

**Judicial Merit Commission – Special Meeting  
Tang Conference Room, Law Library, Third Floor  
101 West Jefferson, East Court Building  
Tuesday, April 1, 2008**

**Special Session Meeting Minutes**

The Judicial Merit Commission met on Tuesday, April 1, 2008 to conduct a Special Meeting to hear the appeal of Barbara Lang (Hernandez) v. Juvenile Probation Department. The meeting was conducted in the Tang Conference Room located at 101 W. Jefferson, East Court Building, Law Library, 3<sup>rd</sup> Floor.

Those in attendance were Commissioners Thomas J. Davis (Chair), N. Joseph Cayer, Harry Kaminsky and Carol Smetana. Also present were Phillip E. Hanley, Secretary to the Commission; Gary Bridget, Employee Relations Administrator; Billie Berry, HR Specialist; Carol Boone, Executive Chief, Juvenile Probation; Valli Goss, Assistant Attorney General; Martin Bihn, Counsel for Appellant; Barbara Lang, Appellant; John Stair, Arizona Conference of Police & Sheriffs, and Kitty Lovejoy, Court Reporter.

**I. Meeting Convened**

The meeting was called to order at 2:15 p.m. by Commissioner Thomas J. Davis.

**II. Appeals For Decision**

Barbara Lang (Hernandez) v. Juvenile Probation Department

Pursuant to Commission procedure, each party was given 15 minutes to present their arguments and rebuttal. Assistant Attorney General Valli Goss presented arguments on behalf of the Juvenile Probation Department and Attorney Martin Bihn presented arguments on behalf of appellant, Barbara Lang. Final statements were made by both counsel, Chief Carol Boone and appellant, Barbara Lang (Hernandez).

Commissioner Davis advised that this matter was heard under Rule 11.16, which states, in part: "If after the hearing, a majority of the Commission determines that the action rendered by the appointing authority or the recommendation of the hearing officer was arbitrary or taken without reasonable cause, the appeal shall be sustained, dismissed or the disciplinary action modified." After questions and discussion by the Commission, the following motion was entertained.

**Motion: Commissioner Smetana moved to modify the disciplinary action recommended by the Hearing Officer. Commissioner Cayer seconded the motion. It was moved and seconded to modify the disciplinary action as not warranted, either on the part of the appointing authority, or on the part of the hearing officer, as arbitrary or taken without reasonable cause. Motion passed 4-0.**

The Commission then convened in Executive Session to learn from the Secretary to the Commission the range of options it has for modification of discipline.

### **Executive Session**

Executive Session convened at approximately 3:05 p.m. The Commission concluded its Executive Session at approximately 3:15 p.m. and the Special Session resumed immediately thereafter.

The Chair then entertained a motion with regard to the modification of discipline.

**Motion:** Commissioner Cayer moved that the discipline be reinstatement with demotion and a suspension of 30 days. Commissioner Kaminsky seconded the motion.

The chair offered discussion and asked if the maker of the motion would consider a modification of the motion to provide not only for a suspension of 30 days with loss of pay therefore and a demotion to the next lower rung of the administrative ladder?

Commissioner Cayer replied, "Yes", that was the intent of the motion. The motion was amended.

**Amended Motion:** Reduce the disciplinary action to modify the disciplinary action to a suspension for 30 days, a loss of pay for that time, reinstatement but with demotion to the next lower level. The motion was approved 4-0.

### **III. Meeting Adjournment**

The meeting adjourned at 3:22 p.m.

Respectfully submitted,

Billie J. Berry  
Staff to the Commission

For

Phillip E. Hanley  
Secretary to the Commission

**Next Meeting:** Tuesday, June 3, 2008 @ 2:00 p.m. in the Tang Conference Room