

MINNESOTA BOARD ON JUDICIAL STANDARDS

In the Matter of the Hon. _____,
_____ Judicial District Judge.

**PRIVATE ADMONITION WITH
CONDITIONS**

BJS File No. __-38

To: Judge _____

Pursuant to Rule 6(f), Rules of the Board on Judicial Standards (Board Rules), the Board on Judicial Standards (Board) considered the results of an investigation in the above matter and determined that there was reasonable cause to believe that you committed misconduct. The Board found that the misconduct in this matter appears to be of an isolated and non-serious nature and that, in lieu of public discipline under Board Rule 6(f)(5)(iii) (public reprimand) or Board Rule 8 (formal complaint), a private admonition with conditions should be issued pursuant to Board Rule 6(f)(5)(ii).

The Board served a proposed private admonition on you and notified you that you had the right within 20 days to serve the Board with either a written demand for a private hearing before the Board or your written comments and criticisms regarding the proposed private admonition. You did not demand a hearing or submit comments and criticisms within this time period. Consequently, the contents of the proposed private admonition are now conclusively established, and the Board now makes the following:

Findings

1. You have been a judge of the Minnesota _____ Judicial District since _____. You have no previous disciplinary history with the Board.

2. You have engaged in a pattern of making disparaging comments about other judges, attorneys, parties, and court staff, in chambers and in other professional settings. None of these disparaging comments served a legitimate purpose in furtherance of your judicial duties.

3. _____

4. _____

5. _____

6. You called a [court clerk] into chambers and angrily criticized her for a problem with a file she had worked on. The clerk was reduced to tears by what you said and how she was treated.

7. You have engaged in a pattern of inappropriate non-verbal behavior. Examples of such behavior include eye rolling, disbelieving facial expressions, pained-looking facial grimaces, the display of “can-you-believe-it” type gestures, back and forth negative shaking of your head, audible sighs of exasperation or impatience, and other similar signs of irritation and displeasure.

8. You have engaged in a pattern of making comments that reasonably appear to the targeted attorneys and their clients to be dismissive, close-minded, and unduly pre-judgmental. Examples include your saying “Stop, stop, why are you bringing that up?” or similar remarks or interruptions during hearings. You have suggested that an attorney was wasting your time by making a particular argument, and in chambers you have told defense attorneys not to bother bringing some things up because they knew their client was going to prison. You warned a lawyer “not to press his luck” when beginning to make an argument concerning bail _____. You have told lawyers that they could go ahead and file a motion or memo but that you were going to rule against them. On a number of occasions you have curtailed or simply not permitted an attorney to make an argument that you thought was irrelevant or pointless.

9. _____

Conclusion

1. The conduct set forth above violated Rules 2.2, 2.5(A), 2.6(A), and 2.8(B) of the Minnesota Code of Judicial Conduct.

Based upon the foregoing Findings and Conclusion, the Board now issues the following:

Private Admonition with Conditions

1. You are hereby admonished for the foregoing misconduct.

2. The following conditions are imposed.
- (a) You will determine the causes of the misconduct set forth above and take the actions necessary to ensure that the misconduct will not be repeated.
 - (b) _____

 - (c) You will attend and successfully complete a course on courtroom demeanor of the type offered by University of Minnesota Law School Professor Steve Simon; or, in the alternative, you will find a mentor, such as a well-respected, retired Minnesota judge, to be approved in advance by the Board, with the mentor to work with you to design, implement and complete a hands-on, observation-based, multi-week-long program for the review and improvement of your courtroom demeanor. If you participate in a program with a mentor, you will provide the mentor with copies of the Board's notice of investigation herein, your response, and this admonition. The instructor or mentor will provide the Board with written confirmation of satisfactory completion within six months after the date this admonition becomes final.
 - (d) You will complete a course in anger management; or, in the alternative, you will promptly consult a psychologist or psychiatrist to assist you in addressing the causes of your conduct set forth above, you will provide the psychologist or psychiatrist with copies of the Board's notice of investigation, your response, and this admonition, and you will comply with the reasonable recommendations of the psychologist or psychiatrist. Within six months after the date this admonition becomes final, you will provide the Board with a description of the actions you have taken pursuant to this paragraph.
 - (e) You will take the initiative to schedule two meetings with a designated Board member and the Board's Executive Secretary. The first meeting will be held approximately 30 days after the date this admonition becomes final and the second meeting will be held approximately six months after the date this admonition becomes final.
 - (f) You will complete all of the foregoing conditions at your own expense.
 - (g) Compliance with the foregoing conditions is required by Rule 2.16, Minnesota Code of Judicial Conduct.

The following Memorandum is made a part hereof.

MINNESOTA BOARD ON
JUDICIAL STANDARDS

Date: _____

By: _____
Thomas C. Vasaly
Executive Secretary

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MEMORANDUM

A private admonition may issued if a judge’s “misconduct appears to be of an isolated and nonserious nature.” Board Rule 6(f)(5)(ii). The Board seriously considered issuing a public reprimand pursuant to Board Rule 6(f)(5)(iii) rather than a private admonition because it is questionable whether his pattern of misconduct may be characterized as either isolated or nonserious. However, because Judge _____ does not have a disciplinary history, has acknowledged to the Board that he has acted inappropriately, and states that he will change the way he functions as a judge, the Board determined that this matter can be resolved with the issuance of an admonition. The Board does not expect that the misconduct will recur. If Judge _____ does not comply with the conditions set forth herein or if the conduct recurs, the Board will consider whether additional discipline is appropriate. Additional discipline may take the form of a public reprimand, suspension, or the other forms of discipline set forth in Board Rule 11(b).

The Board received credible evidence that Judge _____’s case management skills need improvement. For example, prosecutors at times failed to timely produce required discovery or ensure the presence of police officers at hearings, causing inefficiency and delay. In his response, Judge _____ stated that when the prosecutor fails to provide discovery, “there is nothing that I can do . . . but admonish them to get this information provided and give them another date as soon as possible.” A judge has a number of other options. *See, e.g.*, Minn. R. Crim. P. 9.03, subd. 8 (providing that if a party fails to comply with a discovery rule, the court may enter “any order it deems just in the circumstances”). The Board determined that these incidents did not rise to a level warranting discipline. However, the Board cautions Judge _____ that competent case management is required by the Code of Judicial Conduct. *See* Rule 2.5(A) (“A judge shall perform judicial and administrative duties competently and diligently.”) The Board recommends that Judge _____ address the Board’s concern by taking a course in case management.