

BEFORE THE COMMISSION ON JUDICIAL CONDUCT AND ETHICS

STATE OF WYOMING

An inquiry concerning)
The Honorable Ruth Neely)
Municipal Court Judge and)
Circuit Court Magistrate)
Ninth Judicial District)
Pinedale, Sublette County)

COMMISSION ON JUDICIAL CONDUCT
AND ETHICS
No. 2014-27 Official Record

FILED
Date: 8/31/15
Wendy J. Soto

AMENDED NOTICE OF COMMENCEMENT OF FORMAL PROCEEDINGS

To: Honorable Ruth Neely
Municipal Court Judge
City of Pinedale
P.O. Box 1386
Pinedale, Wyoming 82941

A. *Factual Background.*

1. Judge Ruth Neely is a Municipal Court Judge, presiding over the Municipal Court of the Town of Pinedale, Wyoming. Judge Neely holds her position pursuant to the provisions of Wyoming Statutes § 5-6-101, *et seq.*, and Chapter 23 of the Municipal Code of the Town of Pinedale. Judge Neely has served as a Municipal Judge for approximately 21 years.

2. In 2001 Judge Neely was appointed Magistrate by then Circuit Court Judge John Crow. The purpose of this appointment was to confer authority upon Judge Neely to perform marriage ceremonies in accordance with Wyoming Statute § 20-1-106. Upon his appointment to the bench, Circuit Court Judge Curt A. Haws continued Judge Neely's appointment in the same

capacity. Since her appointment in 2001, Judge Neely has performed numerous civil marriage ceremonies in her capacity as Circuit Court Magistrate.

3. On October 17, 2014, in the case of *Guzzo v. Mead*, 2014 WL 5317797 (D.Wyo.2014), the United States District Court for the District of Wyoming, following established Tenth Circuit Court of Appeals precedence, determined that same sex couples enjoyed the same constitutional right to participate in civil marriage as heterosexual couples. Judge Skavdahl's ruling was not appealed and became the law of the state of Wyoming the following Monday, October 20, 2014.

4. Sometime during the week of December 8, 2014, Judge Neely was contacted by Ned Donovan, a reporter for the local papers in Sublette County, Wyoming. Judge Neely participated in an interview, or at least a conversation with Donovan on the subject of same sex marriage. During the course of the conversation or the interview, Judge Neely informed Donovan that she would be unable to perform same sex marriages as a result of her religious beliefs. Judge Neely was quoted by Donovan as saying "When law and religion conflict, choices have to be made. I have not yet been asked to perform a same sex marriage."

5. The substance of Judge Neely's conversation or interview with Donovan, including the quoted language appeared in the Sublette Examiner on December 11, 2014 and may have appeared in other local publications in that timeframe.

6. As a result of these publications and conversations with Judge Neely, Judge Haws suspended Judge Neely's authority to perform marriage ceremonies on or about January 15, 2015.

7. In the meantime, Judge Neely, with the advice of Judge Haws, voluntarily refrained from performing marriage ceremonies for any couples, heterosexual or otherwise, and the last marriage ceremony performed by Judge Neely occurred on December 13, 2014.

8. In response to inquiries from this Commission, Judge Neely has admitted to making the comments attributed to her in the newspaper article and has reiterated her position with respect to same sex marriages, citing her religious beliefs and her First Amendment rights, presumably to the free exercise of religion.

9. On April 27, 2015 the Honorable Judge Ruth Neely's counsel Herbert K. Doby filed the *Motion to Appear Pro Hac Vice* on behalf of Kenneth J. Connolly, Douglas G. Wardlow, and James A. Campbell. See *Motion to Appear Pro Hac Vice*, April 27, 2015. The *Verified Answer*, which indicated that James A. Campbell, Kenneth J. Connelly, and Douglas G. Wardlow work for the Alliance Defending Freedom, was filed concurrently with the *Motion to Appear Pro Hac Vice*. *Id.*; see also *Verified Answer*, April 27, 2015. The *Order Granting Motion to Appear Pro Hac Vice* was entered June 10, 2015. *Order Granting Motion to Appear Pro Hac Vice*, June 10, 2015.

10. The Alliance Defending Freedom¹ (hereinafter, "ADF") is an organization that discriminates and advocates for the discrimination of persons based upon sexual orientation and actively pursues a political agenda that includes opposing marriage equality. See generally, <http://www.adflegal.org>. The ADF describes itself as, "an alliance-building legal organization that advocates for the right of people to freely live out their faith." See, <http://www.adflegal.org/about-us/faq>. Its mission statement is, "to keep the doors open for the Gospel by advocating for religious liberty, the sanctity of life, and marriage and family." *Id.* The ADF solicits support for its political agenda on its website, solicits donations in support of its political causes and allows users to share via Facebook ADF's political message. (*Id.*, see also, <http://www.adflegal.org/issues/marriage/redesigning-society>).

B. *Code of Judicial Conduct.*

1. The following provisions of the Wyoming Code of Judicial Conduct are implicated by the facts recited above:

Canon 1. A Judge Shall Uphold the Integrity and Independence of the Judiciary.

A judge shall uphold and promote the independence, integrity and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

¹ The ADF specializes in legal work where it believes religious freedom is being violated. See, <http://www.adflegal.org/about-us>. The ADF president, Alan Sears, co-wrote a fiercely anti-gay book, called *The Homosexual Agenda: Exposing the Principal Threat to Religious Freedom Today*. See, <http://www.adflegal.org/detailspages/biography-details/alan-sears>.

Rule 1.1. Compliance with the Law.

A judge shall comply with the law, including the Code of Judicial Conduct.

Rule 1.2. Promoting Confidence in the Judiciary.

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety.

Canon 2. A judge shall perform the duties of judicial office.

A judge shall perform the duties of judicial office impartially, competently, and diligently.

Rule 2.2. Impartiality and Fairness.

A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

Rule 2.3. Bias, Prejudice and Harassment.

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

(B) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, *sexual orientation*, marital status, socioeconomic status, or political affiliation, and shall not prevent court staff, court officials, or others subject to the judge's direction and control to do so. (Emphasis added.)

Rule 2.4 External Influences on Judicial Conduct

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

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

(C) A judge shall not convey or permit others to convey the impression that any person or organization is in a position to influence the judge.

Canon 3. A judge shall conduct the judge's personal and extrajudicial activities to minimize the risk of conflict with the obligations of judicial office.

Rule 3.6 Affiliation with Discriminatory Organizations

(A) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation.

(B) A judge shall not use the benefits or facilities of an organization if the judge knows or should know that the organization practices invidious discrimination on one or more of the basis identified in paragraph (A). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of the Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.

2. Judge Neely's stated position with respect to same sex marriage and her subsequent engagement of James A. Campbell, Kenneth J. Connelly, Douglas G. Wardlow of the Alliance Defending Freedom Organization, and her affiliation with the Alliance Defending Freedom Organization, precludes her from discharging the obligations of the above-cited Canons and Rules of Judicial Conduct, not just with respect to the performance of marriage ceremonies, but with respect to her general duties as Municipal Court Judge.


C. *Notification of Members of Adjudicatory Panel.*

1. The following are members of the Adjudicatory Panel: Mel Orchard, Presiding Officer, Honorable Wendy Bartlett and Barbara Dilts.

D. *Advisement.*

1. Pursuant to Rule 8(b) of the Rules Governing the Commission on Judicial Conduct and Ethics, Judge Neely is hereby advised that she shall have twenty (20) days from the date of service of the instant *Amended Notice of Commencement of Formal Proceedings* within which to file a written, verified answer to the allegations above made. Her response, if any, should be served on the undersigned counsel for the CJCE.

DATED this 28 day of August, 2015.


Patrick Dixon (Wyo. Bar #5-1504)
104 S. Wolcott, Suite 600
Casper, Wyoming 82601
(307) 234-7321
(307) 234-0677 (facsimile)
Disciplinary Counsel