



SPOKANE POLICE DEPARTMENT

CHIEF OF POLICE

CRAIG N. MEIDL

September 6, 2023

TO: Washington State Court of Appeals – Division III
500 North Cedar Street
Spokane, WA 99201

Honorable Judges of Division III

I write this in support of Preston McCollam's letter, dated August 2, 2023, as it relates to the Honorable George Fearing. The foundation for my concurrence is thoroughly explained by Mr. McCollam (Chief Criminal Deputy for the Spokane County Prosecuting Attorney's Office). Based on Judge Fearing's own words, as pontificated in his opinion expressed in *State v. Vaile*, I strongly believe the letter and spirit of the below rules located in *The Code of Judicial Conduct* were clearly violated.

The Code of Judicial Conduct, Rule 1.2, *Promoting Confidence in the Judiciary*, states:

[5] Actual improprieties include violations of law, court rules, or provisions of this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge's honesty, *impartiality, temperament, or fitness to serve as a judge.* (emphasis added)

The Code of Judicial Conduct, Rule 2.3, *Bias, Prejudice, and Harassment*, states:

(A) A judge shall perform the duties of judicial office, including administrative duties, *without bias or prejudice.*

COMMENT

[1] *A judge who manifests bias or prejudice in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute.* (emphasis added)

The Code of Judicial Conduct, Rule 2.4, *External Influences on Judicial Conduct*, states:

(A) A judge shall not be swayed by *public clamor*, or fear of criticism.

(B) A judge shall not permit family, *social, political*, financial, or other interests or relationships to influence the judge's judicial conduct or judgment.

COMMENT

[1] *Judges shall decide cases according to the law and facts....* (emphasis added)

The Code of Judicial Conduct, Rule 2.8, *Decorum, Demeanor, and Communication with Jurors*, states:

(B) A judge shall 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...* (emphasis added)

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This incident revolves around a phone call from the victim of an assault, requesting deputies respond to her call for assistance. The deputies had no choice as to whether they would respond or not; when a victim of an assault requests law enforcement, the community expects a response. Nor does law enforcement base whether they are going to respond to a victim's request for help on the suspect's demographics. Law enforcement is expected to respond, conduct an investigation and take appropriate legal action based on that investigation. That is what occurred in this incident.

Judge Fearing's dissertation included minimizing the victim of this incident, who was concerned enough for her safety to call law enforcement. **"Some white women view police as private security guards and protectors ready to perform their bidding. We pejoratively label these women with the moniker "Karen." Videos abound of Karens asking for assistance because of the innocuous presence of a Black man."** (page 20) He cites a book *How White Women Weaponize White Womanhood*. Then he continues, **"When calling 911, Murray likened the kiss to a gang rape. History informs of numerous instances of white women claiming rape when innocently touched by a Black man."** (pp. 20-21) According to Dictionary.com, "Karen is a pejorative slang term for an obnoxious, angry, entitled, and often racist middle-aged white woman who uses her privilege to get her way or police other people's behaviors." (<https://www.dictionary.com/e/slang/karen/>) The victim in this case was kissed by a subject without her permission, hence she called law enforcement. To label her as a Karen is demeaning to her rights as a victim and all women who have been touched in an intimate manner without their permission or approval. To further this outrage, taking liberty of over-exaggerating her concern by comparing it to a gang rape is unfathomable, especially from one who sits on the bench and is expected to be impartial, without bias, and of calm temperament. Lastly, minimizing the behavior of the accused by categorizing the presence of the suspect as "innocuous" further illustrates the tremendous bias reflected in this dissent. If kissing another against their will can be alluded to as "innocently" touching (page 21), this will be unprecedented case law that will have reverberations throughout Washington.

After dismissing the victim for having the audacity to call law enforcement because she was kissed against her will (called an assault in legal vernacular), Judge Fearing then turns his attention to law enforcement. "History informs of numerous instances of white women claiming rape when innocently touched by a Black man. Brutal consequences to the male follow." Moving past the unwanted kiss as "innocently touched" (Judge Fearing's words, not mine), the blanket and ignorant statement that "brutal consequences" follow is not statistically accurate. Uses of force against Whites and Blacks typically hovers between 1.1% to 2% for all ARRESTS based on prior years' data. The insinuation that law enforcement uses "brutal" methods when arresting Black males, let alone any arrestees, is offensive and erroneous. In fact, an independent study of the Spokane Police Department by Arizona State University stated, **"Use of force by police is an uncommon event."** (*Exploring the Potential for Body-Worn Cameras to Reduce Violence in Police-Citizen Encounters*. Michael D. White, Janne E. Gaub and Natalie Todak.) An article published by the Department of Justice Community Oriented Policing Dispatch stated, "The SPD's (Spokane Police Department) use of force training requirements exceed accreditation standards and CRI-TA recommendations." https://cops.usdoj.gov/html/dispatch/02-2019/spokane_pd.html

The false allegations stating, "Brutal consequences to the male follow", is not supported by the data, and is more reflective of an emotionally charged narrative circulating within some circles in the community. These types of statements have no place in a court ruling from any Judge.

Similar inflammatory statements, "Overcharging a Black man for rebelliousness is common", (page 25), "A man of color resists arrests if he so much as twitches when being detained by law enforcement", (page 26) paints all law enforcement with a broad brush, and is not based on any testimony relating to the societal relationship between Black men and law enforcement during the court proceedings in question. This further rhetoric is reminiscent of the



Black Lives Movement activists, and has no place being brought into this trial. The hyperbole of a “twitch” leading to detainment by law enforcement defies logic, experience and credibility. It is certainly unbecoming of a judge in any courtroom. Categorizing the Deputies’ description of being unable to control the defendant in this case as “(catering) to a stereotype of African-American men as violent brutes bred to be large and strong” (page 32) inappropriately assumes at best, accuses at worst, that the Deputies share this mindset expressed by Judge Fearing.

The Spokane Police Department was not on trial during this case, nor did SPD have any roll in this incident. For reasons unknown, Judge Fearing determined it appropriate to reference SPD in his diatribe against law enforcement. (page 53-54) This, also, is grossly inappropriate and had nothing to do with this case.

I have found one area of this dissertation from Judge Fearing that I can concur with. His self-acknowledgement that he is demonstrating partiality (page 48) is clearly accurate throughout this write up. Merriam-Webster’s Dictionary defines *partiality* as, “the quality or state of being partial: BIAS”. (<https://www.merriam-webster.com/dictionary/partiality#:~:text=1,a%20special%20taste%20or%20liking>)

To further develop what is meant by “bias”, Merriam-Webster’s Dictionary defines “bias” as, “an inclination of temperament or outlook; especially : a personal and sometimes unreasoned judgment: PREJUDICE”.

By his own written admission, Judge Fearing has acknowledged in writing that he has violated *The Code of Judicial Conduct*, including Rule 1.2, *Promoting Confidence in the Judiciary*: “Actual improprieties include violations of law, court rules, or provisions of this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge’s honesty, **impartiality, temperament**, or fitness to serve as a judge.”; Rule 2.3, *Bias, Prejudice, and Harassment*: “A judge shall perform the duties of judicial office, including administrative duties, **without bias or prejudice** - COMMENT A judge who manifests **bias or prejudice** in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute.”; Rule 2.4, *External Influences on Judicial Conduct*: “(A) A judge shall not be swayed by public clamor, or fear of criticism. (B) A judge shall not permit family, **social, political**, financial, or other interests or relationships to influence the judge’s judicial conduct or judgment. – COMMENT [1] Judges shall decide cases **according to the law and facts...**” (emphasis added)

The Spokane Police Department relies upon the Spokane County Prosecuting Attorney’s office to prosecute all felony level offenses and all juvenile offenses committed in the City of Spokane. The opinion expressed by Judge Fearing clearly indicates that he has already established a visceral and indelible opinion of the Spokane criminal justice system, the Spokane County Prosecuting Attorney’s office, the Spokane Police Department and other area law enforcement agencies. A person who possesses such a strongly held and decidedly negative opinion of the Spokane criminal justice system cannot be expected, in good conscience, to provide an impartial opinion on any case originating out of Spokane. In Judge Fearing’s own words wrote, “In response to this court majority’s accusation of partiality, I plead guilty.” This is akin to a written confession of violations of longstanding rules included in the Code of Judicial Conduct.

Respectfully,



Craig Meidl

Spokane Police Department