

**State of Minnesota**

**BEFORE THE BOARD ON JUDICIAL STANDARDS**

Inquiry into the Conduct of The Honorable Stephen C. Aldrich

BJS File Nos.:

08-104

08-105

09-110

09-111

**FORMAL STATEMENT OF COMPLAINT**

The Board on Judicial Standards (Board), having determined that sufficient cause exists to proceed in the above-referenced matters pursuant to the ***Rules of the Board on Judicial Standards (R.Bd.J.Stds.)***, Rule 6(f), and having received a timely demand for a formal hearing, hereby makes the following Formal Statement of Complaint against the Honorable Stephen C. Aldrich. This Complaint is made and served under ***R.Bd.J.Stds., Rule 8(a) 1 and 2.***

Notice is hereby given that ***R.Bd.J.Stds., Rule 8(a)(3)*** requires your written response to this Complaint within twenty (20) days of the date of service.

**FACTUAL BACKGROUND**

1. Judge Stephen C. Aldrich has served as a district judge in the Fourth Judicial District since 1996. His current term expires in 2015.

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2. Judge Aldrich presided over the case of *State v. Lessley*, 4<sup>th</sup> District Case No. 27-CR-08-13855 in the fall of 2008. The Board on Judicial Standards received two separate complaints concerning comments Judge Aldrich made during proceedings in this criminal case.

3. During a hearing on pretrial motions on October 8, 2008 Judge Aldrich referred to several possible witnesses in the case as “a bunch of drunkards “ and added “Idiocy. Somebody died, and we’re supposed to do something with the bodies afterwards.”

4. During the same hearing on October 8, 2008, Judge Aldrich stated “something like 50 percent of all people on the street are intoxicated at 1:00 in the morning, right?”

5. During the same hearing on October 8, 2008, Judge Aldrich referred to several possible witnesses as “incompetent” due to their intoxication and noted that “all this intoxication around make the trial something of a crapshoot for everybody.”

6. During a pretrial sentencing conference on October 15, 2008 Judge Aldrich stated in open court that he had never presided in a murder trial, asked the participating lawyers if there was anything they wanted to tell him or “shall I just learn as I go.”

7. During a pretrial hearing on October 20, 2008, Judge Aldrich ignored a request from one of the parties to control the gallery and stop them from laughing during court proceedings.

8. During a pretrial hearing on October 27, 2008, Judge Aldrich stridently called out to Deputy Hennepin County Attorney Paul Scoggin that Judge Aldrich had been waiting for a response from him on a matter unrelated to the case for a year and that he should “call” him to continue the discussion.

9. During a hearing on October 31, 2008, Judge Aldrich became angry with Deputy Hennepin County Attorney Pat Diamond and stated “You take the risk of boring me here, Mr. Diamond . . . You keep saying the same thing.”

10. During a hearing on November 4, 2008, Judge Aldrich gratuitously suggested that the prosecutor was grandstanding to the press, stating that “You choose not to answer the questions but to give us a spin for the family one more time . . . Have you finished writing your headlines for the press yet?”

11. The Board issued a Notice of Proposed Public Reprimand to Judge Aldrich in BJS Files 08-104 and 08-105 on or about April 29, 2010. Judge Aldrich responded on May 13, 2010 with his request for a public hearing.

BJS File Nos. 09-110 and 09-111

12. Judge Aldrich presided over Family Court proceedings in Hennepin County District Court on October 21, 2009. Judge Aldrich was assigned to hear a motion in Fourth Judicial District Court Case No. 27-FA-09-173 brought by a party to whom an order for protection had been granted. The parties in this case were a married couple.

13. During this hearing on an order for protection, Judge Aldrich stated in open court “I’ve been married forty-five years. We’ve never considered divorce, a few times murder maybe.”

14. A representative of WATCH, a court monitoring organization, was present in the courtroom and filed a complaint with the Board on Judicial Standards. The complaint was received by

the Board on November 12, 2009. A second organization filed a separate complaint with the Board based on the same allegations.

15. WATCH released information about its complaint to the news media, and the StarTribune ran a news article about WATCH's complaint on its website on November 12, 2009.

16. The parties in Fourth Judicial District Court Case No. 27-FA-09-173 had another hearing before Judge Aldrich on November 12, 2009. Judge Aldrich informed the parties about WATCH's complaint and offered to recuse himself from the case. Both the Petitioner and the Respondent asked Judge Aldrich to remain on the case.

17. Attorneys for the Petitioner and Respondent jointly drafted a press release in support of Judge Aldrich while in court on November 12, 2009.

18. Judge Aldrich sent an e-mail to all district court judges in the state of Minnesota on the evening of November 12, 2009. The e-mail noted the day's news coverage and attached a copy of the press release drafted by the attorneys for the Petitioner and Respondent.

19. Judge Aldrich presided over Family Court proceedings in Hennepin County District Court on November 24, 2009. He handed out copies of his statement in response to WATCH's earlier complaint against him, along with a copy of a letter to the editor expressing support for Judge Aldrich, to a WATCH monitor, lawyers, advocates and parties who were present in court. After the WATCH monitor complained to the District Court, Judge Aldrich stopped handing out these materials.

20. On Wednesday November 25, 2009, Judge Aldrich presided over criminal court proceedings. Judge Aldrich opened the hearing by referring to the WATCH complaint, and then asking attendees "Now, am I really as bad as they say I am?"

21. The Board issued a Notice of Proposed Public Reprimand in BJS File Nos. 09-110 and 09-111 to Judge Aldrich on February 3, 2010. Judge Aldrich responded on February 23, 2010 with his request for a public hearing.

#### **PRIOR DISCIPLINE**

22. The Board on Judicial Standards has addressed improper courtroom conduct with Judge Aldrich on three prior occasions. On one of these occasions, the Board addressed the improper conduct in an instructional conference with Judge Aldrich. On two of these occasions, the Board issued private warnings to Judge Aldrich.

23. The Board received a complaint in BJS File No. 1999-85 that Judge Aldrich had referred to a litigant by a perjorative term. The Board's Executive Secretary sent a letter to Judge Aldrich on February 2, 2000. That letter read in part: "The Board has further asked me to further advise you of its informal view of this case. There is a concern that while your use of the [*perjorative term omitted*] in

reference to the complainant was not, in and of itself, sufficient to breach the **Minnesota Code of Judicial Conduct ("Code")**, it was nevertheless problematic. The use of such language can tend to diminish public confidence in the integrity and impartiality in the judiciary. From the subjective standpoint of the complainant, that certainly seems to have occurred here, aside from his conduct and the relative merits of his position. Given the available alternatives, the Board believes that your choice of words in this instance may have unnecessarily placed the integrity and impartiality of the judicial system in jeopardy. The Board asks that you consider carefully the use of such language in your daily judicial activities”.

24. The Board on Judicial Standards received a complaint in BJS File No. 2007-83 concerning several improper comments made by Judge Aldrich during a hearing in a marriage dissolution case in November of 2007.

25. The Board on Judicial Standards received a complaint in BJS File No. 2008-2 concerning several improper comments made by Judge Aldrich during several hearings conducted in the first week of January, 2008.

26. The Board on Judicial Standards issued a private warning to Judge Aldrich on June 10, 2008 which addressed the conduct forming the bases of the complaints in BJS File No. 2007-83 and BJS File No. 2008-2. Included in this private warning was the following: “The Board considers comments that disparage either the character or the behavior of litigants to be rude and improper. While the Board considers the sensible use of humor in the courtroom to be harmless and sometimes beneficial, the Board determined that your use of humor in these cases was improper. Despite a consensus that your conduct might have warranted more serious action, the Board decided to issue only a private warning. The Board specifically asked me to advise you that it expects a change in your behavior to ensure there are no future reports of this type. Should meritorious allegations arise showing a continuance of this behavior, a public reprimand could likely result.”

27. Canon 1 of the Minnesota Code of Judicial Conduct requires judges uphold and promote the independence, integrity, and impartiality of the judiciary, and to avoid impropriety and the appearance of impropriety.

28. Rule 1.1 of the Minnesota Code of Judicial Conduct provides that a judge shall comply with the law, including the Code of Judicial Conduct.

29. Rule 1.2 of the Minnesota Code of Judicial Conduct provides that a judge shall act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

30. Canon 2 of the Minnesota Code of Judicial Conduct requires judges to perform the duties of judicial office impartially, competently and diligently.

31. Rule 2.2 of the Minnesota Code of Judicial Conduct requires judges to uphold and apply the law, and to perform all duties of judicial office fairly and impartially.

32. Rule 2.3 of the Minnesota Code of Judicial Conduct requires judges to perform the duties of judicial office without bias or prejudice, and to avoid, by words or conduct, manifesting bias or prejudice in the performance of the duties of judicial office.

33. Rule 2.8 of the Minnesota Code of Judicial Conduct provides that a judge shall; (1) require order and decorum in proceedings before the court, and (2) be patient, dignified and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity.

## **SPECIFICATION OF CHARGES**

### **COUNT I**

33. Judge Aldrich violated Canons 1 and 2 and Rules 1.1, 1.2, 2.2, 2.3 and 2.8 of the Minnesota Code of Judicial Conduct in October and November of 2008 in statements he made during pretrial proceedings in State v. Lessley as specified in Paragraphs 3 through 10 above.

### **COUNT II**

34. Judge Aldrich violated Canons 1 and 2 and Rules 1.1, 1.2, 2.3 and 2.8 of the Minnesota Code of Judicial Conduct on October 21, 2009 when he stated in open court "I've been married forty-five years. We've never considered divorce, a few times murder maybe."

THE MINNESOTA BOARD ON JUDICIAL STANDARDS

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