

Judge Stafford, through his counsel, Edith R. Matthai, Esq., and Commission on Judicial Performance Director-Chief Counsel Gregory Dresser proposed to settle the preliminary investigation instituted by the commission in this matter through the issuance of a public admonishment under the stated terms and conditions, and upon the stipulated statement of facts and conclusions of law. A Stipulation for Discipline by Consent (Stipulation) signed and executed by Judge Stafford, Ms. Matthai, and Mr. Dresser is attached to this decision and order. Pursuant to rule 116.5 of the Rules of the Commission on Judicial Performance, the proposed Stipulation was approved by the commission on December 5, 2018.

The terms and conditions of the Stipulation provide that, upon approval of the Stipulation, the commission shall resolve the matters alleged in the pending preliminary investigation with the issuance of a public admonishment based upon the agreed stipulated facts and legal conclusions. Further, the parties agree that the commission may articulate the reasons for its decision imposing public admonishment and include explanatory language that the commission deems appropriate.

In signing the Stipulation, Judge Stafford expressly admits that the stipulated facts are true and that he agrees with the stated legal conclusions, and waives any further

proceedings and review in this matter including formal proceedings and review by the Supreme Court. Accordingly, pursuant to article VI, section 18(d) of the California Constitution, the commission issues this public admonishment based on the following stipulated statement of facts and legal conclusions.

FACTS AND LEGAL CONCLUSIONS

Retired Judge Timothy J. Stafford served as a judge of the Orange County Superior Court from September 13, 2013 to September 30, 2018.

On April 5, 2017, Judge Stafford presided over a hearing on a petition for a civil harassment restraining order in *K.N. v. Stowell* (No. 30-2017-00903204). At the conclusion of the hearing, Judge Stafford made undignified remarks, as set forth below. Judge Stafford's ruling denying the restraining order was reversed by the court of appeal, which found that Judge Stafford had abused his discretion. The court of appeal stated that Judge Stafford's comments did not accord with recognized principles of judicial decorum consistent with the presentation of a case in an atmosphere of fairness and impartiality.

K.N. and Martin Stowell were co-workers at a landscaping company, and were once close friends. K.N. testified that, at some point during their relationship, Mr. Stowell began making unwanted sexual advances toward her. She testified that, although she refused Mr. Stowell's advances many times, he continued to make remarks and send texts and emails that "crossed the line" or expressed anger that she had cut off contact with him. K.N. introduced into evidence a months-long series of text messages, emails, and voice messages from Mr. Stowell. In one such email, sent three days after Mr. Stowell promised to leave K.N. alone and give her space, Mr. Stowell called K.N.'s husband a "pussy," and said, "One more thing, don't drag [your friend Nikki's] pussy husband in this like you did with the flowers[. H]e will lose his fucking teeth permanently[.]" K.N. testified that, in October 2016, she told Mr. Stowell to leave her alone entirely, and that he made approximately 70 attempts to contact her thereafter.

K.N. stated that she sought psychological treatment for anxiety and depression resulting from Mr. Stowell's conduct, and that she eventually sought and obtained

permission to work from home to avoid Mr. Stowell. She testified that Mr. Stowell contacted her several times after she began working from home, saying, in a phone call, that he had become obsessed with her, and, in a text message, “This ain’t over[.] People will go down [for] this shit[.] That I guarantee you[.] You [K.N.] of all people should have blown this shit off like [me]. . . . This is gonna get ugly[.] Pass that on to[] those two bitches. . . . [I]t[’]s not going to stop until this shit is worked out and over[.] This will be my primary focus until then[.]”

On cross-examination, K.N. testified about gifts Mr. Stowell had given her during their friendship. She also testified about an email she sent him, in February 2016, in which she explained that she was pulling back from their relationship, and not responding to messages she considered inappropriate, because there were rumors that they were having an affair. She further explained in the email that her husband had become uncomfortable with their relationship. K.N. also testified on cross-examination that, during the period of their friendship, K.N. told Mr. Stowell, and another co-worker, that she had sent her husband a text message saying, “Will you buy me a new car if I give you a blow job every day?” and that her husband had replied, “I wish I could, but I can’t afford to.”

Mr. Stowell and others from the parties’ place of employment also testified. Mr. Stowell described his past relationship with K.N. as “buddies,” who would “back off” and then resume being buddies a few days later. He said he did not intend to harass K.N. and said he could leave her alone without a restraining order.

At the end of the hearing, Judge Stafford said, “I feel like I’ve sat for the last four and a half or five hours dealing with junior high school students, both of you, even though you have some gray over your ears, all right. And the thing that concerns me is that [K.N.], your husband’s here, isn’t he?” She confirmed that he was, and Judge Stafford asked why no one called him as a witness. The restraining order had also been sought on his behalf. Judge Stafford asked Mr. Stowell whether he was married and learned that he was. Judge Stafford suggested that the spouses of the parties were the

ones who should be sitting at the table with attorneys, “because they had to put up with it.” Judge Stafford further stated, to K.N.:

And your husband had to listen, and it was like Mr. Stowell was pretty much the big man on campus, had the bucks in his back pocket, and the petitioner was the best looking girl in school, and he was going to get her any way he possibly could, all right. And she knew it, and she liked it, because she got things.

And don’t — counsel, you’re giving me a frown. Look it. If I got a letter from someone, or a phone call saying, I’ll give you a blow job every day for the rest of your life for a car, we will be at the Mercedes dealer pretty soon, but not because I’m married, all right.

K.N.’s lawyer interjected that K.N.’s text message had not been directed at Mr. Stowell. Judge Stafford said he understood to whom it was directed and added, “It came out of your client’s mouth, out of her brain onto a piece of paper, didn’t it?”

After making these remarks, Judge Stafford denied K.N.’s petition for a restraining order. K.N. appealed.

The Fourth District Court of Appeal concluded that Judge Stafford abused his discretion in denying K.N.’s request for a restraining order against Mr. Stowell. (*K.N. v. Stowell* (Aug. 27, 2018, G054963) [nonpub. opn.].) The court of appeal concluded that the judge’s comments did not show actual bias or a high probability of bias. The court found, however, that the judge’s statement, “If I got a letter from someone, or a phone call saying I’ll give you a blow job every day for the rest of your life for a car, we will be at the Mercedes dealer pretty soon. . . ,” was “clearly inappropriate.” The appellate court stated:

Although the comment does not demonstrate judicial bias, it did “not accord with recognized principles of judicial decorum consistent with the presentation of a case in an atmosphere of fairness and impartiality.” (*In re Marriage of Iverson* (1992) 11 Cal.App.4th 1495, 1501 (*Iverson*), overruled on other grounds by *People v. Freeman* [(2010)] 47 Cal.4th [993,] 1006, fn. 4.) Judicial ethics require a judge to

“be patient, dignified, and courteous to litigants” (Cal. Code Jud. Ethics, canon 3(B)(4).) The judge’s comment is the antithesis of judicial decorum and courtesy.

(*Id.* at p. 12.)

The appellate court also addressed Judge Stafford’s statement that Mr. Stowell was the “big man on campus” and K.N. was “the best looking girl in school, and [Stowell] was going to get her any way he possibly could, all right. And she knew it, and she liked it, because she got things.” The appellate court found that Judge Stafford failed to identify the applicable timeframe and noted that there was no evidence that K.N. “liked” Mr. Stowell’s attention or “got things” after July 2016. The appellate court stated:

We cannot definitively conclude the judge’s comments show actual bias, but the comments were inappropriate and created an appearance of gender bias because they suggest the female target of a “big man on campus” would like the attention. (See *Iverson, supra*, 11 Cal.App.4th at pp. 1500-1501 [at minimum, appearance of gender bias shown where judge employed gender-based stereotypes in decisionmaking process]; see also Cal. Code Jud. Ethics, canon 3B(5) [“A judge shall not, in the performance of judicial duties, engage in speech, gestures, or other conduct that would reasonably be perceived as (a) bias or prejudice, including but not limited to bias or prejudice based upon . . . sex, gender. . .”].)

(*K.N. v. Stowell, supra*, G054963 at pp. 12-13.)

The appellate court noted that any pattern of conduct over a period of time, however short, can constitute harassment, and observed:

Because K.N. was not seriously annoyed, alarmed or harassed in the past does not foreclose the possibility she was seriously annoyed, alarmed, or harassed after October 2016. Thus, the trial court appears to have applied an improper criterion—that K.N. liked Stowell’s conduct in the past—in denying K.N.’s request for a restraining order.

(*K.N. v. Stowell, supra*, G054963 at p. 15.)

The court further observed, “The trial court’s comments and references to irrelevant evidence undermine our confidence it properly exercised its discretion in

denying K.N.'s request for a restraining order." (*K.N. v. Stowell, supra*, G054963 at p. 15.)

The appellate court directed, "On remand, in light of our determination that there was an appearance of judicial bias on the part of Judge Stafford, we conclude the hearing on K.N.'s request should be before a different judge." (*K.N. v. Stowell, supra*, G054963 at p. 16.)

Former Judge Stafford's conduct violated his duty to be dignified and courteous to those with whom he deals in an official capacity (canon 3B(4)); to perform judicial duties without bias or prejudice, and to refrain from speech or other conduct that would reasonably be perceived as bias or prejudice (canon 3B(5)); to avoid impropriety and the appearance of impropriety in all of his activities (canon 2); to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary (canon 2A); to be faithful to the law (canon 3B(2)); and to maintain high standards of conduct (canon 1).

Former Judge Stafford's conduct constituted, at a minimum, improper action.

DISCIPLINE

Judge Stafford engaged in serious misconduct by making comments in a restraining order proceeding that were extremely undignified and inappropriate, including "If I got a letter from someone, or a phone call saying I'll give you a blow job every day for the rest of your life for a car, we will be at the Mercedes dealer pretty soon...." As stated by the appellate court, this comment "is the antithesis of judicial decorum and courtesy." (*K.N. v. Stowell, supra*, G054963, at p. 12.) The judge also suggested both parties were acting like junior high school students and that the female plaintiff liked the attention she received from her co-worker, and that Mr. Stowell was the "big man on campus." These comments were belittling and injurious to both parties and were based on gender-based stereotypes, raising the appearance of gender bias.

The commission determined that imposition of a public admonishment under the terms of the Stipulation best fulfills its mandate to protect the public and uphold high

standards of judicial conduct in view of the judge's retirement and his cooperation with the commission's investigation.

Commission members Nanci E. Nishimura, Esq.; Hon. Michael B. Harper; Anthony P. Capozzi, Esq.; Hon. William S. Dato; Mr. Eduardo De La Riva; Ms. Sarah Kruer Jager; Dr. Michael A. Moodian; Mr. Richard Simpson; and Hon. Erica R. Yew voted to accept the Stipulation and issue this public admonishment. Commission members Ms. Patsy A. Kasparian and Mr. Adam N. Torres did not participate.

Dated: December 13, 2018



Nanci E. Nishimura
Chairperson

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

IN THE MATTER CONCERNING
FORMER JUDGE TIMOTHY J.
STAFFORD

STIPULATION FOR DISCIPLINE
BY CONSENT (Rule 116.5)

Pursuant to Rules of the Commission on Judicial Performance, rule 116.5, former Judge Timothy J. Stafford of the Orange County Superior Court, represented by counsel, and commission staff counsel (the "parties") submit this proposed disposition of the matters set forth in the commission's preliminary investigation letter dated September 18, 2017. The parties request that the commission resolve this matter by imposition of a public admonishment. The parties believe that the settlement provided by this agreement is in the best interests of the commission and Judge Stafford because, among other reasons, in light of the stipulated facts and legal conclusions, a public admonishment adequately protects the public and will avoid the delay and expense of further proceedings.

Former Judge Stafford retired from judicial office, effective September 30, 2018.

TERMS AND CONDITIONS OF AGREEMENT

1. This agreement resolves the matters alleged in the commission's pending preliminary investigation involving former Judge Timothy J. Stafford.
2. The commission shall issue a public admonishment based on the agreed Stipulated Facts and Legal Conclusions set forth therein.

3. If the commission accepts this proposed disposition, the commission's decision and order imposing public admonishment may articulate the reasons for its decision and include explanatory language that the commission deems appropriate.

4. Upon acceptance by the commission, this stipulation and the commission's decision and order shall be made public.

5. Former Judge Stafford waives any further proceedings and review in this matter, including formal proceedings (rules 118, et seq.) and review by the Supreme Court (Cal. Rules of Court, rule 9.60).

6. The commission may reject this proposed disposition and resume its preliminary investigation. If the commission does so, nothing in this proposed disposition will be deemed to be admitted by former Judge Stafford.

Accordingly, it is hereby stipulated and agreed that the commission shall issue a public admonishment on the above Terms and Conditions of Agreement, and based on the following Stipulated Facts and Legal Conclusions.

STIPULATED FACTS AND LEGAL CONCLUSIONS

Retired Judge Timothy J. Stafford served as a judge of the Orange County Superior Court from September 13, 2013 to September 30, 2018.

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Stowell began making unwanted sexual advances toward her. She testified that, although she refused Mr. Stowell's advances many times, he continued to make remarks and send texts and emails that "crossed the line" or expressed anger that she had cut off contact with him. K.N. introduced into evidence a months-long series of text messages, emails, and voice messages from Mr. Stowell. In one such email, sent three days after Mr. Stowell promised to leave K.N. alone and give her space, Mr. Stowell called K.N.'s husband a "pussy," and said, "One more thing, don't drag [your friend Nikki's] pussy husband in this like you did with the flowers[. H]e will lose his fucking teeth permanently[.]" K.N. testified that, in October 2016, she told Mr. Stowell to leave her alone entirely, and that he made approximately 70 attempts to contact her thereafter.

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target of a 'big man on campus' would like the attention. (See *Iverson, supra*, 11 Cal.App.4th at pp. 1500-1501 [at minimum, appearance of gender bias shown where judge employed gender-based stereotypes in decisionmaking process]; see also Cal. Code Jud. Ethics, canon 3B(5) ["A judge shall not, in the performance of judicial duties, engage in speech, gestures, or other conduct that would reasonably be perceived as (a) bias or prejudice, including but not limited to bias or prejudice based upon . . . sex, gender. . ."].)

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(*K.N. v. Stowell, supra*, G054963 at p. 15.)

The court further observed, "The trial court's comments and references to irrelevant evidence undermine our confidence it properly exercised its discretion in denying K.N.'s request for a restraining order." (*K.N. v. Stowell, supra*, G054963 at p. 15.)

The appellate court directed, "On remand, in light of our determination that there was an appearance of judicial bias on the part of Judge Stafford, we conclude the hearing on K.N.'s request should be before a different judge." (*K.N. v. Stowell, supra*, G054963 at p. 16.)

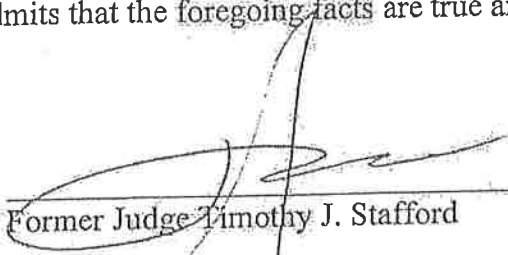
Former Judge Stafford's conduct violated his duty to be dignified and courteous to those with whom he deals in an official capacity (canon 3B(4)); to perform judicial duties

without bias or prejudice, and to refrain from speech or other conduct that would reasonably be perceived as bias or prejudice (canon 3B(5)); to avoid impropriety and the appearance of impropriety in all of his activities (canon 2); to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary (canon 2A); to be faithful to the law (canon 3B(2)); and to maintain high standards of conduct (canon 1).


Former Judge Stafford's conduct constituted, at a minimum, improper action.

By signing this stipulation, in addition to consenting to discipline on the terms set forth, former Judge Stafford expressly admits that the foregoing facts are true and that he agrees with the stated legal conclusions.

Dated: Oct 2, 2018.


Former Judge Timothy J. Stafford

Dated: Oct 3, 2018.


Edith R. Matthai, Esq.
Attorney for former Judge Stafford

Dated: Oct. 4, 2018.


Gregory Dresser
Director-Chief Counsel