

Supreme Court Board of Certified Court Reporters

Arizona State Courts Building
1501 West Washington, Phoenix, AZ 85007
Conference Room CLD1
10:00 p.m. - 2:00 p.m.

February 9, 2004
Approved Minutes

Members Present:

Judge Philip Hall
Douglas Brooks
Sandra Markham
Jennifer Stadler
William E. Druke
James Bouley

AOC Staff Present:

Rhonda Simmons
Lauren Hargrave
Nina Preston
Nancy Swetnam
Nancy Beck

Members Absent:

Sandra McFate
Jean Lea

Members Present by Phone:

Judge Jan Kearney

Guests:

Marvin Atwood
Loretta Cross
Kari Kerns
Patrick Geare
Maria Geare
Marla John Graham
Renee Hunter

Call to Order

The meeting was called to order by Sandra Markham at 12:02 p.m.

Review and Approval of Meeting Minutes

Regular session minutes of December 8, 2003, December 15, 2003, December 29, 2003 and January 12, 2004.

The Board reviewed the December 8, 2003 regular session minutes. Ms. Markham requested staff to work on the first paragraph of page 5. The Boards consensus is to be made into a new paragraph.

A **motion** was made by Douglas Brooks and seconded by Jennifer Stadler to adopt the minutes as amended from December 8, 2003. Motion passed. **BCCR-04-004**

Jean Lea and Sandra McFate joined by phone, made an inquiry regarding a quorum, and left the meeting.

A **motion** was made by Douglas Brooks and seconded by William E. Druke to adopt the regular session minutes as prepared from December 15, 2003. Motion passed. **BCCR-04-005**

A **motion** was made by Judge Philip Hall and seconded by Jennifer Stadler to adopt the regular session minutes as prepared from December 29, 2003. Motion passed. **BCCR-04-006**

A **motion** was made by Douglas Brooks and seconded by Jennifer Stadler to adopt the regular session minutes as prepared from January 12, 2004. Motion passed. **BCCR-04-007**

Recommendations and Board Action

Applicants for Initial Certification

The following court reporters requested they be granted Provisional Standard Certification based on staff awaiting the FBI results of their fingerprints. Rhonda Simmons informed the Board the court reporters listed below meet all qualifications for certification, but because the FBI results have not been processed and returned for them, they should be granted Provisional Standard Certification:

Doug Kirkpatrick
Jennifer Sullivan

A **motion** was made by Judge Philip Hall and seconded by William E. Druke to grant Provisional Standard Certification to the court reporters listed above based on all documents provided and because FBI results have not been processed and returned for them. Motion passed. **BCCR-04-008**

Applicants for Renewal

Rhonda Simmons informed the Board the court reporters listed below sent their renewal applications in late and are requesting Standard Certification. Each reporter did provide all of their continuing education credits and meets all qualifications for Standard Certification.

Deborah Trattel
Sue Baquet

A **motion** was made by Jennifer Stadler and seconded by Douglas Brooks to grant Standard Certification to the court reporters listed above based on all documents provided. Motion passed. **BCCR-04-009**

Applicants for Conversion

The following court reporter requested she be converted from Provisional Standard Certification to Standard Certification based on staff receipt of the FBI results and having met all other qualifications for Standard Certification:

Linnae Bauer

A **motion** was made by Douglas Brooks and seconded by Judge Philip Hall to convert the Provisional Standard Certification of the court reporter listed above to Standard Certification based on staff receipt of the FBI results. Motion passed. **BCCR-04-010**

The following court reporter requested she be converted from Temporary Extension Status to Provisional Standard Certification based on documentation provided showing she passed two legs of the RPR and meets all qualifications for Provisional Standard Certification:

Natalie Estrada

The Board discussed the Arizona Code of Judicial Administration §7-206, Section (E)(3)(c)(3)(a) and (E)(3)(c)(3)(b).

A **motion** was made by Jennifer Stadler and seconded by Douglas Brooks to convert the Temporary Extension Status of the court reporter listed above to Provisional Standard Certification, based on documentation provided showing she passed two legs of the RPR and meets all other qualifications for Provisional Standard Certification. Motion passed. **BCCR-04-011**

The following court reporters requested they be converted from Temporary Extension Status to Standard Certification based on proof showing they passed all components of the RPR and meet all qualifications for Standard Certification:

Tamlyn Crosse
Tina Cummings
Claudia Hilton

A **motion** was made by Jennifer Stadler and seconded by William E. Druke to convert the Temporary Extension Status of the court reporters listed above to Standard Certification, based on documentation provided showing they completed all components of the RPR and meet all other qualifications for Standard Certification. Motion passed. **BCCR-04-012**

The following court reporters requested they be converted from Provisional Standard Certification to Standard Certification based on proof showing they passed all components of the RPR and meet all qualifications for Standard Certification:

Susan Humphrey
Robert King
Linda Lopez
Mary Jo Schumacher

A **motion** was made by Jennifer Stadler and seconded by Douglas Brooks to convert the Provisional Standard Certification of the court reporters listed above to Standard Certification, based on documentation provided showing they completed all components of the RPR and meet all other qualifications for Standard Certification. Motion passed. **BCCR-04-013**

Requests for voluntary surrender

Rhonda Kmett informed the Board the following court reporter wishes to voluntarily surrender his certification:

Richard Frasco

The Board discussed the difference between leaving the profession while in good standing through a voluntary surrender and leaving the profession by letting certification expire.

A **motion** was made by Jennifer Stadler and seconded by William E. Druke to accept the Voluntary Surrender of Richard Frasco. Motion passed. **BCCR-04-014**

Guest Speaker Re: Acceptable Documentation

Rhonda Simmons reported Dr. Robin Ford will make a presentation to the Board. Dr. Ford is the Individual Medical Evaluator for attorney admissions. Dr. Ford reviews Bar Exam applicant's documentation when they request accommodations. Ms. Simmons asked Dr. Ford to speak to the Board to give them a better understanding of temporary extension status and what documents the Board should be looking for.

Carolyn Delooper, manager of the Attorney Admissions Unit, introduced Dr. Ford. Mr. Ford has been a consultant for the Supreme Court Exams Committee since 1998 and deals with documentation from the examinees requesting non standard accommodations. Dr. Ford has been in private practice for over 30 years, is a diplomat with the American Board with Professional Disability. Dr. Ford has designed a continuing education program at the Arizona State Bar dealing specifically with post head injuries. Dr. Ford's specialty is ADD, ADHD, Post traumatic stress disorder, post head injuries, and test anxiety.

Dr. Ford addressed the Board. Often an applicant who makes a request is not aware how the Americans with Disability Act (ADA) was written or how it applies during the test taking. Practitioners who write letters of support do not understand the ADA requirements, instead they come from a view point of advocacy. The Board's job is not to optimize, it is simply to provide an equal playing field. The ADA was written with guidance to help the Board judge what kind of application has merit, what kind of supporting documentation has merit and what does not. Dr. Ford stated individuals generally fall within two categories: brain based difficulties or emotion problems that are taking place and are causes of how a person reacts to the examination setting. Brain based categories include ADD, ADHD and learning disabilities that get in the individuals way and inhibits normal performance on an examination. Emotional problems are categorized as mood disorders and some dealing with anxiety. The most common form of anxiety is usually PTS (post traumatic stress). The ADA says a disability is a way of functioning that falls outside of the normal range of human experience. There is no label in the classic guideline called test anxiety. It is typical of the normal range of human behavior to get tense and doubtful as a test approaches. Generalized anxiety or post traumatic stress disorders are common psychiatric difficulties. It is up to the diagnostician to prove the disability some how specifically inhibits performance during a testing situation to the point that the individual is unable to function. Additionally, the diagnostician should be able to show that medication has been used and has failed. The purpose of medication is to bring the individuals anxiety back within the normal range. Dr. Ford answered questions from the Board

and guests. Ms. Markham discussed the testing procedure of Court Reporters. Dr. Ford stated post traumatic syndrome means only a set of traumatic events that are very limited and very well defined with a DSM4. The closer one gets to replicating the traumatic event the more anxiety will take place. Dr. Ford stated evidence from a physician, should show that even with medication; the test anxiety surpasses normal human range of functioning. Self report tests used for testing anxiety is not a guarantee the condition exists. However, the opinion of a professional along with test results could be valuable. ADA states the disability (i.e. anxiety) must be seriously disabling in an important part of life. A desensitization process teaches individuals to do a different kind of thinking to calm the anxiety. Predicting failure and pessimistic thoughts are the roots to anxiety. A psychologist/psychiatrist can teach someone to think differently using bio feedback and relaxation techniques. In general according to literature individuals do well with a combination of medication and psychotherapy. When using an independent evaluation, the original information is submitted to the independent evaluator for review and the independent evaluators report is then circulated back to the members of the committee. The committee can then review the report and make a decision.

Call to the Public

Patrick Geare addressed Dr. Ford and questioned if bio feedback appropriately administered enables the individual to deal effectively with anxiety in a testing situation. Mr. Geare questioned if the anxiety in front of the individual needs to replicate the traumatic incident. Dr. Ford explained Post Traumatic Stress Disorder and stated it is a case by case situation. NOS means not otherwise specified and is a diagnosis given when the cause of the anxiety is unknown. Dr. Ford recommended more specificity be gathered in the case of a NOS diagnosis. Mr. Geare stated the due process clause should be looked at by the Board. Mr. Geare stated taking someone's job away without due process based on the sole criteria of a test, will produce law suits.

Renee Hunter, a court reporter, addressed the Board and requested the Board look at the reporter individually and not just on the sole basis of a test. Ms. Hunter encouraged the Board to look at if a court reporter has had complaints filed against them and what their supervising judges can contribute. Ms. Hunter stated she felt Dr. Ford should have been educated more on what the court reporter skills test consists of.

Marla Graham, a court reporter, addressed the Board and explained her situation and her continued efforts to pass the test. Ms. Graham stated she thinks each individual case should be looked at closely, specifically the number of years a court reporter has been reporting.

Renee Hunter stated she believed Dr. Ford did not take into consideration the anxiety associated with taking an individuals livelihood away.

Judge Hall addressed the public and explained his perspective on the situation. The Board is unable to control some circumstances.

Sandi Markham reminded the public the Board did recommend proficiency other than the RPR, and the Arizona Judicial Council, the Committee on Superior Court, the Court Administrators, and ultimately the Supreme Court, were clear that court reporters needed to pass the RPR.

Jennifer Stadler stated under the code the Board cannot look at how long a court reporter has worked,

letters from attorneys, and letters from judges. The Board is not questioning how well a court reporter performs, they can only look at the code and statutes.

Judge Jan Kearney joined the meeting telephonically.

Executive Session #1

A **motion** was made by Jennifer Stadler and seconded by Douglas Brooks to go into Executive Session to discuss records exempt by law or rule from public inspection or for advice of counsel. Motion passed. **BCCR-04-015**

Executive Session #1 Ended

Call to the Public

Kari Kerns addressed the Board and reported she passed the written portion of the RPR but has been unable to complete the remaining portions of the RPR. Ms. Kerns explained her situation and performance based anxiety.

Executive Session #2

A **motion** was made by Judge Philip Hall and seconded by Jennifer Stadler to go into Executive Session to discuss records exempt by law or rule from public inspection or for advice of counsel. Motion passed. **BCCR-04-016**

Executive Session #2 Ended

Temporary Extensions

Review of Temporary Extensions

A **motion** was made by Douglas Brooks and seconded by William E. Druke to extend the temporary certification of the court reporters appearing on list "A" in the Executive Session Minutes until December 31, 2004, and information supplied by court reporters on the "A" list be submitted to an independent medical evaluator retained by the program to review and advise on the adequacy of the documentation, and to advise the Board with regards to additional documentation which may be helpful for the Board to determine further action. Additionally, the independent medical evaluator will advise the applicants of protocols or treatment plans recommended. Motion passed. **BCCR-04-017**

The Board discussed the letter and its contents that will be sent to court reporters who have not requested an extension. The Program Coordinator will notify court reporter #4 and #5, in writing, their certification will expire on February 28, 2004 and if documentation is submitted to the Board before expiration, such information may be taken into consideration. The Program Coordinator notified court reporter #22, in writing, her certification will expire February 28, 2004

A **motion** was made by Jim Bouley and seconded by Douglas Brooks to extend temporary certification to court reporter #18 for 120 days while further investigation is conducted with Yuma County Court Administration regarding the needs of Yuma County. Judge Philip Hall Recused. Motion Passed. 5-1. **BCCR-04-018**

Considerations of Complaints and OSC's

A **motion** was made by Jim Bouley and seconded by Jennifer Stadler to find probable cause with regards to the complaint filed against court reporter #20, staff and legal counsel shall prepare a formal statement of charges as alleged in allegations #2 & #3 in the case summary and recommendations, and give the Board Chair authority to review and approve the formal statement of charges. Motion Passed. **BCCR-04-019**

Judge Jan Kearney left the meeting.

Temporary Extensions

Review of Temporary Extensions (Continued)

A **motion** was made by Judge Philip Hall and seconded by William E. Druke to extend temporary certification to court reporter #20 until December 31, 2004, and information supplied by court reporter #20 be submitted to an independent medical evaluator retained by the program to review and advise on the adequacy of the documentation, and to advise the Board with regards to additional documentation which may be helpful for the Board to determine further action. Additionally the independent medical evaluator will advise the applicants of protocols or treatment plans recommended. Motion passed. **BCCR-04-020**

Review and Approval of Executive Session Meeting Minutes

Executive Session Minutes of December 8, 2003 and December 15, 2003

A **motion** was made by Douglas Brooks and seconded by William E. Druke to adopt the executive session minutes as prepared from December 8, 2003 and December 15, 2003. Motion passed. **BCCR-04-021**

Topics for Discussion

Policies on Extensions of Temporary Certification

The Board reviewed the "Policies on Requests for Extensions of Temporary Certification Based on Extenuating Circumstances". The Board agreed the following changes should be made:

F(1): The Board reserves the right to request complete information and additional documentation and also has the right to have an independent examination or other assessment of any applicant, and/or documentation, seeking, and/or granted, an extension.

F(2): UPON REIVEW OF A REQUEST FOR EXTENSION OF TEMPORARY CERTIFICATION BASED ON EXTENUATING CIRCUMSTANCES, THE BOARD SHALL

CONSIDER, BUT IS NOT LIMITED TO, THE FOLLOWING:

F(2)(c): THE COURT REPORTER'S COMPLIANCE WITH RECOMMENDED TREATMENT PLANS AND SUGGESTED PROTOCOL.

F(2)(d): WHETHER THE COURT REPORTER REQUESTED ACCOMMODATIONS FOR TAKING THE RPR. IF THE COURT REPORTER REQUESTED ACCOMMODATIONS FOR TAKING THE RPR, THE REPORTER MUST PROVIDE THE FOLLOWING INFORMATION

- (i) WHICH ACCOMMODATIONS WERE REQUESTED.
- (ii) WHETHER THE REQUESTED ACCOMMODATIONS WERE...

A **motion** was made by Jennifer Stadler and seconded by Jim Bouley to accept the suggested changes for the Policies on Requests for Extensions of Temporary Certification Based on Extenuating Circumstances. Motion passed. **BCCR-04-022**

Continuing Education Issues

Consideration of requests for continuing education credit

Rhonda Simmons is requesting approval of the following December ASU Downtown lectures and is recommending 1 hour of continuing education credit for each:

Soaring Eagles: Leadership Year Round
Tips for Success at Work: Humor as a Remedy for Stress
Lifefillment...The Quest for Happiness
Current Trends in Contemporary Psychoanalysis and Psychotherapy
Terrorism & Weapons of Mass Destruction: A New Threat

A **motion** was made by Douglas Brooks and seconded by Jennifer Stadler to approve 1 hour continuing education credit for the above entitled ASU Downtown lectures with the exception of Terrorism & Weapons of Mass Destruction. Motion passed. **BCCR-04-023**

Program Update

Keeping the Record Committee

The Keeping the Record Committee met on January 20th, Justice Ryan is the committee chair. The committee was separated into three working groups. The info structure work group was charged with conducting research including costs of properly storing whatever media the records are made on, reliability, accuracy, personnel needed for operation, training, storage and archive related infrastructure. The Rules and Statutes was charged with reviewing all relevant Rules, Statutes, ACJA sections and Administrative Orders, identifying provisions that impede technological interventions and drafting appropriate amendments. The Standards workgroup was charged with reviewing how reporting technology is used in Arizona and elsewhere, drafting standards and guidelines related to installing, calibrating, operating, instilling electronic records of proceedings and management quality control of transcription services. Rhonda Simmons stated her goal is to be present at all Committee meetings. The

committee watched a demonstration of the FTR system. The demonstrations were not detailed and were not given by the FDR vendor.

Complaints

Rhonda Simmons reported there are currently 16 open complaints, which includes one new complaint received last month.

Topics for Discussion and Possible Code Revisions

Code Revisions

The Board discussed the following changes:

- Page 35, 15(4)(i): to read: Assess Costs Related to the investigation; or
- Page 35, 15(4)(j): to read: Assess fines associated with these activities; or
- Page 35, 14(4)(k): to read: Refer the complaint to another entity that may also have jurisdiction.
- Page 35, 19(a)(1): ; to ,
- Page 41: Add a \$50 late renewal fee.
- Page 45, (D)(2); to read CE activity is designed to provide an understanding of current developments, skills or procedures related to the practice of court reporting and...

Inactive Status

Rhonda Simmons reported she contacted the NCRA and the Nevada Court Reporter Board regarding inactive status. Currently, if you voluntarily surrendered or let your certification expire you are not kept apprised of changes being made within the program or informed of the continuing education opportunities. A reporter who goes on inactive status does not need to make up the continuing education requirements while on inactive status in Nevada. The Board agreed more research is needed with regards to an inactive status in other jurisdictions. Rhonda Simmons will conduct additional research and bring the issue to the Board during the April meeting.

Letter from court reporter re: provisional standard certification

Rhonda Simmons reported a court reporter submitted a letter with regards to her provisional standard certification status. The Board discussed changing the Code which deals with provisional standard certification to add additional exceptions. Rhonda Simmons reported there are currently 43 court reporters that hold provisional standard certification. The Board requested the Program Coordinator and legal staff to draft specific language with regards to additional exceptions to be added to the Code with regards to provisional standard certification for the Board to review during the April meeting.

Adjournment

A **motion** was made by William E. Druke and seconded by Douglas Brooks to adjourn. Motion

passed. **BCCR-04-024**
The meeting of the Board of Certified Court Reporters adjourned at 2:31 p.m.