



STATE OF WASHINGTON
COMMISSION ON JUDICIAL CONDUCT

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June 25, 2007

CONFIDENTIAL

Brian Carr
11301 NE 7th St., Apt. J5
Vancouver, WA 98684

Re: Complaint No. 5079

Dear Mr. Carr:

This letter is in response to your e-mail to me on June 23rd. The Commission originally dismissed your complaint at its meeting on August 4, 2006. The commission members who deliberated on your complaint at that meeting were: Antonio Cube, Wayne Ehlers, Larry Goldberg, Hubert Locke, John Erlick, Margaret Ross, John Schultheis and John Sleeter. The complaint was "dismiss[ed] as legal."

The analysis for such a determination is complicated and reflects a fundamental limitation of the jurisdiction and function of the Commission. Generally, allegations that a judge (or judges in your case) misapplied the law is beyond the purview of the Commission's function. The issue of whether a judge's decision was legally correct is separate from the issue of whether the judge acted in accordance with the Code of Judicial Conduct. The Commission has no authority to act as a court of review, determining the legal or factual validity of any judge's decision. Absent some objective evidence of improper influence or motive, the Commission cannot take action based on the legal decision made by a judge, even in cases where it might appear that decision was incorrect. Dissatisfaction with a legal decision must be remedied through the legal process, which is separate from the Commission's jurisdiction.

The closure of your complaint does not demonstrate an opinion by the Commission that there was no legal error in your case. (Neither does it show that the Commission believed there was legal error.) Whether a judge has made a legal error is frequently a question on which disinterested, legally trained people can reasonably disagree. The dismissal simply means that the Commission members concluded there was not the kind of evidence of an *ethical* violation (as opposed to supposed misapplication of a law) that would lead to the filing of public charges.

Sincerely,

Kurt C. Twitty
Senior Investigative Counsel

