

**STATE OF IDAHO
JUDICIAL COUNCIL**



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SUPREME COURT BUILDING
BOISE, IDAHO 83720

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**Idaho Judicial Council finds no violation of Idaho Judicial Canons
by the Honorable Judge Randy Stoker**

(Boise) – The Idaho Judicial Council has concluded its investigation into the honorable Judge Randy Stoker based on verified complaints arising from the Lincoln County case of *State v. Howard*.

Role and Responsibility of the Idaho Judicial Council

The Idaho Judicial Council (the Council) is an independent state agency that was established in 1967. (I.C. § 1-2101). It is solely responsible for investigating complaints of judicial misconduct and may recommend the removal, discipline or retirement of any judicial officer. (I.C. § 1-2102(4)). Judicial misconduct includes violations of the Idaho Code of Judicial Conduct adopted by the Idaho Supreme Court. The Council may take action against a judge if violations of the Idaho Code of Judicial Conduct are supported by clear and convincing evidence. The Council is not an appellate court. It does not have the authority or jurisdiction to review or revise a decision made or a sentence imposed by a court.

Nature of the Case

This case arose out of an incident after a football practice at the Dietrich High School. The conduct of students, including John R.K. Howard, resulted in a coat hanger being pushed in the rectum of another student. The case, *State v. Howard*, was originally filed as a felony: forcible penetration by use of a foreign object, a violation of I.C. § 18-6608, by a Deputy Attorney General acting as a special prosecutor. The Lincoln County prosecutor was recused from the case. After several requested continuances from defense and prosecution, a preliminary hearing was waived, and John R.K. Howard was transferred to the Lincoln County district court, the Honorable Randy Stoker presiding, to enter a plea. Mr. Howard entered a not guilty plea to this offense. That case was subsequently dismissed and a new complaint in *State v. Howard* alleging a felony was filed: Injury to Children, a violation of I.C. § 18-1501(1).

According to the court records, the criminal complaint filed by the Deputy Attorney General was based upon interviews with all individuals in the locker room, further general investigation, reviewing all reports generated by local law enforcement agencies, and interviews with the victim. The prosecutor said: “[I]t is not in my view a sex crime, which is why the state has amended the charges.”

Nature of the Complaint:

The Council received three verified complaints from six individuals concerning Judge Stoker's handling of the Lincoln County case of *State v. Howard*. There was also substantial media coverage and negative online petitions and comments. The verified complaints filed with the Judicial Council alleged an erroneous decision and sentence, legal incompetence, appearance of impropriety and failure to disqualify. In conducting its investigation of the six verified complaints, the Council reviewed the response of Judge Stoker, the entire court file, all written transcripts of the court proceedings including the entry of the guilty plea, the sentencing hearing and confidential report of the Council's special investigator.

Erroneous Decision and Sentence

From its review, the Council did not find any evidence of conduct leading to an erroneous decision or sentence. At the plea hearing, Judge Stoker inquired of the prosecuting attorney why a new complaint was filed alleging felony injury to child, a violation of I.C. § 18-1501, and discussed with the defendant the charge and his rights in a criminal case. This felony was punishable by up to ten-years in the Idaho State Penitentiary. Judge Stoker also specifically inquired as to the agreement of the victim's family. The special prosecuting attorney said "the victim and his family have been made aware of this plea agreement. They're aware of the Rule 11, they're aware of the *Alford* plea. They're fine with it."

The parties presented Judge Stoker with a stipulation and agreement pursuant to Idaho Criminal Rule 11. This was a written agreement signed by the special prosecuting attorney, the defendant's attorney and the defendant. The agreement set forth the specific crime that the defendant would plead guilty to and the sentence the defendant would receive. During sentencing, Judge Stoker meticulously reviewed criteria for sentencing and sentenced the defendant within the statutory guidelines. Again, the Council has no jurisdiction to review or amend a final decision of a judge. There was no appeal filed by any party.

Failure to Disqualify and Appearance of Impropriety

The complaint concerning failure to disqualify was based upon an allegation that the defendant was given leniency because Judge Stoker is a member of the Church of Jesus Christ of Latter Day Saints (LDS Church). Judge Stoker is not now nor ever was a member of the LDS Church. Judge Stoker was assigned to this case after the defense counsel and the special prosecutor disqualified two other active district judges according to Idaho Criminal Rule 25 (disqualification without cause). The Administrative District Judge then appointed Judge Stoker from a town over thirty miles away. There was never a motion to disqualify for cause by either the defendant or the prosecution.

Legal Incompetence

After a review of the entire record there is no showing of legal incompetence by Judge Stoker in this case, as well as no evidence of prior instances of legal incompetence. Throughout this proceeding the defendant and state were represented by competent counsel. It is apparent from the record the prosecution interviewed any eye witness to this incident as well as many other citizens or school officials about the case. The defense counsel filed many requests for discovery and was given all legal discovery. Judge Stoker knew all the pertinent facts from the court file and answers given from the defendant, his attorney, and the prosecution during court hearings.

Judge Stoker made sure the victim's family knew of the Rule 11 agreement and had agreed to the same. Prior to accepting the Rule 11 plea agreement, Judge Stoker asked if the state was going to "in any way" argue that this was racially motivated. The prosecutor responded, "[I]t's not our belief that this was." During the sentencing hearing, Judge Stoker reiterated twice that if this case had been racially motivated, the defendant would go to prison. Judge Stoker held an extensive sentencing hearing and abided by all rules and statutes leading to the sentence that was within legal limits.

A unanimous Judicial Council found there was no violation of the Idaho Code of Judicial Conduct by the Honorable Randy Stoker and closed, without discipline, its investigation.

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