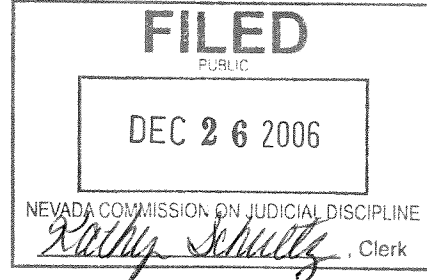


1 BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE

2 STATE OF NEVADA



3  
4 In the Matter of the )  
5 )  
6 HONORABLE MICHAEL MEMEO, )  
7 District Judge, Fourth Judicial District )  
8 Court, County of Elko, State of Nevada, )  
9 Respondent. )

CASE NO. 0601-989

10 **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

11 Pursuant to written notice, the above-entitled matter came on for public (formal) hearing  
12 in Reno pursuant to NRS §1.467(3) and Interim Commission Rule 18 (hereinafter referred to as  
13 the “hearing”) on December 5, 2006, before the Nevada Commission on Judicial Discipline  
14 (hereinafter referred to as the “Commission”).<sup>1</sup> Attorney Mary Boetsch acted as the Special  
15 Counsel and prosecuted the case against the Respondent, District Judge Michael Memeo. The  
16 Respondent was present and represented by counsel, William C. Jeanney.

17 After being fully advised of its obligations and duties, the Commission specifically finds  
18 that the hearing was conducted according to the statutes, rules and procedures required by law.  
19 The Commission hereby issues the following Findings of Fact, Conclusions of Law and Order,  
20 pursuant to Commission Interim Rule 27 and NRS §1.4673 and §1.4677.

21 After receiving evidence regarding whether a violation or violations occurred, the  
22 Commission took the matter under advisement and deliberated in private. Having adjourned for  
23 deliberation, the Commission did not announce its decision in open court. The Commission now  
24 informs the parties that there is a unanimous finding that the charges contained in the Formal  
25

26 \_\_\_\_\_  
27 <sup>1</sup> The following Commissioners participated in the hearing: Chairman Steve Chappell, Be-  
28 Be Adams (sitting as an alternate for Commissioner Daveen Nave, who was unavoidably absent),  
Greg Ferraro, Judge Jerome Polaha, Judge Mark Denton, Karl Armstrong and James Beasley. The  
seven attendees constituted a quorum, pursuant to Commission Interim Rule 3(4). A copy of the  
transcript of the proceedings has been ordered from the court reporter and will be on file with the  
Clerk of the Commission.

1 Statement of Charges were not proved by clear and convincing evidence. Therefore, the charges  
2 against the Respondent will be dismissed.

3 **A. Findings of Fact.**

4 1. The Respondent was, at all times applicable to the allegations contained in the Formal  
5 Statement of Charges, a District Judge in the Fourth Judicial District in and for the County of  
6 Elko, State of Nevada. He served and still serves as the sole juvenile judge in the two-judge  
7 district and he was solely responsible for the supervision of the county Juvenile Probation  
8 Department, including employees James Watson, Becki Driskel and Debbie Urrizaga, among  
9 others.

10 2. The language of the Formal Statement of Charges set forth the charges for which the  
11 Commission had found probable cause to proceed to a public proceeding. The charging  
12 document, which was filed on March 28, 2006, stated:

- 13 1. That sometime in approximately February, 2004, you had a  
14 meeting with Debbie Urrizaga, Becki Driskel, and James  
15 Watson, who were all at that time employees of the  
16 Juvenile Probation Department in the Fourth Judicial  
17 District in Elko, Nevada.
- 18 2. That at that time your [sic] were the District judge assigned as the  
19 Judge of the Juvenile Division of the Fourth Judicial District.
- 20 3. That during that meeting you approached Ms. Urrizaga with a  
21 marker in your hand and simulated drawing circles or some other  
22 figures around her breasts from a distance of approximately one  
23 inch away.
- 24 4. That your conduct as described herein conveyed and would convey  
25 to an objectively reasonable observer an unwanted sexual overtone  
26 or suggestion.
- 27 5. That your conduct as described herein constitutes violations of  
28 Canons 1, 1(A), 2, 2(A), 3(B)(5) and 3(C)(1) of the Nevada Code  
of Judicial Conduct.

3. At the time of the hearing before the Commission, Mr. Watson, Ms. Driskel and Ms.  
Urrizaga were not employed by the Juvenile Probation Department. Ms. Driskel and Ms.  
Urrizaga have pending federal law suits against Judge Memeo. Ms. Driskel and Ms. Urrizaga  
both testified that the incident occurred as alleged, during a meeting in Mr. Watson's office. Mr.  
Watson, who served as the Chief Juvenile Probation Officer, testified that he saw Ms. Urrizaga  
raise her hands but that he did not see what caused her to do so.

...

1           4. The Respondent filed a formal written denial. At the hearing, he testified he did not  
2 do what had been alleged. He also presented documentary evidence which, circumstantially, was  
3 offered to prove he could not have done what he was accused of doing on either February 4 or  
4 February 5, 2004, the dates on which the separate calendars maintained by Ms. Driskel and Ms.  
5 Urrizaga arguably documented the occurrence of some incident involving Ms. Urrizaga and  
6 Judge Memeo. Notably, the charging document did not contain a date certain as to when the  
7 incident occurred. Neither Ms. Driskel nor Ms. Urrizaga, whose testimony directly contradicted  
8 that of the Respondent, was sure of the exact date of the incident. Mr. Watson was also not  
9 certain and he did not have a calendar or other notes documenting any such incident. The Special  
10 Counsel argued that the incident could have occurred later in February, 2004, notwithstanding  
11 the annotations on the calendars of Ms. Driskel and Ms. Urrizaga.

12           5. The Commissioners, all of whom observed the witnesses and reviewed the  
13 documentary evidence, find that the totality of the evidence was not sufficient to allow them to  
14 find by the standard of clear and convincing evidence, that the incident occurred. This is a  
15 unanimous finding.

16 **B. Conclusions of Law.**

17           1. The Commission has both subject matter jurisdiction over the case and personal  
18 jurisdiction over the Respondent.

19           2. The Commission is guided by Nevada Supreme Court precedent, which requires  
20 application of the “objective reasonable person standard” when applying the canons that  
21 comprise the Nevada Code of Judicial Conduct. *Mosley v. Nevada Commission on Judicial*  
22 *Discipline*, 102 P. 3d 555, 560 (Nev. 2004).

23           3. In order to prove that a violation of the Nevada Code of Judicial Conduct occurred, the  
24 Special Counsel must adduce proof at the level of clear and convincing evidence. *Matter of*  
25 *Fine*, 116 Nev. 1001, 1013, 13 P.3d 400, 408 (2000). The proof adduced in this case was not  
26 sufficient to meet that burden. This is a unanimous conclusion.

27           4. Commission Interim Rule 27 states in pertinent part: “If the Commission determines  
28 that the charges against the respondent have not been proved by clear and convincing evidence,

1 or that discipline is not warranted in light of facts made to appear in mitigation or avoidance, it  
2 shall forthwith prepare and file its order publicly dismissing the charges against the respondent.”  
3 The charges in this case should be dismissed.

4 **C. Order.**

5 IT IS HEREBY ORDERED that the Chairman is authorized by all the members to sign  
6 this decision for all members. The signature pages for the other members shall be retained in the  
7 Commission file.

8 IT IS HEREBY ORDERED that the Clerk’s Certificate of Mailing, found below, shall  
9 constitute the notice of entry of this document pursuant to Commission Interim Rule 34, and the  
10 clerk shall promptly serve it on Respondent’s Counsel and the Special Counsel.

11 IT IS HEREBY ORDERED that the charges against the Respondent are dismissed.

12 **D. Notice.**

13 Notice is hereby tendered to the Special Counsel and the Respondent that pursuant to  
14 NRAP 3D, an appeal may be taken by filing a notice of appeal with the Clerk of the Commission  
15 and serving such notice upon opposing counsel within fifteen (15) days of this document by the  
16 Clerk of the Commission.

17 IT IS SO ORDERED.

18 DATED this 26th day of December, 2006.

19 NEVADA COMMISSION ON  
20 JUDICIAL DISCIPLINE  
21 P.O. Box 48  
22 Carson City, NV 89702  
23 (775) 687-4017

24 By: Steve Chappell  
25 Steve Chappell, Chairman  
26  
27  
28

1 CERTIFICATE OF MAILING

2 I hereby certify that I am an employee of the Nevada Commission on Judicial Discipline  
3 and on the 26<sup>th</sup> day of December, 2006, I placed the above-referenced FINDINGS OF FACT,  
4 CONCLUSIONS OF LAW AND ORDE in the United States Mail, postage pre-paid, addressed  
5 to the undersigned:

6 Mary Boetsch, Esq.  
7 448 Hill Street  
8 Reno, NV 89501  
9 Special Counsel

10 William C. Jeanney, Esq.  
11 Bradley, Drendel & Jeanney  
12 P. O. Box 1987  
13 Reno, NV 89505  
14 Counsel for Respondent.

15   
16 Kathy Schultz, Commission Clerk