

**BEFORE THE NEBRASKA COMMISSION ON
JUDICIAL QUALIFICATIONS**

In the matter of)	
Brian C. Silverman,)	Case No. S-35-100002.
District Court Judge for the)	
Twelfth Judicial District)	Public Reprimand
of the State of Nebraska.)	

The Nebraska Commission on Judicial Qualifications, pursuant to its authority under Article V of the Nebraska Constitution and Neb. Rev. Stat. §§ 24-715 et seq. (Reissue 2008), hereby publicly reprimands respondent Brian C. Silverman.

1. Brian C. Silverman is and was at all material times a duly-appointed district court judge for the Twelfth Judicial District of the State of Nebraska.
2. At all material times Judge Silverman was acting in his official capacity presiding over the matter of *Cari R. Goodwin v. Derek T. Goodwin* in the District Court for Dawes County, Nebraska.
3. Derek Goodwin (Derek) had been awarded custody of the parties' children in a decree by a different judge. Cari Goodwin (Cari) filed a motion to modify custody in 2006. Trial on that motion was held on August 20, 2007; however, before completion Judge Silverman entered temporary orders granting custody to Cari and ordering Derek to pay child support. The remainder of the trial was continued indefinitely.
4. On December 16, 2008, Derek was brought before Judge Silverman for failure to pay child support. Derek appeared without counsel, while Cari was represented by counsel. At this hearing Judge Silverman approved a recalculation of Derek's child support arrearage and a purge plan for its payment, thus significantly reducing the amount of Derek's arrearage. At the conclusion of this hearing, Judge Silverman indicated that he would complete the trial on the custody and visitation issues on February 18, 2009.
5. The parties, each with counsel, appeared before Judge Silverman on February 18, 2009. Also present were many witnesses set to testify at trial, including a number who had been subpoenaed by Derek. Prior to taking evidence, Judge Silverman was informed that Derek was refusing to acknowledge an agreement regarding both custody and the purge plan for child support arrearage. When questioned, Derek denied there was an agreement covering custody. Judge Silverman then informed Derek that if he proceeded with the trial on the custody issues, the purge plan agreed to on December 16, 2008, would be revoked and Derek would be jailed for nonpayment of his arrearage.
6. During these proceedings Judge Silverman raised his voice to Derek, addressing Derek in and displaying an impatient, discourteous, angry, and condescending tone and demeanor. This behavior was observed by seven lay witnesses who believed that Judge Silverman's actions seemed biased against Derek.
7. Judge Silverman's conduct as set forth above constitutes a violation of the Nebraska Code of Judicial Conduct, specifically

a. § 5-201. Canon 1. *A judge shall uphold the integrity and independence of the judiciary.*

(A) An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing high standards of conduct and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Code shall be construed and applied to further that objective.

b. § 5-202. Canon 2. *A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.*

(A) A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

c. § 5-203. Canon 3. *A judge shall perform the duties of judicial office impartially and diligently.*

....


(B)(4) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity

....

(7) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law.

8. The Commission finds that Judge Silverman's conduct at the February 18, 2009, hearing was prejudicial to the administration of justice and brings the judicial office into disrepute, pursuant to Neb. Rev. Stat. § 24-722(6).
9. The Commission notes that Judge Silverman's response to its inquiry was at all times exemplary. He readily admitted his violation of the Code of Judicial Conduct. Judge Silverman was cooperative and complied with the Commission during its investigation of this matter and has been open and candid in his responses to the Commission's questions and requests. Judge Silverman has no history of prior discipline. He has acknowledged that his statements and demeanor at the February 18, 2009, hearing fell short of that which is required under the Nebraska Code of Judicial Conduct. Judge Silverman has acknowledged that he was neither dignified nor courteous to Derek, and that he should have allowed Derek a full hearing on the custody issues. The Commission fully understands the frustration experienced by Judge Silverman as a result of Derek's failure to pay previously ordered child support. Judge Silverman has apologized for his actions and specifically acknowledged the effect those actions have on the integrity of the judiciary. It is therefore the determination of the Commission that this conduct does not require discipline more severe than this public reprimand.

Dated this 4th day of June, 2010.



Michael G. Heavican, Chief Justice
Commission Chair