

## MINNESOTA BOARD ON JUDICIAL STANDARDS

In the Matter of Judge Rex Stacey,  
First District Judge

**PUBLIC REPRIMAND**

File No. 16-10

To: Judge Rex Stacey.

The Board on Judicial Standards (“Board”) received a complaint concerning Judge Rex Stacey. The Board investigated the complaint. On July 6, 2016, based upon the Board’s investigation and proceedings, the Board issued a notice of proposed reprimand and conditions to Judge Stacey in accordance with Board Rules 6(f)(5)(iii) and 6(f)(7). Judge Stacey waived his right to demand a formal complaint and public hearing. Consequently, this reprimand is final.

Based upon the Board’s investigation and proceedings, the Board now makes the following:

### FINDINGS OF FACT

#### Disciplinary History

1. Judge Stacey was appointed to the bench in 1996. His chambers are in the Scott County Justice Center in Shakopee, Minnesota.

2. In 2007, the Supreme Court publicly reprimanded Judge Stacey for issuing an ex parte order that continued for dismissal a traffic ticket issued to a court clerk’s husband. *In re Stacey*, 737 N.W.2d 345 (Minn. 2007). The Court found that since the policy of continuing certain petty misdemeanors for dismissal is not well-known among members of the public, “the continuance for dismissal of a ticket issued to a family member of a court employee at the request of the court employee, in chambers rather than in open court, in violation of an express policy, weakens public confidence in the integrity and impartiality of the judiciary” and violated the Code of Judicial Conduct. *Id.* at 351.

3. In 2014, the Board issued a private admonition to Judge Stacey for his conduct in a divorce case. During the trial, he asked one of the parties argumentative and sarcastic questions. During an attorney’s cross-examination of a party, as the attorney was part way into his next question, Judge Stacey interjected: “I’ll be right back. Just continue without me.” Judge Stacey got up and walked out of the courtroom. Later, Judge Stacey returned to the courtroom, stating, “I’ve never done that before. It felt good.” Sometime later, Judge Stacey asked the courtroom clerk to give him another file and said to the attorneys: “Do whatever you want. This is nothing but a cat fight, slinging mud. I am no longer participating in it. Have at it.”

4. In 2015, the Board entered into a deferred disposition agreement with Judge Stacey based on his accusatory and inappropriate comments to a party at a custody hearing in the S.L. matter described below. The deferred disposition agreement provided, among other things:

If by June 1, 2017 the Board determines that Judge Stacey has committed a further violation of the Code of Judicial Conduct, the Board, in its sole discretion, may either issue the attached admonition to Judge Stacey or may take such other action under Board Rule 6(f) as the Board deems proper, which may include the issuance of a public reprimand or the filing of a Formal Complaint seeking public discipline against Judge Stacey based on the matters referred to in the attached admonition in addition to the additional violation that has come to the Board's attention.

5. Judge Stacey violated the deferred disposition agreement and the Code of Judicial Conduct by engaging in misconduct at an April 5, 2016 hearing in the B.B. matter described below. The Board has determined that Judge Stacey should be publicly reprimanded and conditions should be imposed upon him.

### **I. S.L. Matter**

6. S.L. is the mother of two minor children. She is divorced and has physical custody of the children. S.L. filed a petition for an order for protection against the father of the children. The matter was heard by Judge Stacey on March 17, 2015. At the hearing, Judge Stacey made accusatory, hostile, and discourteous comments to S.L., including the following:

You need counseling badly, because your kids are suffering. Not because of him [the father]. Because of you. Because of you. Because you don't see the truth in things.

\* \* \*

I don't believe your children are afraid of their father. I think they're afraid of you. If they're afraid of anybody, it's you.

Tr. 31, 34-35.

7. There was no evidence before the court that S.L.'s children were afraid of her. Judge Stacey's accusatory, hostile, and discourteous comments did not serve any legitimate purpose and caused S.L. to believe that Judge Stacey was biased against her.

### **II. B.B. Matter**

8. B.B. is the father of one child. The divorce decree awarded custody to the mother. At the April 5, 2016 hearing on B.B.'s motion for change of custody, Judge Stacey made accusatory, hostile, and discourteous comments to B.B., including the following:

Children don't dump on their parents. It's elicited, especially with a nine-year-old. [B.B.] and his mother are pumping this child for dirt on their mother – on her mother. You should be ashamed. You should be truly ashamed, sir.

Tr. 6.

9. B.B. alleged that his ex-wife appeared to have alcohol problems. Judge Stacey responded: "He's exaggerating it. Yeah, terribly. It's deplorable. Do you hear me? Deplorable." Tr. 8.

10. There was insufficient evidence before the court to support Judge Stacey's accusatory, hostile, and discourteous comments to B.B. Judge Stacey's comments did not serve any legitimate purpose and caused B.B. to believe that Judge Stacey was biased against him.

### **CONCLUSIONS**

1. Judge Stacey's conduct in the S.L. and B.B. matters described above violated the following provisions of the Minnesota Code of Judicial Conduct: Rule 1.2, requiring a judge to promote public confidence in the impartiality of the judiciary; Rule 2.2, requiring a judge to perform the duties of judicial office fairly and impartially; and Rule 2.8(B), requiring a judge to be patient, dignified, and courteous to litigants.

2. In violating the Code of Judicial Conduct in the B.B. matter, Judge Stacey violated the deferred disposition agreement.

### **PUBLIC REPRIMAND AND CONDITIONS**

Based on the foregoing Findings and Conclusions, the Board hereby issues the following public reprimand and conditions:

1. You are hereby publicly reprimanded for the foregoing misconduct.
2. You will comply with the following conditions:
  - a. You will determine the causes of the misconduct set forth above and take the actions necessary to ensure that the misconduct is discontinued and not repeated.
  - b. During court hearings, you will not make accusatory, hostile, and discourteous comments to parties who appear before you.
  - d. Compliance with the foregoing conditions is required by Rules 1.1 and 2.16, Minnesota Code of Judicial Conduct, and Board Rule 2(f). If you do not comply with the conditions set forth herein or if additional misconduct occurs, the Board will consider whether additional discipline is appropriate.

The memorandum below is made a part hereof.

MINNESOTA BOARD ON JUDICIAL  
STANDARDS

Dated: July 26, 2016

By: s/ Thomas C. Vasaly  
Thomas C. Vasaly  
Executive Secretary

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**MEMORANDUM**

Judge Stacey's disciplinary history and his conduct in the S.L. and B.B. matters show a pattern of personal attacks on litigants as well as other misconduct. In his response, Judge Stacey asserts that "there just isn't a substitute for looking someone in the eye and telling them what you think." However, Judge Stacey's comments were based on his assumptions, and he did not have a sufficient basis to justify personal attacks on the parties who appeared before him. His comments caused the parties not to re-examine their actions but to believe that Judge Stacey was biased against them.

The effect of conduct such as Judge Stacey's is to cause litigants to lose confidence in the fairness of the judicial system. "Our legal system can function only so long as the public, having confidence in the integrity of its judges, accepts and abides by judicial decisions." *In re Winton*, 350 N.W.2d 337, 340 (1984).

Judge Stacey repeated his misconduct after the Board specifically notified him that future misconduct could result in public discipline. The Conditions herein require Judge Stacey to discontinue engaging in misconduct. In the event that Judge Stacey again engages in misconduct, the Board will consider whether more severe discipline is appropriate.