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**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

File No. A24-0694

Inquiry into the Conduct of
The Honorable John P. Dehen

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION OF
PANEL

The above-entitled matter came on for a public hearing before the panel on September 16 and 17, 2024, at the Minnesota Judicial Center, St. Paul, Minnesota.

Eric Magnuson, Attorney at Law, Minneapolis, Minnesota, appeared on behalf of the Board on Judicial Standards. Tom Weidner, Attorney at Law, Stillwater, Minnesota, appeared on behalf of the Hon. John P. Dehen. The Hon. John P. Dehen appeared personally.

After receiving written argument from the parties, the panel took the matter under advisement on November 5, 2024.

Based upon the contents of the file, the evidence presented at the hearing, and being fully advised, the panel upon clear and convincing evidence makes the following:

FINDINGS OF FACT

Introduction

1. On March 28, 2024, the Board on Judicial Standards (Board) issued a formal complaint of judicial misconduct against the Hon. John P. Dehen. The complaint alleged that Judge Dehen violated the Minnesota Rules of Judicial Conduct when he took legal action against the court administrator for the Tenth Judicial District in a dispute over his court reporter's salary. The complaint and Judge Dehen's response denying misconduct were filed with the Minnesota Supreme Court on April 26, 2024.

2. Chief Justice Natalie Hudson, pursuant to Rules 8(b) and 10, Rules of Board on Judicial Standards, appointed a three-member panel to conduct a public hearing pursuant to Rule 8(b) on the charges contained in the formal complaint.
3. On June 17, 2024, the Board amended the complaint. The amended complaint added allegations of misconduct arising from Judge Dehen's handling of five at-risk juvenile guardianship hearings and from him holding court from his vehicle. The amended complaint and response by Judge Dehen denying the allegations of misconduct were filed with the Minnesota Supreme Court on July 1, 2024.

Judge Dehen's Background and Prior Misconduct

4. Judge Dehen has been licensed to practice law in Minnesota since 1988. He was elected a district court judge in the Tenth Judicial District in 2010 and has served continuously in that position to the present time. He is one of 16 district court judges chambered in Anoka County.
5. The Supreme Court publicly reprimanded Judge Dehen in 2006 for his conduct while an attorney and required him to pay \$900 costs and disbursements.
6. The Board privately admonished Judge Dehen in 2022 for abusing the prestige of judicial office and for improper demeanor when he was plaintiff in a conciliation court case before a judicial officer in the First Judicial District.

Court Reporter Salary Dispute

7. Lisa Shufelt has been employed as Judge Dehen's court reporter since 2017. Court reporters for the Minnesota Judicial Branch (Branch) belong to Teamsters Local 320 union. Their salaries are set by a collective bargaining agreement. Their salary scale has eleven steps with those at the top step paid the most. Shufelt's salary was at step 2. (B. 1233) Despite her training and experience, she was one of the lowest paid court reporters in the judicial branch. (B. 1232)
8. Shufelt told Judge Dehen more than once that she felt underpaid. He agreed with her. In August 2023, Shufelt spoke with Sarah Anderson, a court reporter in Anoka County for Judge Suzanne Brown. Anderson told Shufelt that she had been

at a step 3 salary and had resigned her position in June 2023. (B.1237) She told Shufelt that Judge Brown then rehired her in July at a step 11 salary. (B. 1237) Judge Dehen understood that Shufelt and Anderson had similar court reporter experience.

9. Before Anderson's resignation in June, Judge Brown spoke with Kristine Lancaster, the Human Resource Manager for the Tenth Judicial District, about whether a court reporter could resign and then be rehired at a higher salary step. (B. 485) One of Lancaster's responsibilities was to hire court reporters for the district. (B. 485) Lancaster reached out to Jesse Bienfang, the Human Resources Program Manager for the Branch, to see if this was permissible. Bienfang told Lancaster that no written policy prevented this, but the practice was discouraged unless the court reporter obtained additional experience before her rehire. District court administration subsequently allowed Judge Brown to rehire Anderson at a step 11 salary. (B. 485-86)
10. On August 9, 2023, Dana Bartocci, the Human Resources and Development Director for the Branch, e-mailed Lancaster and other staff informing them that the Judicial Administrators and Directors Committee for the Branch had revisited the issue of court reporter pay upon rehire. (B. 472) Bartocci said that the Branch would continue the practice of paying court reporters who were rehired the same rate of pay that they had been earning at the time of their separation and only offer a higher rate if they had obtained additional relevant experience during their break in employment. (B. 472)
11. When Anderson and Shufelt spoke in August, they were not aware of Bartocci's email. After speaking with Anderson, Shufelt spoke with Judge Dehen and told him about Anderson resigning and being rehired at a step 11 salary. After speaking with Shufelt, Judge Dehen spoke with Judge Brown about the process she had followed in rehiring Anderson. Neither Judge Dehen nor Judge Brown knew about Bartocci's e-mail to Lancaster at the time. Following his conversation with Judge Brown, Judge Dehen told Shufelt that he would support her if she wanted to resign as his court reporter and reapply for the position.

12. On August 28, 2023, Shufelt sent the district her letter of resignation stating that her last day of work would be September 11, 2023. (B. 589) That same day, Judge Dehen asked Lancaster to post the open court reporter position with applications to close on September 13, 2023.(B. 614)
13. When the district received Shufelt's application for the open position, Lancaster sent Judge Dehen an e-mail on September 13. (B. 565) She said that she needed to talk to him about "a Branch decision to rehire employees at the same rate of pay that the employee earned upon their separation, unless the employee had gained significant additional experience since their separation." (B. 565)
14. The next day, Judge Dehen informed Lancaster by e-mail that he had offered Shufelt the job as his court reporter at a step 11 salary and that she had accepted it. (B. 597) In response, Lancaster e-mailed him stating that Shufelt had to be paid the same rate that she was paid when she resigned or she would not be employed by the Branch. (B. 594)
15. After this e-mail exchange, Sarah Lindahl-Pfieffer, the Tenth Judicial District Court Administrator, assumed the responsibility for communicating with Judge Dehen. (B. 554) On September 15, 2023, she e-mailed Judge Dehen and said that it was not possible to hire Ms. Shufelt at a higher rate of pay. She said that "her hands were tied." She sent Judge Dehen a copy of *In the Matter of Arbitration Between Minnesota Judicial Branch and Teamsters Union Local 320* (BMS Case 20PA2458), a decision dated February 1, 2022, where an arbitrator held that judges did not have authority under the collective bargaining agreement to set compensation for their court reporters. (B. 629)
16. On September 18, 2023, Judge Dehen e-mailed Lindahl-Pfieffer that he had read the arbitration decision and believed that it only applied to changes made in a court reporter's salary after the court reporter was hired and not to setting a court reporter's starting wage. (B. 598) Judge Dehen maintained in the e-mail that he had authority to rehire Shufelt and set her salary. He wrote that as appointing authority for his staff, he had made salary decisions in the past and that the salary he offered to Shufelt was within the pay range of the job posting. (B. 598) He noted that the district had recently rehired Judge Brown's former

court reporter at step 11 and that she had virtually the same experience as Shufelt and that other court reporters with less experience than Shufelt were paid more than her. (B. 599)

17. On September 20, 2023, Judge Dehen filed an order in Anoka County district court appointing Shufelt as his court reporter. *In re Appointment of Lisa Shufelt, Competent Stenographer*, Court File No. 02-CV-23-5125. He also signed and filed with the district court a peremptory writ of mandamus directing Lindahl-Pfeiffer to immediately commence the employment of Shufelt at a step 11 salary. (B. 162)
18. When Shufelt returned to work the next day, she was told by the Branch Human Resources department that she should not return to work as directed by Judge Dehen. (B. 1233)
19. On September 21, 2023, the Minnesota Office of Attorney General, on behalf of Lindahl-Pfeiffer, filed with the Minnesota Court of Appeals a petition for writ of prohibition to restrain the district court from enforcing its order and peremptory writ. (B. 349) The Court of Appeals stayed enforcement of the order and writ pending its further order. (B. 365) In his brief to the Court, Judge Dehen maintained that he had the inherent authority to set the salary for his court reporter. He also argued that Minn. Stat. § 486.01 (2023) gave district court judges the authority to “appoint a competent stenographer as reporter of the court” and that this authority would be undermined if a judge could not set the reporter’s salary. (B. 377-79)
20. On October 24, 2023, the Court of Appeals issued a writ of prohibition vacating Judge Dehen’s order and peremptory writ. *In re Lindahl-Pfeiffer*, No. A23-1405, Special Term Order (Minn. Ct. App. Oct. 24, 2023). The Court held that the order and writ by Judge Dehen setting the reporter’s salary as an exercise of his inherent authority was unauthorized. In rejecting Judge Dehen’s argument that he could set his court reporter’s salary, the Court stated, “The supreme court has held that judges lack inherent authority to set the salary of court employees by order when there is a statute on the subject and an established procedure to be followed.” *Id.* at 3 (citing *Clerk of Ct’s Compensation v. Lyon Cnty. Comm’rs*, 241 N.W.2d 781, 789 (Minn. 1976)). The Court noted that there was a statute on

court reporter salaries that incorporated personnel rules and policies and the collective bargaining agreement. Id. at 3.

The Court also held that it was improper for Judge Dehen to issue a peremptory writ because it denied Lindahl-Pfieffer an opportunity to respond to his allegations. The Court stated that use of a peremptory writ was limited to those rare cases in which the facts were indisputable. Id. at 4. In this case, however, the Court stated that Judge Dehen knew that the district court administrator disputed his right to rehire the court reporter “at the top of the pay range” yet did not give her an opportunity to be heard. Id. at 4.

21. After the Court of Appeals issued its decision, Judge Dehen and Lindahl-Pfieffer continued to disagree about the salary that Shufelt should be paid upon her rehire. Judge Dehen maintained that the order from the Court of Appeals only prohibited him from hiring Shufelt at the top of the pay range and did not prohibit him from re-hiring her at the mid-point salary for court reporters. (B. 618-19) Lindahl-Pfieffer maintained that Shufelt could only be paid the salary that she was earning when she resigned. (B. 618) On October 26, 2023, Judge Dehen informed Lindahl-Pfieffer that, “I am going to immediately exercise my statutory discretion to appoint Ms. Shufelt and hire her on at the mid-point of the range.” (B. 617-18)
22. On October 31, 2023, Judge Dehen filed and served on Lindahl-Pfieffer an order and alternative writ of mandamus directing her to respond to the writ of mandamus and appear at a hearing before him on November 2, 2023, and show cause for not hiring Shufelt at a step 6, the midpoint salary for court reporters. (B. 339)
23. On November 1, 2023, the Minnesota Attorney General’s Office, on behalf of Lindahl-Pfieffer, applied to the Minnesota Court of Appeals for a writ of prohibition and filed a notice to remove Judge Dehen from hearing the case. (B. 343, 435). The Assistant Chief Judge of the district, Elizabeth Strand, began to arrange for an out-of-district conflict judge to handle the case. Luke Gosselin, the Judicial Court Operations Manager for Anoka County, contacted Judge Dehen about having the case assigned to a conflict judge. Judge Dehen told him that no

conflict judge was needed at that time, and that he would deal with the notice to remove at the scheduled hearing. (B. 496)

24. On November 2, 2023, the Court of Appeals stayed Judge Dehen's order and writ. *In re Sarah Lindahl-Pfeiffer, Petitioner*, Order (Minn. Ct. App. Nov. 2, 2023).
25. On November 15, 2023, the Court of Appeals issued a special term order vacating Judge Dehen's order and writ. *In re Sarah Lindahl-Pfeiffer, Special Term Order A23-1655* (Minn. Ct. App. Nov. 15, 2023). It held that the writ of mandamus was unauthorized and should not have been issued. The Court stated that its first order had squarely addressed a judge's authority to unilaterally set the court reporter's salary and found the judge had no such authority. *Id.* at 3. The Court also found that Judge Dehen had a conflict of interest which it described as follows:

The record establishes that the judge in this case (a) initiated a proceeding in district court and assigned it to himself; (b) filed additional documents in a closed file after this court vacated the judge's decision and did not remand; (c) filed an "information" containing numerous factual allegations and then adopted those allegations as the court's findings of fact in a matter known to be contested; and (d) twice filed orders and writs setting the salary of the court reporter he has directly supervised for years. It was a conflict for the judge to initiate a proceeding involving the salary of his own court reporter and decide it.

Id. at 5.

26. Judge Dehen did not seek further review of either order of the Court of Appeals. Those orders became final and the law of the case.
27. The day after issuing the second writ of prohibition, the eight judges of the Court of Appeals who had been involved in deciding the two separate appellate matters filed a complaint with the Board on Judicial Standards based on Judge Dehen's conduct. (B. 40)

28. Besides the lack of procedural and substantive authority for issuing the two writs as noted by the Court of Appeals, Judge Dehen had a clear disqualifying conflict of interest in the proceedings. Specifically, he initiated the proceedings, he was beneficially interested in their outcome, and remained as the judge in them. (B. 224, 395, 464)
29. At the hearing before the Panel, Judge Dehen testified that before he issued the writs, he had concluded from his research that the provisions of the Code of Judicial Conduct regarding conflict of interest did not apply to him because he was invoking his inherent judicial authority. His conclusion was unfounded and contrary to case law. In fact, in the case he cited, the Minnesota Supreme Court specifically stated that a judge asserting his or her inherent authority may not act as the deciding judicial officer. *Clerk of Court's Comp. for Lyon Cnty. v. Lyon Cnty. Comm'rs*, 241 N.W.2d 781, 786 (Minn. 1976).
30. In light of existing case law and his beneficial interest in a case to set the salary of his court reporter, Judge Dehen should have known that he had a conflict of interest before the Court of Appeals told him he had one.
31. Judge Dehen's conduct caused substantial harm. His conduct undermined public confidence in the integrity and impartiality of the judiciary. His action in issuing two writs also disrupted the operations of the district court and necessitated two immediate appeals to the Minnesota Court of Appeals.

Guardianships for At-Risk Juveniles

32. The Board alleges that Judge Dehen committed misconduct in five cases where the court was asked to appoint guardians for at-risk juveniles. The Board claims that in these cases Judge Dehen manifested prejudice against the parties based upon their national origin and ethnicity and showed prejudice against them based upon their language and immigration status.

33. In 2022, Minnesota enacted Minn. Stat. § 257D.01-.12 (2022), which provided for the appointment of guardians for at-risk juveniles. The appointment of a guardian under this statute allows a non-citizen juvenile that is at-risk to apply for special immigrations status under federal law. The statute defines an at-risk juvenile as “an unmarried person who is between the ages of 18 and 21 and is potentially eligible for classification under United States Code, title 8, section 1101(a)(27)(J), as amended through December 31, 2021.” Minn. Stat. § 257D.01, subd. 4 (2022). A non-citizen juvenile who obtains special immigration status under federal law can work and seek permanent residency in the United States. *In re Guardianship of Guaman*, 879 N.W. 2d 668, 671-72 (Minn. Ct. App. 2016).
34. The purpose of a guardianship in at-risk juvenile cases “is to provide an at-risk juvenile with guidance, assistance, financial and emotional support, and referrals to resources necessary to either or both: (1) meet the at-risk juvenile’s needs, which include but are not limited to shelter, nutrition, and access to and receipt of psychiatric, psychological, medical, dental, educational, occupational, or other services; or (2) protect the at-risk juvenile from sex or labor trafficking or domestic or sexual violence.” Minn. Stat. § 257D.02 (2022).
35. For a juvenile to qualify for at-risk guardianship, a petitioner must prove:
 - a. that the appointment of a guardian is in the best interests of the at-risk juvenile;
 - b. that the proposed guardian is in the best interests of the at-risk juvenile;
 - c. that the proposed guardian is capable and reputable;
 - d. that both the petitioner and proposed guardian agree to the guardianship;
 - e. reunification of the at-risk juvenile with one or both parents is not viable because of abandonment, abuse, or neglect; and
 - f. it is not in the best interests of the at-risk juvenile to be returned to the at-risk juvenile’s or at-risk juvenile’s parent’s previous country of nationality or last habitual residence.

See Minn. Stat. § 257D.03, subd 2. (2022).

36. In 2023, Judge Dehen was one of four judges in Anoka County assigned to hear petitions for guardianships for at-risk juveniles.

Lemus Corpeno Guardianship

37. Judge Dehen's first hearing on a petition for guardianship of an at-risk juvenile was January 23, 2023. The petition was filed by Jeferson DeJesus Lemus Corpeno, who was represented by attorney C. Alexander Anderson-Cazales. (B. 665). In his affidavit in support of the petition, Lemus Corpeno stated that he was 18 years old and had arrived in the United States from El Salvador in late January 2022. (B. 673, 675). Authorities then released him to his paternal grandmother who lived in Minnesota. (B. 675). His affidavit said that when his mother was pregnant with him, his father abandoned the family. (B. 674) Then, when he was 3 or 4 years old, his mother abandoned him and left him in the care of his maternal grandmother. (B. 673) Lemus Corpeno's affidavit described how he had been threatened and assaulted by gang members in El Salvador and was scared for his life. (B. 674-75)
38. At the hearing, Lemus Corpeno's attorney explained to the court the Minnesota statute for the appointment of guardians for at-risk juveniles and the findings the court needed to make to appoint a guardian. (B. 686) Judge Dehen asked the attorney if granting the petition would cause financial ramifications to the state of Minnesota and asked about the "immigration benefit" to petitioner if he granted the petition. (B. 686, 689) The attorney replied that Lemus Corpeno would not be able to be a financial charge of the state and that it would be up to immigration authorities to decide if Lemus Corpeno could stay in the country. (B. 689-690)
39. Judge Dehen denied the petition on April 17, 2023, on grounds that petitioner failed to prove that "reunification with one or both parents is not viable because of abandonment, abuse or neglect under Minnesota law." (B. 702, 705) Attorney Anderson-Cazales has handled approximately 20 guardianship petitions for at-risk juvenile clients and this was the only one that was denied. (B. 657)
40. Lemus Corpeno appealed the denial of his petition to the Minnesota Court of Appeals. On January 29, 2024, the Court of Appeals reversed and remanded the

case to the district court. *In re the Guardianship of: Jefferson DeJesus Lemus Corpeno*, No. A23-0865 (Jan. 29, 2024). The Court held the district court failed to address each basis for “abandonment,” “abuse,” and “neglect” as those terms were defined in the statute and alleged in the petition. *Id.* at 10. The Court also noted at footnote 2 of the opinion that the case did not involve any allegation that the relevant statutory language was ambiguous and therefore the decision whether to grant the petition was required to be based on the statutory criteria “rather than asserted or perceived collateral consequences.” *Id.* at 5. On remand, Judge Dehen granted Lemus Copeno’s petition. (B. 718)

Ayala Guardianship

41. On June 12, 2023, Judge Dehen heard Jeymy Marmal Ayala’s petition for appointment of a guardian for her as an at-risk juvenile. She was represented by attorney Kelly Clark. (B. 768, 815) Ayala’s affidavit stated that she was born October 17, 2022, and arrived in the United States from Honduras in November 2021. (B. 785, 786) She stated that her father disappeared when she was 2 ½ years old. (B. 785) Then, while Ayala was living with her mother, her mother’s boyfriend abused her, and her mother did nothing to protect her. (B. 785) During the hearing, Judge Dehen asked Ayala if she was in the United States legally or illegally. (B. 823) At the hearing, Ayala’s attorney became concerned about Judge Dehen’s questions and his focus on details that were irrelevant to the case. (B.768-69).
42. Before Judge Dehen issued his decision on Ayala’s petition, Judge Jennifer Stanfield began her juvenile assignment in Anoka County. (B. 653) When she started this assignment in July 2023, Judge Dehen asked her about at-risk juvenile guardianships and Judge Stanfield shared with him the research that she had done on the law. Judge Stanfield testified:

Judge Dehen responded that he thought this was an immigration issue, a means to bypass normal immigration channels to stay in the country and he had a hard time with that. I told him that was not correct, that the immigration status was not an issue for us to decide and that he could not ask questions about immigration. He made it clear that he did not agree with me.

(B. 654).

43. On August 16, 2023, Judge Dehen denied Ayala's petition. (B. 796) In his conclusions of law, he wrote that the "Court cannot find that the guardianship would be in Petitioner's best interests or that it is not in Petitioner's best interests that she be returned to Honduras..." (B. 800)
44. Ayala appealed Judge Dehen's decision to the Minnesota Court of Appeals. On February 20, 2024, the Court remanded the case back to district court. *In re Ayala*, No. 23-1298, Order Op. at 4 (Feb. 20, 2024). The Court held that the district court: (1) abused its discretion when it determined that the guardianship was not in Ayala's best interests; (2) abused its discretion in basing its decision on considerations not relevant to Ayala's best interests; and (3) abused its discretion by determining that it could not find that it was not in Ayala's best interests to return to Honduras. *Id.* at 3-4. The Court stated that the decision was against the logic and facts in the record and not otherwise pertinent to Ayala's best interests. *Id.* at 4.
45. On remand, Ayala's attorney filed a motion to remove Judge Dehen from the case. (B. 847) Judge Dehen denied the motion but granted the guardianship petition on June 12, 2024. (B. 921)

Lopez Guardianship

46. On October 2, 2023, Judge Dehen heard Xochilt Varela Lopez's petition for appointment of a guardian for her as an at-risk juvenile. (B. 742) She was represented by attorney Robert Caldecott. (B. 728) As in the Ayala hearing, Judge Dehen asked Lopez if she was in the country legally or illegally. (B. 746)
47. On December 4, 2023, Judge Dehen denied Lopez's petition. (B. 761). In his order, Judge Dehen wrote that Lopez failed to present sufficient evidence that the guardianship was being sought for the purposes identified in the statute. (B 764). Instead, Judge Dehen stated that Lopez was seeking the guardianship for immigration benefits and that this was not an enumerated purpose of the guardianship statute. (B. 764) He also found that it was in Lopez's best interests

to return to Nicaragua and “that the immigration status of the Proposed Guardian and his inability to speak any amount of English after five years in the Twin Cities metropolitan area negatively impact his ability to meet Petitioner’s needs...” (B. 762, 766). Lopez did not have money to appeal the order. (B. 730).

Ahmed Guardianship

48. On November 27, 2023, Judge Dehen heard Ayan Ahmed’s petition for appointment of a guardian for her as an at-risk juvenile. She was represented by attorney Evangeline Dhawan-Maloney. Ahmed was 19 years old and had arrived in the United States from Ethiopia in May 2023. (B. 961) Her petition stated that her parents had abused, neglected, and abandoned her while she lived there. (B. 961-62)
49. During the hearing, Dhawan-Maloney became concerned about the questions that Judge Dehen was asking Ahmed, including questions about her immigration status and how she had entered the United States. (B. 950, 992-93) Following the hearing, Dhawan-Maloney filed a motion to remove Judge Dehen from the case for cause. (B. 1012) Judge Dehen denied this motion and Dhawan-Maloney appealed the denial to the Chief Judge of the district, Judge Stoney Hiljus. (B. 1083)
50. On March 5, 2024, Chief Judge Hiljus granted the motion to remove Judge Dehen. (B. 1089) In his findings of fact and conclusions of law, Judge Hiljus found that:
 14. Judge Dehen asked a variety of questions during the hearing that gave the appearance that he was considering the immigration status or perceived immigration status of the juvenile. Judge Dehen asked how the juvenile got to the United States, who paid for her trip, and the route she took to enter the United States.
 15. Judge Dehen has a history of explicitly and implicitly inquiring into the immigration status of both Petitioners and Respondents in the at-risk juvenile guardianship cases that come before him. Judge Dehen has asked a Petitioner in at least one such case whether they are “here legally or illegally.” In that case, Judge Dehen also found that the fact that the juvenile

did not speak English indicated that it was not in her best interests to remain in the United States, but rather, to return to Honduras. In another case, he found that the Respondent proposed guardian was not a capable and reputable person as required under MN Stat 257D.02, because of his inability to speak English...

* * *

17. In this case Judge Dehen's comments to the Petitioner, taken together with his history of inquiring into the immigration status of parties that appear before him, and his findings with regard to parties' inability to speak the English language, would cause a reasonable examiner to question Judge Dehen's impartiality and to question whether his bias against what he perceives to be illegal immigration impairs his ability to determine whether the proposed ward is an at-risk juvenile.

51. Judge Hiljus found that Judge Dehen was disqualified from hearing the case under the Code of Judicial Conduct. The case was then reassigned, and Ahmed's petition was granted.

Lazo Guardianship

52. On November 15, 2023, Judge Dehen heard Jacqueline Silvana Castro Lazo's petition for appointment of a guardian for her as an at-risk juvenile. Lazo's petition stated that she was 20 years old. (B. 1108) She had left Ecuador because her father physically abused her, and she feared for her safety if she returned there. (B. 1109)
53. On February 12, 2024, Judge Dehen denied Lazo's petition. Even though the Court of Appeals had just reversed him in the Lemus Corpeno case on January 29, 2024, and had noted in that decision that the court should not consider "perceived or collateral consequences" of the petition, Judge Dehen denied Lazo's petition stating:

Petitioner's attorney stated that the purpose of needing a week-long guardianship at twenty years of age is that Petitioner hoped to obtain an immigration benefit. The Court finds that this is not aligned with

the purpose of this type of guardianship as enumerated in Minn. Stat. § 257D.02.

Order Denying a Guardianship Under Minn. Stat. § 257D.02 at Findings of Fact 10, *In re Castro Lazo*, Court File No. 02-JV-23-969 (Dist. Ct. Minn. Feb. 12, 2024). Judge Dehen also concluded that “the Court cannot find that it is not in Petitioner’s best interests that she be returned to Ecuador.” (B. 1153) Attorney Rivera, who represented Lazo, has represented juveniles in approximately 10 at-risk juvenile guardianships, and Lazo’s petition was the only one denied.

54. When Judge Dehen’s fellow judges on the juvenile assignment heard that a removal request was filed against him in a guardianship for an at-risk juvenile case, Judge Karin McCarthy, one of the four judges on the juvenile assignment, arranged a luncheon meeting with him and the other two judges. (B. 651-52, 654) The date of this meeting is not clear. During the meeting, Judge Stanfield presented a summary of the law. (B. 652) The judges discussed the law, the questions a judge could not ask at a hearing, and that a judge had to follow the law even if he or she disagreed with it. (B.652). Judge McCarthy told Judge Dehen that although he may not like the immigration consequences of the law that was not a reason to deny a petition for a guardian for an at-risk juvenile. (B. 654)
55. Judge Dehen testified that he questioned petitioners about their immigration status because under federal law they would not qualify for guardianship if they entered the United States legally. There is, however, no legal support for this interpretation of the law.
56. In two of his decisions, Judge Dehen specifically rejected immigration benefits as an appropriate reason to seek an at-risk juvenile guardianship, notwithstanding that the state statute specifically refers to at-risk juveniles applying for special immigration status under the federal law. See Minn. Stat. § 257D.01, et seq, incorporating 8 U.S.C. 1101(a)(27)(J). See, also, 8 C.F.R. § 204.11.57. Moreover, before Minnesota enacted the guardianship statute for at-risk juveniles, state courts in guardianship proceedings had to consider a request to make special immigrant juvenile findings when the record supported the appointment of a

guardian and contained evidence to support the findings. *In re Guardianship of Guaman* at 671-72.

57. While judicial error is not a basis for discipline, the statutory factors that determine whether a court should grant an at-risk juvenile guardianship are clear and determined. Potential immigration benefits to a juvenile are not grounds for denying a petition. Judge Dehen's findings and conclusions of law in the above listed at-risk juvenile guardianship cases, together with the questions he asked at the hearings and the view he voiced to his colleagues that the law should not be used to assist at-risk juveniles in seeking immigration benefits, manifested a bias against the law and non-citizen juveniles seeking immigration benefits. His testimony that he merely made an error of law in these cases and was not opposed to granting such petitions was not credible.
58. Judge Dehen's decisions on the petitions for guardianships resulted in significant delays and added expense for two juveniles and the loss for two others of the ability to seek the benefit of the federal statute for which the guardianship statute was enacted. His decisions also harmed the public's confidence in the impartiality of the judiciary.

November 4, 2022, Calendar

59. On November 4, 2022, Judge Dehen presided over a remote juvenile court calendar, which included confidential matters. While presiding over this calendar, he was riding in a vehicle. His wife was driving and he was in the passenger seat.
60. Judge Dehen told the lawyers appearing on the calendar that he was on vacation but had decided to hold court. There is, however, no record that Judge Dehen had requested vacation for that day.
61. When Judge Dehen responded on April 15, 2024, to the Board's inquiry into this matter, he never mentioned that he had been scheduled for vacation that day or that he had a calendar assigned to him. Rather, he told the Board that he had an opportunity to attend his daughter's swim meet.

62. Judge Dehen admitted that holding court from his vehicle was a bad idea and that his actions left some of the participants in the proceedings that day feeling that it was inappropriate and unprofessional.
63. By holding a court session from his vehicle, Judge Dehen put his personal interests and plans above his judicial obligations.

Based upon the Findings of Fact, the panel makes the following:

Conclusions of Law

Court Reporter Salary Dispute

1. Judge Dehen violated Rules 1.1, 1.2, 2.2, 2.5, 2.6(A) and 2.11 of the Code of Judicial Conduct in issuing the writs involving his court reporter's compensation. Rule 1.1 requires a judge to "comply with the law." Rule 1.2 requires a judge to act in a manner that "promotes public confidence in the independence, integrity, and impartiality of the judiciary." Rule 2.2 requires a judge to "uphold and apply the law" and "perform all duties of judicial office fairly and impartially." Rule 2.5 requires a judge to perform his or her duties "competently and diligently." Rule 2.6(A) requires a judge to "accord to every person who has a legal interest in a proceeding...the right to heard." Lastly, Rule 2.11 requires a judge to "disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned."
2. Judge Dehen violated Rules 1.1, 1.2, 2.2, 2.5 and 2.11 because he failed to disqualify himself from the writ proceedings because of a conflict of interest. Specifically, he had a beneficial interest in the outcome of the proceedings because they involved his court reporter and he initiated each of the writs. As noted in Comment [1] to Rule 1.2, "Public confidence in the judiciary is eroded by improper conduct and conduct that creates the appearance of impropriety." Judge Dehen's failure to disqualify himself because of his conflict of interest did not promote confidence in the impartiality of the court and a reasonable judge would have questioned his ability to act fairly.

3. Judge Dehen violated Rules 1.1, 1.2, 2.2 and 2.6(A) when he issued the peremptory writ and later the writ of mandamus to the district court administrator. The writs were issued without legal authority and without giving the district court administrator a meaningful opportunity to respond to the issues raised by the writs.
4. While Judge Dehen's conduct was motivated by his good faith belief that his court reporter deserved a salary increase, this motivation does not override his obligation to follow the law and to disqualify himself when he has a conflict of interest.

At-Risk Juvenile Guardianships

5. Judge Dehen violated Rules 1.1, 1.2, 2.2, 2.3(A) and 2.5 of the Code of Judicial Conduct in five at-risk juvenile guardianship cases. Rule 1.1 requires a judge to "comply with the law." Rule 1.2 requires a judge to "act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary." Rule 2.2 requires a judge to perform his or her duties "fairly and impartially." Comment [2] to Rule 2.2 states unequivocally that a judge must "interpret and apply the law without regard to whether the judge approves or disapproves of the law in question." Consistent with this obligation, Rule 2.3 (A) requires a judge to perform the duties of judicial office "without bias or prejudice." Rule 2.5 requires a judge to perform his or her duties "competently and diligently."
6. Judge Dehen violated these rules by failing to follow the statutory requirements for a juvenile to qualify for at-risk guardianship. Specifically, Judge Dehen asked petitioners in these cases about their immigration status and took the position that immigration benefits were not aligned with the purpose of the at-risk juvenile guardianship statute. His position was contrary to both state and federal law. Moreover, even after being told by his judicial colleagues that a juvenile's immigration status was not to be considered when deciding if he or she qualified as an at-risk juvenile, Judge Dehen did not alter his position. He did not act impartially, and his conduct showed prejudice against non-citizen juveniles seeking special immigration status.

7. Judge Dehen contends that any mistake he made in deciding juvenile at-risk guardianships was an error of law and that such errors do not constitute misconduct. An error of law, however, may constitute misconduct when it convincingly reflects bias, intentional disregard for the law, or any purpose other than the faithful discharge of judicial duty. *In re Comm. on Judicial Tenure and Discipline*, 916 A. 2d 746, 654 (R.I. 2007). *Oberholz vs Comm. on Judicial Performance*, 975 P. 2d 663, 680 (Cal. 1999). As detailed in the panel's findings of fact, Judge Dehen did not agree that Minnesota's at-risk juvenile guardianship statute should be used to assist non-citizen juveniles in obtaining immigration benefits. Judge Dehen allowed his disagreement with the statute's goal to influence his decisions and deprived the parties of the right to an impartial judge.

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8. Judge Dehen violated Rule 2.1, 2.4 and 2.8 by conducting court via Zoom from his vehicle. Rule 2.1 requires that a judge's duties "take precedence over his or her personal and extra judicial activities." Rule 2.4 requires that a judge "not permit family, social... or other interests or relationships to influence the judge's judicial conduct." Rule 2.8 states that a judge shall "require order and decorum in proceedings before the court."
9. Judge Dehen's conduct compromised the decorum, seriousness and professionalism expected from judges in judicial proceedings. He acknowledged at the hearing before the panel that he exercised poor judgment.

Recommendations


Based on the above findings of fact and conclusions of law, the Panel respectfully recommends the following:

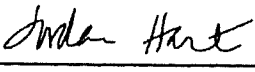
1. That the Minnesota Supreme Court censure Judge Dehen for his violations of the Minnesota Code of Judicial Conduct and suspend him from office without pay for six months.

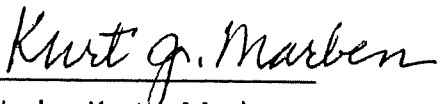
2. That the Minnesota Supreme Court does not impose a civil penalty pursuant to Board Rule 11 because of the length of the recommended suspension.

The attached memorandum of law is incorporated herein.

Dated: January 2, 2025

By: 
Jeanette Boerner (Dec 31, 2024 11:06 CST)
Jeanette Boerner, Esq.

By: 
Dr. Jordan Hart

By: 
Judge Kurt J. Marben

Memorandum

When imposing judicial discipline, the Supreme Court is guided by the principle that the purpose of judicial discipline is not punishment, but to protect the public by preserving the integrity of the judicial system. *Inquiry into the Conduct of Blakely*, 772 N.W. 2d 516, 523 (Minn. 2009). Judicial discipline is designed to recognize that misconduct has occurred and to resolve that similar conduct will not be condoned. *In re Miera*, 426 N.W. 2d 850, 858 (Minn. 1988). The Panel's recommendation in this case was guided by this principle.

Case law lists several factors that courts weigh in deciding an appropriate sanction in a judicial discipline case. These factors include:

1. Whether the misconduct is isolated or a pattern of misconduct;
2. The nature, extent, and frequency of the misconduct;
3. Whether the misconduct occurred in or out of the courtroom;
4. Whether the misconduct occurred in the judge's official capacity or in his or her private life;
5. Whether the judge has acknowledged or recognized the misconduct;
6. Whether the judge has tried to change or modify his or her conduct;
7. The length of service on the bench;
8. Whether there have been any prior complaints;
9. The effect of the misconduct upon the integrity of and respect for the judiciary;
10. The extent to which the judge exploited the judicial office to satisfy personal interests.

See *Inquiry into the Conduct of Ginsberg*, 690 N.W. 2d 539, 555 (Minn. 2004). *In re Block*, 816 N.W. 2d 362, 365-66 (Iowa 2012).

The Panel considered these factors and reviewed several judicial discipline cases where the Minnesota Supreme Court suspended a judge. In one case, the Court suspended a judge for six months after he negotiated a discount in his legal bills with his personal attorney while appointing the attorney to provide mediation services in cases pending before the judge. *Inquiry into the Conduct of Blakely*, 772 N.W. 2d 516 (Minn. 2009). In another, the Court suspended a judge for one year for making unsolicited sexual advances to a close personal assistant and for making intemperate comments about his colleagues. *In re Miera*, 426 N.W. 2d 850 (Minn. 1988). It suspended a judge for six months for residing outside her judicial district for a three-month period. *Inquiry into the Conduct of Karasov*, 805 N.W. 2d 255 (Minn. 2011). The Court suspended a judge for three months for borrowing money from two lawyers who appeared before him, for failing to file informational reports, and for failing to promptly decide matters. *In re Anderson*, 252 N.W. 2d 592 (Minn. 1977). And, in *In re Rice*, 515 N.W. 2d 344 (Minn. 1994), the Court suspended a judge for 60 days upon a stipulated recommendation of the Board for exhibiting extreme anger and undignified behavior toward court staff. While the facts in these cases differ from those in Judge Dehen's case, they provided the Panel with guidance on misconduct that the Court considers serious enough to merit a judge's suspension.

In making its recommendation that the Court censure and suspend Judge Dehen for six months, the Panel gave the greatest weight to four factors. First, in the writ proceedings involving his court reporter's salary and in the at-risk juvenile guardianship cases, Judge Dehen's conduct damaged the public's perception and confidence in the integrity of the courts and its respect for the court's adherence to the rule of law. In the writ proceedings, Judge Dehen failed to recognize that he had an obvious conflict of interest in hearing the case and failed to recognize that he lacked authority to issue the writs. In the at-risk juvenile guardianships, he failed to follow the clear language of the at-risk juvenile guardianship statute even after this failure was called to his attention by his colleagues. Second, Judge Dehen's misconduct involved multiple incidents in three matters. Third, he failed to recognize and acknowledge his improper conduct in the writ proceedings and at-risk juvenile guardianship cases when it should have been apparent to him. Finally, as outlined in the Panel's findings, his misconduct had a direct and significant impact upon the parties involved in the cases.

The Panel recognizes that judges sometimes make good faith errors of law and that these errors are not grounds for discipline. Judge Dehen's conduct, however, in both the writ proceedings and the at-risk juvenile cases, went beyond mere errors of law. In those cases, he failed to apply clear and determined law. A reasonable judge looking at Judge Dehen's conduct in those cases would consider his analysis and interpretation of the law as clearly wrong.

The Panel