Commission on Judicial Conduct
1501 W. Washington St., Suite 229
Phoenix, Arizona 85007
Telephone: (602) 452-3200

STATE OF ARIZONA

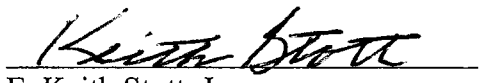
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning Judge	)	
	)	Case No. 10-275
Mark Chiles	)	
East Mesa Justice Court	)	**TRANSMITTAL OF THE RECORD**
Maricopa County	)	**TO THE SUPREME COURT**
State of Arizona	)	
Respondent	)	
	)	

1. Notice of Filing with the Supreme Court.
2. Notice of Institution of Formal Proceedings.
3. Statement of Charges.
4. Record of Appointment of Hearing Panel.
5. Stipulated Agreement for Discipline by Consent.
6. Transcripts referenced in Stipulated Agreement.
   (Exhibits 2, 4 and 5 to the original complaint)
7. Acceptance of Stipulated Agreement for Discipline by Consent.
8. Recommendations.

DATED this 19th day of April 2011.

COMMISSION ON JUDICIAL CONDUCT



E. Keith Stott, Jr.
Executive Director

Commission on Judicial Conduct
1501 W. Washington St., Suite 229
Phoenix, Arizona 85007
Telephone: (602) 452-3200

FILED
APR 19 2011
ARIZONA COMMISSION ON
JUDICIAL CONDUCT

STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning Judge	)	Commission No. 10-275
	)	
MARK CHILES	)	
Justice Court	)	
Maricopa County	)	**NOTICE OF FILING WITH**
State of Arizona	)	**THE SUPREME COURT**
Respondent	)	
	)	

PLEASE TAKE NOTICE that the Commission's Recommendations in the above-entitled case, together with all other pertinent pleadings contained in the record, were filed on this date with the Clerk of the Arizona Supreme Court, 1501 W. Washington, Suite 402, Phoenix, Arizona 85007. Copies of the pleadings, along with this notice, were promptly served on Respondent.

The Commission accepted a stipulated agreement for discipline by consent in this case in the best interest of the public and pursuant to guidance provided in previous cases in which the Commission was encouraged to pursue alternative resolutions. *In Re Braun*, 180 Ariz. 240, 242, 883 P.2d 996, 998 (1994); *In Re Garcia*, 180 Ariz. 294, 296, 884 P.2d 180, 182 (1994).

The Clerk of the Supreme Court is advised that the Respondent has waived the right in Rule 29(c) of the Rules of the Commission on Judicial Conduct to petition the Court to modify or reject the Commission's recommendations and the right to request oral argument. This matter, therefore, may be deemed submitted pursuant to Rule 29(e).

DATED this 19th day of April 2011.

COMMISSION ON JUDICIAL CONDUCT

Keith Stott

E. Keith Stott, Jr.
Executive Director

Copies of this notice were delivered and mailed
this 19th day of April 2011 to:

Mark Chiles
Respondent
East Mesa Justice Court
4811 E. Julep, 3128
Mesa, AZ 85205

Jennifer M. Perkins
Disciplinary Counsel
Commission on Judicial Conduct
1501 W. Washington, Suite 229
Phoenix, Arizona 85007

By: B. Vanlass

Commission on Judicial Conduct
1501 W. Washington St., Suite 229
Phoenix, Arizona 85007
Telephone: (602) 452-3200

FILED
MAR 24 2011
ARIZONA COMMISSION ON
JUDICIAL CONDUCT

STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning Judge	)	
	)	Case No. 10-275
MARK CHILES	)	
East Mesa Justice Court	)	
Maricopa County	)	**NOTICE OF INSTITUTION OF**
State of Arizona	)	**FORMAL PROCEEDINGS**
	)	
Respondent.	)	

TO JUDGE MARK CHILES:

You are hereby notified that the Commission on Judicial Conduct has instituted formal proceedings against you in accordance with Rule 24 of the Rules of the Commission on Judicial Conduct ("Rule") to inquire into the charges specified in the attached Statement of Charges. You are also notified that a hearing will be held before the Commission to determine whether or not these charges constitute grounds for your censure, suspension, removal from office as a judge, or other appropriate discipline as provided in Article 6.1 § 4 of the Arizona Constitution.

You are further notified that:

1. Jennifer Perkins, Attorney at Law, will act as disciplinary counsel for the Commission in this matter, to gather and present evidence before the Commission on the charges.

2. You have the right, pursuant to Rule 25(a), to file a written response to the charges made against you within 15 days after personal service of this notice upon you or within 20 days of the date this notice is mailed. An original signed copy of the response must be filed in the Commission's office by 5:00 p.m. on the required date.

3. Upon receipt of your response, or upon expiration of the time in which a response may be filed, the Commission will open and maintain a public file containing the Notice of Institution of Formal Proceedings, the Statement of Charges, and all subsequent pleadings filed with the Commission. This file and the formal hearing in this case shall be open to the public in accordance with Rule 9(a).

4. You have the right to be represented by counsel, to examine and cross-examine witnesses and to require the issuance of subpoenas for the attendance of witnesses or for the production of any evidentiary matters necessary for your defense.

5. During the pendency of these proceedings, you or the Commission may refer to or use prior cases, if any, pertaining to previous complaints or discipline for the purpose of determining the severity of the sanction, a pattern of misconduct, or exoneration.

Dated this 24th day of March 2011.

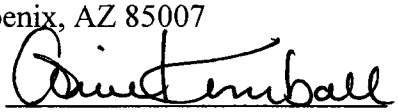
COMMISSION ON JUDICIAL CONDUCT

E. Keith Stott, Jr.
Executive Director

Copy of this pleading sent by U.S. mail
or hand-delivery on March 24, 2011, to:

Mark Chiles
Justice of the Peace
East Mesa Justice Court
4811 E. Julep, #128
Mesa, AZ 85205

Jennifer Perkins
Disciplinary Counsel
Commission on Judicial Conduct
1501 W. Washington Street, Suite 229
Phoenix, AZ 85007

By: 

Jennifer M. Perkins
Disciplinary Counsel (Bar #023087)
Commission on Judicial Conduct
1501 W. Washington St., Suite 229
Phoenix, Arizona 85007
Telephone: (602) 452-3200

FILED
MAR 24 2011
ARIZONA COMMISSION ON
JUDICIAL CONDUCT

STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning	)	
	)	
Judge Mark Chiles	)	Case No. 10-275
East Mesa Justice Court	)	
Maricopa County	)	**STATEMENT OF CHARGES**
State of Arizona	)	
Respondent.	)	

An investigative panel composed of members of the Commission on Judicial Conduct (Commission) has determined that there is reasonable cause to commence formal proceedings against Judge Mark Chiles (Respondent) for misconduct in office. This statement of charges sets forth the Commission's jurisdiction and specifies the nature of the alleged misconduct.

JURISDICTION

1. The Commission has jurisdiction of this matter pursuant to Article 6.1, § 4 of the Arizona Constitution.

2. This Statement of Charges is filed pursuant to Rule 24(a) of the Rules of the Commission on Judicial Conduct (Commission Rules).

3. Respondent has served as a justice of the peace in Maricopa County since November 2006, and was serving in his capacity as a judge at all times relevant to these allegations.

4. As a judge, Respondent is and has been subject to all provisions of the Code of Judicial Conduct (Code) as set forth in Supreme Court Rule 81.

FACTUAL BACKGROUND

State v. Secor, CR 2005-00750-MI, July 20, 2010

5. Deputy Public Defender Charlene Braaksma received notice of her appointment to represent the defendant moments before the hearing in this matter and unsuccessfully attempted to inform the court beforehand that she had not yet received a copy of the file or had an opportunity to perform a conflicts check. Respondent refused Ms. Braaksma an opportunity to speak, and to explain that she could not proceed with the hearing at that time, until after the representative for the state made her opening statement. Respondent ultimately granted Braaksma's request for a continuance, but his demeanor during the hearing was impatient and his tone of voice rude.

State v. Zeldon, TR 2009-140588, August 10, 2010

6. Counsel for Defendant Zeldon did not enter an appearance by 9:20 a.m. at the hearing scheduled for 9 a.m. Respondent called the defendant's case and stated that the court would hold his counsel in direct contempt of court, twice suggesting that Mr. Zeldon "might want to let" his counsel know of the court's contempt finding.

7. At 9:47 a.m., Mr. Zeldon's attorney appeared before Respondent and explained he was delayed because of his birthday breakfast, but had arrived at the courthouse at

approximately 9:20 a.m. Respondent decided at that time not to hold the attorney in contempt, but noted that his earlier comments "probably put a little bit of fear" into Mr. Zeldon. Respondent then directed counsel to assure Mr. Zeldon that he was not biased, but also offered to disqualify himself if necessary.

State v. Stocki, TR 2009-174005, August 10, 2010

8. Counsel for Defendant Stocki attended a calendar call at 9 a.m., but mistakenly believed it was unnecessary for his client to attend. Counsel contacted Mr. Stocki immediately upon learning otherwise to get him to the courthouse. When his client had not arrived by 9:25 a.m., however, Respondent found Mr. Stocki in direct contempt and ordered an arrest warrant issued for Mr. Stocki.

9. Counsel for Mr. Stocki attempted to object and to make a record of his objection to the issuance of the warrant, but Respondent refused to allow counsel to speak. When counsel attempted to do so, Respondent threatened to hold him in direct contempt as well.

10. At 10:05 a.m., Mr. Stocki appeared before Respondent who explained that the court's order setting the calendar call specifically noted his requirement that the defendant be present. Respondent stated at least twice to Mr. Stocki: "you have a choice to make, you can either listen to counsel, or you can listen to the judge," or words to the same effect.

State v. Pelland, JC 2010-117058-001, August 31, 2010

11. The case involved a domestic dispute between the defendant, Shannon Pelland, and her former mother-in-law, Pam Pelland, that occurred when Shannon came to pick up her daughter from visitation with Pam. An argument ensued, and Shannon was charged with

misdemeanor assault for allegedly causing a cut on Pam's face and scratches on Pam's Judge Chiles found Shannon guilty after a bench trial.

12. At the sentencing hearing, Respondent proposed to defer and waive jail time if Shannon would allow Pam visitation with the child. His court had no jurisdiction over the visitation issue, and Respondent's proposal was not clear to counsel, who attempted to clarify the sentence proposal. Respondent refused to explain his proposal. When counsel twice attempted again to clarify, Respondent refused any explanation, and then withdrew his proposal, stating: "Okay. Then what I'm going to do is just impose the jail sentence, if that's what your client wants. Then I'll just impose the jail sentence and it's a done deal."

13. Counsel continued to question what was going on and Respondent held him in contempt of court, immediately sentencing him to one day in jail. Respondent later reversed his contempt order.

ETHICAL MISCONDUCT

14. Respondent's conduct, as described above and taken together, demonstrates a pattern of abusing his power to hold individuals in contempt of court. Respondent improperly relies on this power, threatening immediate jail time, as a tool to ensure respect for himself and his orders. Respondent may also be using his contempt authority in violation of the statutory due process requirements before depriving a litigant or attorney of his liberty.

15. Respondent also improperly violated the rights of litigants and, in particular, lawyers to be heard by threatening to hold them in contempt and put them in jail immediately.

16. Respondent's conduct shows a pattern of interference with the attorney-client relationship by making statements undermining defendants' confidence in their attorneys.

17. Respondent failed to maintain a patient, dignified, and courteous demeanor.

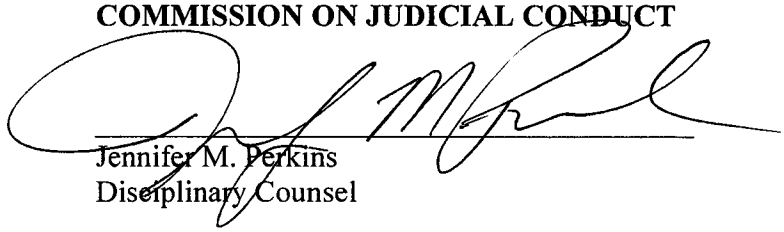
18. Respondent has thus violated Rules 1.2, 2.6(A), and 2.8(A) of the Code, as well as the Arizona Constitution, which forbids "conduct prejudicial to the administration of justice that brings the judicial office into disrepute." Article 6.1, § 4.

REQUESTED RELIEF

WHEREFORE, the Commission, upon conclusion of a hearing and a finding of good cause, may recommend to the Supreme Court that Respondent be publicly censured; that costs be assessed against Respondent pursuant to Commission Rule 18(e); and that the court grant such other relief as may be deemed appropriate.

Dated this 25th day of March, 2011.

COMMISSION ON JUDICIAL CONDUCT



Jennifer M. Perkins
Disciplinary Counsel

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1501 W. Washington St., Suite 229
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Telephone: (602) 452-3200

FILED
MAR 24 2011
ARIZONA COMMISSION ON
JUDICIAL CONDUCT

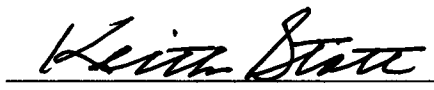
STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning Judge	)	
	)	Case No. 10-275
MARK CHILES	)	
East Mesa Justice Court	)	
Maricopa County	)	**RECORD OF APPOINTMENT**
State of Arizona	)	**OF HEARING PANEL**
Respondent	)	
	)	

Acting pursuant to Rules 3(f) and 27(a) of the Rules of the Commission, Judge Louis Frank Dominguez, Chair of the Commission, appointed Judge Lawrence Winthrop to serve as the presiding member of the hearing panel in the above-entitled proceeding and designated the following as members of the panel: Lloyd Claycomb, Louis Dominguez, Peter Eckerstrom, George Foster, Sherry Geisler, Angie Sifuentes, and Tyrrell Taber.

DATED this 24th day of March 2011.

COMMISSION ON JUDICIAL CONDUCT



E. Keith Stott, Jr.
Executive Director

Copies delivered by mail or in person
on March 24, 2011, to:

Mark Chiles
Justice of the Peace
East Mesa Justice Court
4811 E. Julep, #128
Mesa, AZ 85205

Jennifer M. Perkins
Disciplinary Counsel
Commission on Judicial Conduct
1501 W. Washington Street, Suite 229
Phoenix, AZ 85007

by:

Jennifer M. Perkins
Disciplinary Counsel (Bar #023087)
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FILED
APR 15 2011
ARIZONA COMMISSION ON
JUDICIAL CONDUCT

STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning	)	
	)	
Judge Mark Chiles	)	Case No. 10-275
Justice Court	)	
Maricopa County	)	
State of Arizona	)	**STIPULATED AGREEMENT FOR**
Respondent.	)	**DISCIPLINE BY CONSENT**

COME NOW Judge Mark Chiles, Respondent, and Jennifer Perkins, Disciplinary Counsel for the Commission on Judicial Conduct (Commission), and hereby submit the following proposed resolution of this case pursuant to Rule 30 of the Commission Rules.

1. The Commission has jurisdiction over these matters pursuant to Article 6.1 of the Arizona Constitution.

2. Respondent has served as a justice of the peace in Maricopa County since January 2007 and was serving in this capacity at all times relevant to the allegations contained herein.

3. As a justice of the peace, Respondent is and has been subject to the Code of Judicial Conduct (Code) as set forth in Supreme Court Rule 81.

4. On March 24, 2011, Disciplinary Counsel filed a formal Statement of Charges against Respondent after an investigative panel found reasonable cause to authorize formal proceedings. The Statement of Charges is hereby incorporated into this stipulated agreement in its entirety.

5. Respondent admits the facts in the Statement of Charges and concedes that the facts support the charges of judicial misconduct. Respondent believes it is important to note that he acted in good faith and did not intentionally violate the Code, and that he believed his actions were consistent with his training. Respondent also clarifies that he did not use his contempt power to gain respect for himself, only to ensure respect for his orders. Nonetheless, because he was mistaken about the appropriate use of his authority to hold individuals in direct contempt of court, Respondent acknowledges his culpability for his conduct.

6. Disciplinary counsel notes that the transcripts of the relevant proceedings demonstrate that his conduct was too serious and offensive to ignore or resolve informally. Thus, the transcripts will be made available to the hearing panel and provided to the Supreme Court as part of the record of this case if the hearing panel accepts this stipulated resolution.

7. The parties agree that Respondent's misconduct in the underlying cases warrants a sanction, and that the appropriate sanction is a formal censure.

8. The parties also agree that Respondent will attend additional training during the week of April 11-15, 2011, specifically related to the use of judicial power to hold individuals in contempt of court and judicial ethics in general. Further, the Commission will assist Respondent in obtaining a mentor judge to provide advice to Respondent on proper courtroom demeanor, the use and conduct of contempt proceedings, and other matters related to this case.

9. This agreement, if accepted by the hearing panel, fully resolves all issues raised in the Statement of Charges and may be used as evidence in later proceedings in accordance with the Commission's Rules. If the panel does not accept this agreement as a full resolution, it may either propose modifications that would render the agreement acceptable, or outright reject the agreement. If the panel rejects the agreement, then the admissions made by Respondent are withdrawn, and the matter will be set for hearing without use of or reference to the agreement.

10. Respondent waives his right to file a Response to the Statement of Charges, pursuant to Commission Rule 25(a).

11. Pursuant to Commission Rule 28(a), both parties waive their right to appeal the charges at issue in this matter, including the appeal procedures set out in Commission Rule 29.

12. Both parties agree not to make any statements to the press that are contrary to the terms of this agreement.

13. Both parties will pay their own costs and attorneys' fees associated with this case.

14. Respondent has reviewed and clearly understands the terms and conditions of this agreement and fully agrees with its terms.

15. This agreement constitutes the complete understanding between the parties.

SUBMITTED this__ day of April, 2010.

Mark Chiles, Justice of the Peace
Respondent

4/15/11
Date Signed

Jennifer Perkins, Disciplinary Counsel
Commission on Judicial Conduct

4/15/11
Date Signed

Exhibit 2

STATE V. SHANNON MARIE PELLAND
JC2010-117058-001

SENTENCING HEARING
THE HON. MARK CHILES, PRESIDING JUDGE

Date of Hearing: August 31, 2010 Time: Unknown

Present:

JC: Mark Chiles, Judicial Officer
JS: Jennifer Sheriff, Deputy County Attorney
MV: Michael Vincent, Deputy Public Defender
SP: Shannon Pelland, Defendant
UK: Unknown Person

JC: Alright.

UK: They're all here. Did you need me? Okay.

JC: This is case number J-C-2-0-1-0-1-1-7-0-5-8. Let me go ahead and get introduction by parties here.

JS: Good morning your Honor, Jennifer Sheriff on behalf of John Nielson (spl?) for the state.

JC: Alright, thank you.

MV: Michael Vincent for Shannon Pelland who's present.

JC: Alright. This court, or excuse me this court session is the final phase of the sentencing of both the state and the defendant has had an opportunity to address the court. Now, concerning the defendant's statements submitted, ma'am I did read each and every one of these. I could actually make comments on each and every one. Uhm, the fact that you're, are you promoted to or you requesting a promotion?

SP: No, it's in the process, I'm just waiting.

JC: Alright.

SP: Uhm, to be trained and (unintelligible).

JC: I do also note there that you say, I respect any decision you make. Well I thank you for that. I hope that after this court session you still believe that and say that. I did read concerning your, your uh, juvy record, uh thoroughly understand that.

Uhm. There's a statement here, that I want to make sure that you understand, and that is that this issue that's before you today is gonna stop you from voting, in, in election, this is not a felony, this is a misdemeanor. That is not correct, so just wanted you to understand that, you might let the people that wrote these statements understand that it's not that egregious. That it's a felony, it's, it's a misdemeanor. There was a common theme in, in almost each and every one of these statements and, there's a couple common themes, but one common theme, is, is that uh, you will argue until you turn blue, when you think you're right, you will, stand up and fight whatever comes before you. That may be part of the problem, I don't know, I'm not a counselor, uh, so, part of the sentence today uh, may help you with that because there is a time where you say, uh–

SP: Right.

JC: –better, better thing to do is step down and walk away.

SP: I think it's a good thing and a bad thing. (Unintelligible).

JC: And, and it can be in certain situations. In this situation, I know that you had an actual conversation with the victim and, uh, before you picked up your children and in that conversation you noted hostility from the victim. That may have been one of those times where you might want to say, if I go over there and I show up, something bad may happen so might want to take–

SP: Yeah I didn't want to go.

JC: –other steps but, you did go and, you went and you knew that there was going to be a problem. Anyway, and enough of the back and forth, I've, I've read these statements, I, I do understand them, it's, it's now time uh, for the uh sentence. Would you please stand? Alright, the court imposes the following sentence. And listen carefully before you get emotional, cause there's going to be more at the end. Alright, I do sentence you to fourteen consecutive days in jail with no work release, jail sentence to serve starting this Saturday, September fourth, two thousand ten at eight a.m. Defendant to pay jail fees of one thousand, one hundred and fifty dollars, that's a normal confinement. Uh, court also sentences you to do twenty hours community service to be completed by November fifteenth two thousand ten and submitted to this court no later than November sixteenth two thousand ten at four thirty p.m. The court at well, as well sentences you to do domestic violence offender's program of not less than fifteen sessions. And then, two hundred and fifty word essay discussing the importance of respecting others and lessons learned in this case including comments on the counseling classes that you did take, I want that at the end. As well as three years summary, summary probation. Now, that is the sentence that this court imposes upon you. Concerning the jail time, this is where you need to make a decision. The jail time, I will, your decision, defer to the end of, the summary probation period. At that time, the court will hold a hearing and, this all I'm going to say, if the victim tells this court that she has not been deprived of any rights that she had prior to the incident, then, this court at that time will waive the jail and the jail fees. Do you have any questions about what I just said there?

MV: Yes.

JC: Go ahead.

MV: Are you referring to, rights, of, any potential visitation of grandchildren?

JC: I am saying this, I am saying this and that's why I said that I'm not going to clarify any more than what I just stated because this is your court. As far as I'm concerned you could just go to jail starting this Saturday if that's what you want do, fine. Then there is no, uh, this part is not applicable. But at your choice as the defendant, if you want the court to defer the jail time to the end of the summary probation and then at that time the court will hold a hearing. Wherein the victim can just basically come into the court and say, I have the same rights that I had before the incident, prior to the incident. Then I'll go ahead at that time and I'll waive the jail time along with the jail fees. If you don't want to do that, that's fine with the court, just do the jail time.

MV: Judge.

JC: And that would be this Saturday.

MV: What rights are you referring to?

JC: And again counsel, I don't know how much clearer I can make it. I said what I said and that's the way it's going to be. At the defendant, the defendant can make the decision. If she doesn't want to do that, that's fine with the court. Again, I, like I told you before you left last night, one of the purposes of the court is to make sure that the victim is not victimized anymore. She should have the same rights and privileges that she had prior to the incident. She is a victim and that's the way this court looks at it. Now if, I can't order you to do any of that. Hopefully, because I read in your statement again, that the victim, your words, was what you considered to be one of your best friends and had done a lot for you, your words. Okay? This incident shouldn't play upon her being one of your big enemies now. That's the way the court looks at it. So, you make that choice as to what you want to do and you can you let my clerks know up front.

MV: May I say something?

JC: Uh. If we're not going around in circles, yes.

MV: Ms. Pelland is entitled to know under what conditions she would, the fourteen days would kick in or the fourteen days would not kick in.

JC: Okay. Then what I'm going to do is just impose the jail sentence. If that's what your client wants. Then I'll just impose the jail sentence and it's a done deal. We don't need to sit here & argue about this and go around and around. It was just something I was throwing out there.

MV: Well–

JC: Is that what you'd like ma'am?

1 MV: If, if, you're trying to impose–

2 JC: I'm not trying to impose–

3 MV: Well you are.

4 JC: –anything. I already–

5 MV: You are.

6 JC: Okay, I'm done arguing with you counsel.

7 MV: Oh, now–

8 JC: It's a done deal. I've imposed the sentence. It appears that uh, the sentence is going to be as I just stated it. She can do fourteen days in jail and she can start her, her jail sentence starting this Saturday. I withdraw that offer. Since it's going to be made into a much bigger deal than what it really needs to be. Alright ma'am, you can see my clerks up front.

9 MV: Okay, we, I just, just to let you know I'm filing a notice of appeal.

10 JC: Go right ahead.

11 MV: It stays the–

12 JC: Counsel, when I'm speaking you're not.

13 MV: I started–

14 JC: When you see my mouth going–

15 MV: I started speaking–

16 JC: –you don't!

17 MV: –and you interrupted me.

18 JC: Sir, I now find you in direct contempt of this court.

19 MV: Well you can do whatever you want.

20 JC: I'm, I'm giving you–

21 MV: Just…

22 JC: –now the opportunity to address the court before I impose sentence upon you for being rude and interrupting me.

MV: No. Excuse me I did–

JC: Do you have anything to say sir?

MV: I did not interrupt you, you interrupted me. I started telling your Honor that I'm filing a notice of appeal–

JC: I'm done.

MV: –then you interrupted me.

JC: I'm done. Sir, I now impose one day of jail upon you, upon you. Now you can step out of courtroom or do you want two days? Do you want two days?

MV: I don't want one.

JC: Then you're getting one. Step out of my courtroom, direct contempt. You're out of my courtroom.

MV: For what?

JC: Cause you got disrespectful with this court. I'm done talking to you.

MV: No I did not.

JC: You are now, fine, tell it to another judge.

MV: I will.

JC: Great, step out of my court or else I'm going to have that deputy right back there arrest you and take to jail at this point.

MV: Is this on the record?

JC: You bet it is sir.

MV: Good.

JC: You're now excused. Dismissed. Thank you. That concludes the matter. Thank you victim for coming, thank you state.

(end of hearing)

Transcribed by: Mary Mares
Maricopa County Public Defender's Office

Date: October 8, 2010

Exhibit 4

STATE VS. BRANDON SECOR
CR 2005-00750-MI

CONTEMPT HEARING
THE HON. MARK CHILES, PRESIDING JUDGE

CHARLENE BRAAKSMA, DEPUTY PUBLIC DEFENDER
JENNIFER SHERIFF, DEPUTY COUNTY ATTORNEY

Date of Hearing: July 20, 2010 Time: (Not given)

Present:

JC: Judge Chiles
CB: Charlene Braaksma, Deputy Public Defender
JS: Jennifer Sheriff, Deputy County Attorney
BS: Brandon Secor, Defendant
D: Deputy

JC: Alright. Good morning Counsel.

JS: Good morning.

JC: Come on in and have a seat if you would.

JC: This is Case Number JC2008-159472. This is a contempt hearing in the matter of Brandon Secor, who is present in the court; represented by Counsel. The State is represented as well. Let me get an introduction by parties. Sir, go ahead and have a seat next to Counsel if you would.

JS: Good Morning, Your Honor. Jennifer Sheriff on behalf of (Unintelligible) for the State.

JC: Alright. Thank you.

CB: Good Morning, Your Honor. Charlene Braaksma. Judge, the issue I'd like to bring to the Court's –

JC: Hold on Counsel.

CB: Okay. Um, I'm gonna' run my court. Okay?

CB: Yes.

JC: Have a seat. When I get to you, is when I'll get to you. Okay?

CB: Okay. But, but, but –

JC: Counsel. Have a seat. Thank you. Now, again. This is a contempt hearing. The defendant did appear before the Court on … looks like July fifteenth. At that time he was told that he has failed to comply with P.V. Counseling; that seven warrants have been issued; and that he had spent thirty days in jail for contempt on 8-25-09. What the Court did is he held the defendant in custody for a contempt hearing, which is taking place today. Now, the way this court works is we start out with an opening statement from the State. And then Counsel can put on an opening statement at that time. Do you understand, Counsel?

CB: Yes, sir. (Unintelligible).

JC: Thank you. The State, opening?

JS: Your Honor, uh, regrettably, the State doesn't have a case file on this defendant. The State has listened while the Court reviewed the procedural posture of this case. If the defendant is in fact failing to comply with his court ordered terms of probation, then the State would support the Court's, um, ruling that he should be held on contempt. Thank you.

JC: Thank you. Defense Counsel.

JS: Yes, Judge. Um, and the issue I would like to bring to the Court's attention is we have a – specific policies as far as running conflicts checks. And, uh, my office–

JC: As far as what Ma'am?

JS: Running conflicts checks on the defendant.

JC: Okay.

JS: And so what we've been told is, is there's conflicts checks that are approved by the, um, uh, State Bar of Arizona. And I have been told by my supervisors that I need to go through the procedures that have been approved by the Arizona State Bar. I can't do things (unintelligible). Uh, so I don't have any information about the victim in this case. I need to run it through – an attorney needs to look at it.

And that's why my concern is appearing in a court proceeding when I haven't followed the proper procedures.

JC: Okay. So, what are you requesting?

CB: Sir, I will request a continuance. So, uh, I can get the police report from the County Attorney that I can review it. I have nothing on this case. I have no file, no nothing.

JC: Okay.

CB: Um, and so I can actually prepare.

JC: That sounds –

CB: I then I can follow our, you know, our procedures within our office. So it doesn't come back later on saying, Counsel you didn't follow proper procedures. You shouldn't have (unintelligible) this court. (Unintelligible).

JC: Alright.

CB: Thank you.

JC: Any objection to that?

JS: No, Your Honor.

JC: Alright. The Courts then gonna' grant a continuance concerning this matter. Uh, Courts gonna' hold the defendant, uh, in custody with a secure appearance bond of five-hundred dollars cash only. Alright. That concludes this matter. Thank you all parties.

JS: Thank you, Your Honor.

JC: Alright.

CB: Thank you Judge. And when is it continued to?

JC: I'm gonna' have to check with my clerks on that.

CB: Okay.

JC: I'll, I'll get you notified. As well as the defendant.

CB: Okay Your Honor.

JC: Alright. Thank you.

CB: Thank you.

END OF HEARING.

(Sound of doors closing).

JC: Thank you Deputy. Appreciate your patience on that. Sorry for that --

D: (Unintelligible). That's fine, Your Honor.

JC: -- long running of that one case.

END OF TAPE.

Transcribed by:

Debra K. Colvin, Legal Secretary- Trial Group 1
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Exhibit 5

STATE OF ARIZONA V. ZELDON
STATE OF ARIZONA V. STOCKEY
STATE OF ARIZONA V. CHRISTOPHER LEAVITT, TR2010-100387

HEARINGS
THE HON. MARK CHILES, PRESIDING JUDGE

Date of Hearing: August 20, 2010 Time: Unknown

Present:

JC: Mark Chiles, Judicial Officer
Z: Mr. Zeldon, Defendant
C: Counsel, unknown name
JS: Jennifer Sheriff, Deputy County Attorney
MV: Michael Vincent, Deputy Public Defender
CL: Christopher Leavitt, Defendant
V: Unknown male voice

JC: First matter that I need to call is the Zeldon-Mr. Zeldon.

Z: Sir.

JC: Now your attorney is not here, correct?

Z: Yes sir.

JC: And he was supposed to be here at 9:00 o'clock. I'm not gonna make you suffer any consequences for it but I'm certainly gonna find your counsel in contempt of court. You might let him know that, okay. Uh we will work that out with him though. No harm against you whatsoever, okay, but you might want to let your counsel know that he was ordered to be here, did not show, therefore, direct contempt. Thank you, you're free to go at this time. Uh Stokey (sp?), you're free to go sir.

Z: Thank you.

JC: See my clerks before you go. Now --my clerk's out front, yes.

Z: Thank you.

JS: Your Honor may I ask a question to the court.

JC: Yes.

JS: Uh does that mean that State v. Zeldon will not be the trial going Friday?

JC: That is...

JS: Even though it's the oldest (inaudible)?

JC: That is correct. Uh counsel's not here, I can't hold a Status Conference.

JS: Okay.

JC: Nothing I can do. Now the next matter is the Stockey matter. And counsel's here but the defendant's not here, is that correct sir?

C: That's correct judge he is on his way here. Uh he was informed by Mr. Jacob's assistant, in conformity with the practice of a lot of courts that he didn't need be at the - at the calendar call.

JC: Okay.

C: But 'cause he's in consent uh telephonic communication with us, he should be here in a matter of ten to fifteen minutes.

JC: I've already waited twenty-five minutes for him. I'm not gonna wait any longer. Therefore, I'm gonna issue an arrest warrant for him. Thank you very much for coming today counsel.

C: Judge.

JC: You're free to go -you're free to go counsel, thank you.

C: Judge I need to make a record.

JC: Counsel! You're free to go!

C: Judge I need to make a record.

1 JC: I don't care what you need to do.

2 C: And I'm gonna make...

3 JC: I just told you what I'm going to do. I don't want to find you in contempt of this court either. Thank you very much for coming today. You already made a
4 record. Thank you.

5 C: My – my clients.

6 JC: Alright uh PD, I'm gonna find you in contempt of this court if you open your month one more time sir. Please leave my court. PD come forward please. This
7 is the Christopher Leavitt issue...and if you would have a seat. This is case number 05 TR2010 100387 uh in the court is the uh plaintiff, represented state
8 and uh the defendant along with his counsel. Let me get introduction by parties please.

9

JS: Good morning your Honor Jennifer Sheriff on behalf of Johnny Olsen for the
10 State.

11 JC: Thank you.

12 MV: Good morning your Honor Michael Vincent for Christopher Levitt who is present.

13

JC: Alright thank you. Now sir, basically what I'm gonna do is go over a lot of
14 things more for your information. I've worked with both counsels uh so they kind of know what the procedure is, okay. The first thing that I'm gonna go
15 over is uh first the voir dire procedure. What voir dire means is we're gonna get you a jury, okay, of six fair impartial jurors. To do that, we first seat twelve,
16 we'll have a whole courtroom full of people-probably about forty people and I will start asking uh the whole audience basically questions and they will raise
17 their hand if that, you know, if it's an affirmative answer to that question. Your counsel will make -- take notes, okay. Then after I go through all the questions,
18 I will ask the whole panel to step out and then we will call them in individually. I will ask your counsel and state if they would like to speak to the first juror-
19 which would be juror number one. If they do, we will speak to that juror. If we find that, that juror is fair and impartial then that will be juror number one.
20 Remember we're trying to get twelve. Once we get twelve, then both counsels have two strikes, of those twelve they can say I want this one gone and I want
21 this one gone, okay. That whittles it down to seven. Remember there is only six. Six will go to the jury room but seven will sit at these seats right here and hear
22 the case. One of them will be an alternate, okay. We will find that out at the

end of the case. That's how the matter is gonna go Friday morning, okay. That's how we get your uh your jury, basically. Any questions concerning that?

CL: No sir, thank you.

JC: Alright now there's gonna be preliminary instructions to those jurors once we seat them here. We give them preliminary instructions. Now counsels will get me those preliminary instructions by Thursday at noon. They will work it out together. If they do not work it out together, then at 1:00 o'clock they're both gonna come in here and we'll work it out as uh as a court, okay. Now there's also final jury instructions. After the jury hears the case, we give them final instructions, okay. Now -- sir you're bothering me--you're bothering me. Please step out.

V: Talking to me sir?

JC: Yes I am-absolutely am. I've asked you to step out of my courtroom, not gonna ask you again. Please step out of my court room.

V: This is not a public court judge?

JC: Sir, you are bothering me. Please step out. I'm sorry for the-I kind of forget where I'm at. Where was I at?

JS: You were talking about final jury instructions...

JC: Final, final –so at the end of the trial we're gonna do final jury instructions, okay. I will give them those final instructions that both counsels have agreed on and we'll get to me by Thursday noon. Then we'll release them to go into the jury room where they will deliberate and basically come up with an answer, okay. So that's kind of how it's gonna go Friday and hopefully not into Monday. But if it does, that would be -- the jury continuation would be the next Monday, okay. Now there's other things that we need to talk about. Objections, counsel both know that if there's some objection, they basically ask for a sidebar. Ninety percent of the time I'm gonna grant the sidebar and I'm gonna go ahead and ask the jury to leave and go into the deliberation room or the jury room okay. Uh counsels understand, correct?

: Yes sir your Honor. (Answered together)

JC: List of witness, uh basically all parties have to know who is going to be called. And uh counsels will have those list of witnesses for me no later than Thursday if they're not already in, okay. Uh now basically what I like to do is call the

Donald hearing along with the Status Conference. I just want you to understand something. I think it's great that you're requesting a jury trial. I have absolutely no problem with that. I'm gonna guarantee to you that you are gonna get a fair and impartial trial, okay. But I want you to understand that the sentence is left up to me. Now what has been offered to you is the barebones minimum, okay. Anything that I hear at trial that I believe is an aggravator, to me there's like a perfect DUI, okay. To me if you're drinking and then you go get into your vehicle. You're a block away from your home. You're pulled over because you have a rear light out not because of your driving or anything like that. Yeah I'll entertain the minimum possible sentence, okay. But if it is not that, if there is any aggravators, I just want you to understand that the sentence is up to me, okay. I'm taking the plea off the desk by, again, noon Thursday, okay. So you have until then to make up your mind and, again, I hope--I hope you say I want a jury trial, if you believe you're not guilty you absolutely have that right and I hope you uh continue on with that. Now is there anything that counsels wanted to uh share with the court at this time?

JS: Yes your Honor, thank you. I want to address uh one issue on the record and advise the court and defense counsel, the State's Criminalist, Marissa Gidesarn (sp?)she's under subpoena in two other jury trials on Friday and if it's okay with defense counsel and this court, I have no problems calling witnesses out of order. The State actually only has two witnesses in this case. We have the sighting officer, Deputy Siciliny(sp) and we have the Criminalist, Marissa Gidesarn. So, your Honor, depending on how quick jury selection goes, best case scenario would be the State rests before lunch. I don't know if that's really gonna happen, it all depends how long cross examination takes. My concern is Marissa Gidesarn has to be at the San Tan complex, she has a firm Kyrene Justice Court trial that is a retrial, it definitely is going and she has to testify there right a 1:30. And also she's under subpoena with Tad Davis for a San Tan Justice Court DUI trial. Again she's subpoenaed in the afternoon and the court-the court knows our preference on these things. We like to call our case agent first and then our criminalist last. I don't think that's going to be possible in this case your Honor. So uh what I would ask for is the court's assistance in making sure that the jury is not confused. Why is the state calling uh a criminalist first, you know, before any ground work is laid. It's gonna seem out of order and I don't want there to be any confusion.

JC: Alright any objection to that counsel.

MV: Your Honor could I suggest that perhaps we, we can talk and maybe to stipulate that-that uh the criminalist doesn't even have to appear (unintelligible)...

JC: I absolutely do not have a problem with that if you both could work that out it would be great. I – I -- sir I want you to understand something-you've seen me be a little rough and gruff here. The reason why I was rough and gruff is because I want to protect your rights. You were here, you were on time, your counsel's on time. I already made you wait twenty-five minutes, which isn't right. You're an innocent man standing before me. So I basically kicked those two trials out and you heard what I was going to do. But that was to protect your rights, cause again, you were in here on time. I appreciate that. But the problem now comes that we did not anticipate this happening. Therefore, trying to get the trial all arranged like we need to is gonna be a little more difficult and this court's gonna take kind of a back seat because those other courts most likely their number one trial that they -- that was the oldest –your -- yours was the least of the three as far as age goes, okay. But that means, again, that we have kind take a back seat to witnesses and things like that. So I'm gonna try to accommodate the best that I can and-- but keep, again, uh in mind, you know, giving you a fair and impartial trial. So if counsels can work it out, that'd be great. Uh if not, then we'll just have to work with it Friday and figure out what we're gonna do with that Friday, okay. Now is there anything else?

MV: Yes may I approach?

JC: You may.

MV: I've given copies um to (unintelligible) counsel the jury instructions and (inaudible) voir dire.

JC: Okay.

MV: Uh I've also uh shown these photos that I'm gonna present at trial to uh counsel as well.

JC: Okay. Counsel have you heard my standard questions. Uh you've been through a trial or two with me.

MV: Mm hum.

JC: Will those suffice to allow you to ask additional questions?

MV: Uh I think so I just provided those just in case uh but I think yours pretty much tracks what I have there.

JC: Okay.

1 MV: Uh maybe a few DUI specific questions but if you don't cover those then...

2 JC: Maybe you could in individual.

3 MV: Yes.

4 JC: Alright that that would work for me. Uh now the uh the jury instructions counsel have you looked at the jury instructions-'cause I'm just gonna do my
5 standard uh you know voir dire in the very beginning and then just great levity to uh-uh both counsels as far as individual voir dire goes. It just--as long as their
6 questions go to the suitability to be a jury--juror. They can ask pretty much whatever they want to ask. That's the way this court looks at it. Just goes to
7 suitability, okay. So I'm not gonna stand in the way of any questions that they want during the individual. This other thing that we're talking about again is
8 the uh preliminary and final instructions to the jury. Now counsel have you seen the instructions list?

9

JS: Yes, your Honor, I just uh Mr. Vincent brought those to me this morning before
10 Status Conference. I provided him with a stack of the standard ones that I always file for these trials. Uh and the--the court's already commented on this
11 but I would ask uh that this court give us till Thursday at noon to-- I just want to make sure that the ones defense counsel filed matched the standard ones that
12 I'm submitting.

13 JC: Okay.

14 JS: Your Honor we're gonna be able to arrive at a stipulation, that won't be a problem. Hopefully by the end of today even.

15

JC: Alright that--that would be great and again uh once you put that into my hand
16 I'll just make sure that they are applicable to preliminary and final. There's one jury instruction there that usually you give me as a final and really it's a
17 preliminary because it would confuse. And if that is the case uh we'll talk about it Friday. But again if--if both of you could agree on the preliminary...

18 Cuts off....

19

20

21 *Transcribed by:*
Monica Maldonado
22 *October 7, 2010*

Commission on Judicial Conduct
1501 W. Washington, Suite 229
Phoenix, AZ 85007-3327
602-452-3200

FILED
APR 19 2011
ARIZONA COMMISSION ON
JUDICIAL CONDUCT

STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning Judge	)	Case No. 10-275
	)	
Mark Chiles	)	
Justice Court	)	**ACCEPTANCE OF STIPULATED**
Maricopa County	)	**AGREEMENT FOR DISCIPLINE**
State of Arizona	)	**BY CONSENT**
Respondent	)	
	)	

The duly appointed hearing panel of the Commission on Judicial Conduct in the above-entitled case hereby accepts the Stipulated Agreement for Discipline by Consent signed by the Respondent for the following reasons: the issues set forth in the Statement of Charges have been adequately resolved; the parties agree that the Respondent's conduct in the underlying case warrants a formal sanction; and the prompt and expeditious resolution of this case is in the best interests of the public and the judiciary. Therefore, pursuant to Rule 30,

IT IS HEREBY ORDERED that the executive director of the Commission shall promptly prepare and transmit the Commission's Recommendation, along with the official record of these proceedings, to the Supreme Court as required by Rule 29.

DATED this 19thday of April 2011.

COMMISSION ON JUDICIAL CONDUCT

Lawrence F. Winthrop
Presiding Member of the Hearing Panel

Copies of this pleading were delivered via fax
and mailed this 19th day of April 2011 to:

Mark Chiles
Justice of the Peace
East Mesa Justice Court
4811 E. Julep, #128
Mesa, AZ 85205

Jennifer M. Perkins
Commission on Judicial Conduct
1501 W. Washington Street, Suite 229
Phoenix, Arizona 85007

By: B. Warlass

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FILED
APR 19 2011
ARIZONA COMMISSION ON
JUDICIAL CONDUCT

STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning Judge	)	
	)	Supreme Court No. JC-11-002
MARK CHILES	)	
Justice Court	)	Commission Case No. 10-275
Maricopa County	)	
State of Arizona	)	**RECOMMENDATION**
	)	
Respondent	)	

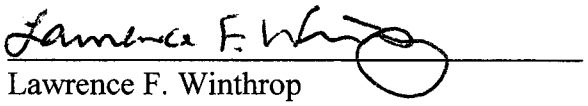
On March 24, 2011, the Commission on Judicial Conduct ("Commission") filed a Statement of Charges against Justice of the Peace Mark Chiles ("Respondent") following a finding of reasonable cause by a three-member investigative panel assigned to oversee the investigation in this case. Simultaneously, the Commission chairperson appointed an eight-member hearing panel to hear and take evidence in the case and designated the undersigned as the presiding member of the panel.

On April 15, 2011, Respondent and Disciplinary Counsel subsequently submitted a Stipulated Agreement for Discipline by Consent ("Agreement") to the hearing panel in which Respondent agreed to a public censure for misconduct in office. On April 19, 2011, the hearing panel unanimously voted via e-mail to accept the Agreement. As part of the Agreement, the Respondent waived his right to appeal and all other procedural rights set forth in Rule 29 of the Rules of the Commission on Judicial Conduct.

All of the conditions in the Resolution having been met, the hearing panel now recommends to the Arizona Supreme Court that the Respondent be censured for misconduct in office.

RESPECTFULLY SUBMITTED this 19th day of April 2011.

FOR THE HEARING PANEL



Lawrence F. Winthrop
Presiding Member

Copies of this pleading were delivered and
mailed this 19th day of April 2011 to:

Judge Mark Chiles, Respondent
Justice of the Peace
East Mesa Justice Court
4811 E. Julep, #128
Mesa, AZ 85205

Jennifer Perkins
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By: B. Wanless