

## 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.

**April 12, 2004**  
**Approved Minutes**

### **Members Present:**

Judge Philip Hall  
Douglas Brooks  
Sandra Markham  
Jennifer Stadler  
Jean Lea  
Sylvia Brandfon

### **AOC Staff Present:**

Rhonda Simmons  
Lauren Hargrave  
Nina Preston  
Theodore Wilson

### **Members Absent:**

William E. Druke  
Jim Bouley

### **Members Present by Phone:**

Judge Jan Kearney

### **Call to Order**

The meeting was called to order by Sandra Markham at 10:07 a.m.

### **Welcome New Public Member, Sylvia Brandfon**

Rhonda Simmons introduced the new public member of the Board, Dr. Sylvia Brandfon.

### **Review and Approval of Meeting Minutes**

*Regular session minutes of February 9, 2004.*

The Board reviewed the February 9, 2004 regular session minutes. Ms. Markham requested clarification be made in paragraph #4 page 5.

A **motion** was made by Douglas Brooks and seconded by Jennifer Stadler to adopt the minutes as amended from February 9, 2004. Motion passed. **BCCR-04-032**

A **motion** was made by Judge Philip Hall and seconded by Jennifer Stadler to adopt the regular session minutes as prepared from February 27, 2004. Motion passed. **BCCR-04-033**

### **Records Retention Policy**

Mr. Ted Wilson of the Supreme Court Administrative Offices addressed the Board. Mr. Wilson is proposing changes in the current record retention schedule for the superior court. The schedule was last ordered in 1991 by AO #91-13. Mr. Wilson presented the proposed changes to the Board. Mr. Wilson requested feedback from the Board regarding the Court Reporters' Notes. The retention schedule

proposes criminal notes be retained for 10 years and civil notes be retained for 5 years. The Board questioned Mr. Wilson regarding notes of capital cases. Mr. Wilson stated in capital cases the notes are transcribed and the transcription is the official record. The Board questioned if the policy would include paper and electronic notes. The policy does include all paper and electronic notes. The Board further questioned trials in absentia and the fact the individual's right to appeal usually does not begin until after apprehension. An alternative would be for a Judge to order notes be kept longer or a transcript be produced. All cases in which a defendant does not appear for sentencing should be considered for longer retention. Mr. Wilson stated if recommendations to change the schedule are adopted, the Rules of Court will need to be updated. Mr. Wilson requested the Board's thoughts on whether Rule 12.8c needs to be changed. The Board agreed Rule 12.8c should remain unchanged. Mr. Wilson stated Rule 28.1 in its current form says court reporter notes shall be retained for a period of 25 years. The proposed change would change it to say "consistent with the records retention schedule". The current rule states retention should begin the date sentence is imposed. The Board explained notes are stored and destroyed by date. The Board agreed the Rule should not read "after transcript production". The Board agreed the death penalty cases should be closely examined before proposing a retention schedule. Mr. Wilson stated the Rules of Civil Procedure; Rule 43(k) would be changed from 10 years to 5 years. The proposed changes will be shared at the ACRA convention in April. The proposed changes have not been scheduled to go to AJC. The Board directed staff to draft a letter to the records retention staff that the Board has reviewed the changes and approves of the changes. However, the Board would like open proceedings discussed more, i.e. where the defendant has not appeared and sentencing has not occurred and death penalty cases.

## **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:

Kristen Brown  
Denaë Hovland

A **motion** was made by Jennifer Stadler and seconded by Douglas Brooks 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-04-034**

The following court reporter requested she be granted Standard Certification. Rhonda Simmons informed the Board the court reporter listed below voluntarily surrendered her certificate in 2003. She has provided proof of completing 8 hours of continuing education credits for 2003 regardless of the fact that she was not required to do so, and is requesting the fingerprint requirement be waived due to her submitting fingerprints in the past. The court reporter meets all qualifications for certification and should be granted Standard Certification:

Lisa Chaney

A **motion** was made by Jean Lea and seconded by Jennifer Stadler to grant Standard Certification to the court reporter listed above based on all documents provided and to waive the fingerprint requirement. Motion passed. **BCCR-04-035**

#### *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:

Neil Husak

A **motion** was made by Jennifer Stadler and seconded by Jean Lea 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-04-036**

#### **Executive Session**

A **motion** was made by Douglas Brooks and seconded by Sylvia Brandfon to go into Executive Session to discuss records exempt by law or rule from public inspection or for advice of counsel. Motion passed. **BCCR-04-037**

#### **Executive Session Ended**

(During Executive Session the Board reviewed the confidential record of the reporter and for the purposes of the public session will identify reporter as Court Reporter #1)

Court Reporter #1

A **motion** was made by Jean Lea and seconded by Jennifer Stadler to grant Provisional Standard Certification to Court Reporter #1 based on all documents provided and because FBI results have not been processed and returned for them. Motion passed. **BCCR-04-038**

(During Executive Session the Board reviewed the confidential record of the reporter and for the purposes of the public session will identify reporter as Court Reporter #2)

Court Reporter #2

A **motion** was made by Judge Philip Hall and seconded by Jean Lea to convert the Provisional Standard Certificate of Court Reporter #2 to Standard Certification based on staff receipt of the FBI fingerprint results and all documents provided. Further, the Board directed staff to send Court Reporter #2 an advisory letter as discussed in Executive Session. Motion passed. **BCCR-04-039**

(During Executive Session the Board reviewed the confidential record of the reporter and for the purposes of the public session will identify reporter as Court Reporter #3)

### Court Reporter #3

A **motion** was made by Douglas Brooks and seconded by Judge Philip Hall to extend the temporary certification of court reporter #3 until December 31, 2004, and information supplied by court reporter #3 be submitted to an independent medical evaluator, both physical and psychological, 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. The independent medical evaluator(s) will give the Board advice on the nature of the court reporters circumstances and his/her ability to take the required test. Additionally, the independent medical evaluator(s) will advise the applicant of protocols or treatment plans recommended. Motion passed. Judge Jan Kearney Recused. **BCCR-04-040**

(During Executive Session the Board reviewed the confidential record of the reporter and for the purposes of the public session will identify reporter as Court Reporter #4)

### Court Reporter #4

A **motion** was made by Jean Lea and seconded by Sylvia Brandfon to extend the temporary certification of court reporter #4 until December 31, 2004 based on the extenuating circumstances facing the court system in Yuma County. Motion passed. Judge Philip Hall Recused. **BCCR-04-041**

## Continuing Education Issues

### *Consideration of requests for continuing education credit*

The Board discussed having a subcommittee review continuing education opportunities and make recommendations regarding approval to the Board. The Board would then vote on the proposed continuing education opportunities. The Board agreed, after further discussion, that a subcommittee was not necessary as consideration of continuing education credits does not take a substantial amount of time during the Board meetings.

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

The Ownership Spirit The Hottest Topic In Corporate Education  
Bringing the Darkness Into The Light Domestic Violence Awareness for Employers  
Humor As A Remedy For Stress  
Organizing Your Office: How To Make Your Habits Work For You  
Breaking Through/Breaking Out Tales From Both Sides Of The Glass Ceiling

A **motion** was made by Jean Lea and seconded by Jennifer Stadler to approve 1 hour continuing education credit for the above entitled ASU Downtown Lectures. Motion passed. **BCCR-04-042**

## Consideration of Complaint(s) and OSC's

Rhonda Simmons reported there are no considerations of complaints or OSC's at this time.

## **Review and Approval of Executive Session Meeting Minutes**

*Executive Session Minutes of February 9, 2004*

A **motion** was made by Jean Lea and seconded by Jennifer Stadler to adopt the executive session minutes as prepared from February 9, 2004. Motion passed. **BCCR-04-043**

## **Topics for Discussion and Possible Code Revisions**

### *Code Revisions*

The Board discussed the following changes:

Page 2, Paragraph 2, CONTRACTS to CONTRACT

Page 2, Paragraph 5, CAUSE THE to CAUSE THAT THE

Page 13, (1)(a)(i) to read: Holds a valid Arizona temporary certificate;

Page 18, Paragraph 2, deleted and replaced to read: A COURT REPORTER WHO IS NO LONGER CERTIFIED MAY NOT PRACTICE AS A STENOGRAPHIC REPORTER OR PRODUCE TRANSCRIPTS EXCEPT THAT THE REPORTER MAY CONTINUE TO PRODUCE TRANSCRIPTS ONLY FOR THOSE PROCEEDINGS THAT TOOK PLACE WHILE THEIR CERTIFICATION WAS VALID. THE COURT REPORTER SHALL USE THE SAME CERTIFICATE NUMBER ON THE TITLE OR COVER PAGE OF ANY TRANSCRIPT AND LETTERHEAD THAT WAS USED WHILE THE REPORTER WAS CERTIFIED.

Page 19, 7(b), FAILURE to FAIL

Page 19, 9, add section c and d from page 20

Page 38, e to read: AS PART OF THE JUDICIAL DEPARTMENT'S COMMITMENT TO THE PRINCIPLE OF ACCESS TO JUSTICE FOR ALL AND THE INTEGRAL ROLE OF COURT REPORTERS, COURT REPORTERS ARE ENCOURAGED TO PROVIDE PRO BONO SERVICES, WHEN REQUESTED THROUGH QUALIFIED LEGAL ASSISTANCE ORGANIZATIONS PROVIDING FREE LEGAL SERVICES TO THE INDIGENT. EXCEPT AS SPECIFICALLY NOTED IN THIS SECTION, COURT REPORTERS PROVIDING PRO BONO SERVICES SHALL COMPLY WITH THE REQUIREMENTS OF THIS SECTION. COURT REPORTERS PROVIDING PRO BONO SERVICES ARE REQUIRED TO DISCLOSE THE PRO BONO SERVICE TO ALL PARTIES IN THE CASE.

Page 38, Standard 3b to read: A court reporter is required to maintain accurate account of services rendered.

Page 38, all sections under Standard 3 will be appropriately numbered and lettered.

Page 41, f, to read: A CERTIFICATE HOLDER SHALL NOT RELINQUISH CONTROL OF ANY ASPECT OF TRANSCRIPT PRODUCTION, DISTRIBUTION AND INVOICING TO ANY ENTITY WHICH PREVENTS THE CERTIFICATE HOLDERS FROM COMPLETELY COMPLYING WITH THE REQUIREMENTS OF THIS SECTION, AND THE APPLICABLE STATE AND LOCAL LAWS, RULES

AND REGULATIONS.

Page 41, g, to read: SUBSECTION F SHALL NOT APPLY TO CONTRACTS FOR COURT REPORTING SERVICES FOR THE COURTS, AGENCIES, OR INSTRUMENTALITIES OF THE UNITED STATE OR OF THE STATE OF ARIZONA.

Page 42, Inactive Fee \$100.00

Page 43, 3, to read: A COMBINED TOTAL LEFT-HAND AND RIGHT-HAND MARGINS OF NO MORE THAN TWO AND ONE EIGHTHS INCHES.

Rhonda Simmons presented the Board with language for an exception for the inequality of court reporters with Provisional Standard Certification and court reporters with Temporary Certification. Court reporters with Provisional Standard Certification will lose their certification by the end of this year unless changes are made, whereas court reporters with Temporary Certification could continue to be certified beyond the end of this year and until they no longer meet the requirements of an extenuating circumstance. The Board agreed it is not their role to ensure equality between the two certifications but to assist in the inequality, assist with the shortage of court reporters, and to give acknowledgement to those court reporters that have passed components of the RPR and are progressing. Ms. Simmons reported there are three certification types that may be affected. Currently there are 23 court reporters that have passed the written component and one leg of the RPR, there are 19 court reporters that have passed the written component and two legs of the RPR, and there are 16 court reporters that hold temporary certification. Ms. Simmons outlined the following options: The court reporters with Provisional Standard Certification that have passed the written component and one leg of the RPR could lose their certification at the end of this year and the current language in the code would remain unchanged, the Board could change the deadline date to July 2005, which would allow court reporters three more attempts to pass the RPR; or the Board could do a tiered system requiring them to pass one leg of the RPR per year and extending the deadline date to December 31, 2006, which would allow them two more years to pass the RPR. The Board can also require the court reporter to take every administration of the RPR and provide the Board with documentation showing proof to that effect. The Board also discussed extending certification to all provisional court reporters until July 2005. Ms. Simmons presented the Board with a chart depicting court reporters holding provisional certification and where each one stands with regards to passing the RPR.

The Board discussed Temporary Certification. Nina Preston informed the Board changing temporary extensions could provide a legislative challenge. Forcing temporary certificate holders into converting to Provisional Certification may cause problems with regards to extenuating circumstances. Ms. Simmons suggested giving Temporary Certificate holders who have passed one skill component and the written knowledge exam of the RPR the option to convert their certificate to Provisional Standard Certification. The Board agreed that the deadline date for Provisional Standard Certificate holders should be extended to December 31, 2005. The Board agreed Temporary Certificate holders should be given the option to convert their certificate to Provisional Standard Certification. Additionally, all reporters who have not passed the entire RPR are required to take every administration of the RPR exam and provide the Board proof of taking the exam along with the results of the exam.

A **motion** was made by Jean Lea and seconded by Judge Philip Hall to send the Draft Code, as amended and discussed, out for public comment. Motion passed. **BCCR-04-044**

A **motion** was made by Jean Lea and seconded by Douglas Brooks to extend the Provisional

Standard Certification deadline from December 31, 2004 to December 31, 2005 with proof to the Board by January 31, 2006. Court reporters are required to provide the Board with results and proof of taking every administration of the RPR. Motion passed. **BCCR-04-045**

A **motion** was made by Jean Lea and seconded by Judge Philip Hall to provide a revision in the Code that allows Temporary Certificate holders the option of converting their certificate to Provisional Standard Certification if they have passed the written component and one skill component of the RPR. Motion passed. **BCCR-04-046**

## **Topics for Discussion**

### *Rule 30(b)*

Rhonda Simmons reported the Arizona Court Reporters Association (ACRA) has requested the Board reconsider its opinion regarding Rule 30 and adopt Alternative B. The Board discussed revisiting the issue and after discussion, determined their comments would remain unchanged. The Board agreed ACRA's interpretation of Alternative B appears to be different than the Board's interpretation. The Board agreed a representative from ACRA may present reasons why the Board should reconsider its opinion and the Board will have further discussion at that time.

## **Program Update**

### *Keeping the Record Committee*

Sandra Markham reported headway is being made defining what is the "record", what is the purpose for having minimum standards and who can transcribe tapes. Ms. Markham stated the Committee is looking into developing minimum standards with regards to what is the record, how the record should be kept, and what should be accepted at the appellant court level.

### *Complaints*

Rhonda Simmons reported the program received three new complaints within the last two weeks, for a total of nineteen open pending complaints. Additionally, Ms. Vaishville's Formal Statement of Charges has been signed today and will be served this week.

## **Call to the Public**

There was no response from the public.

## **Adjournment**

A **motion** was made by Douglas Brooks and seconded by Sylvia Brandfon to adjourn. Motion passed. **BCCR-04-047**

The meeting of the Board of Certified Court Reporters adjourned at 2:31 p.m.