



Judicial Standards Commission State of Montana

COMPLAINT

The undersigned being first duly sworn, upon oath, states the following facts showing misconduct on the part of the following named judge, to-wit:

NAME OF JUDGE: G. Todd Baugh
ADDRESS: 217 N. 27th St, Room 601
P.O. Box 35042
Billings, MT 59107

Based on the attached Canons of Ethics, please cite which Canon(s) you feel the judge has violated and why. If you cannot clearly identify which canon the judge has violated, then your complaint is not within the purview of this Commission to review.

The facts of the above Judge's misconduct or unethical conduct are as follows: (Please state in your own words the misconduct or unethical conduct of the judge. Provide information as to when and where the misconduct occurred, and the names of any other people involved.)

STATEMENT OF INTEREST RE: THIS COMPLAINT

This complaint is being filed by the Montana and Pennsylvania chapters of the National Organization for Women. Both organizations are non-profit organizations dedicated to ensuring that violence against women and children is handled in an appropriate manner by the courts. Based on Judge Baugh's failure to follow the ethical standards and minimum sentencing guidelines, we urge the Montana Judicial Standards Commission and the Montana Supreme Court to

Remove Judge Baugh from the bench for his misconduct related to his handling of and speech about the rape case involving the sentencing of Stacey Rambold; and

Implement a mandatory judicial education program for the judiciary on the fair adjudication of

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sexual assault cases to help the Montana justice system develop techniques to minimize victim re-traumatization while safeguarding the rights of the defendant. - See more at:

<http://www.legalmomentum.org/national-judicial-education-program#sthash.hxAEGz8p.dpuf>.

Montana NOW is the Montana-based statewide, grassroots, nonprofit volunteer organization with over 800 contributing and dues-paying members that is the state-level chapter of the National Organization for Women. NOW members are women and men, young and old, all colors, classes, and backgrounds, working together to bring about equal rights for all women. Montana NOW has a long history of working for civil rights for women and other minority groups. Over the years, Montana NOW has worked closely with other organizations to educate the public on key issues affecting women and their families. Among the many issues critical to women's and children's lives, Montana NOW has been a strong advocate for the enforcement and improvement of laws in Montana covering sexual assault, domestic violence, education, and child abuse. Montana NOW has worked in coalition with other organizations in the state on these various issues and other that impact our citizens.. Montana NOW has been in existence for over 25 years. However, it has only been reinvigorated here in Montana for the past three years. The state office is based in Pryor, MT and its website is located at <https://www.facebook.com/pages/Montana-National-Organization-for-Women/253581951383747>.

Pennsylvania NOW, Inc. is the Pennsylvania-based statewide, grassroots, nonprofit volunteer organization with over 13,000 contributing and dues-paying members; it is the state-level chapter of the National Organization for Women. NOW members are women and men, young and old, all colors, classes, and backgrounds, working together to bring about equal rights for all women. Pennsylvania NOW has a long history of working for civil rights for women and other minority groups. Over the years, Pennsylvania NOW has worked closely with other organizations to educate the public on key issues affecting women and their families. Among the many issues critical to women's and children's lives, Pennsylvania NOW has been a strong advocate for the enforcement and improvement of laws and policies in Pennsylvania covering sexual assault, domestic violence, education, and child abuse. This advocacy has included several decades of work calling for zero tolerance for all forms of violence against women and children at Penn State University, including the case of child-sexual assault and conviction of former PSU football coach Gerald "Jerry" Sandusky and the alleged cover-up of these assaults by the administrators at the University. We have also provided *amici* briefs in several sexual assault cases, including the Commonwealth of PA v Fischer case in 1999, the Schieber case in 2001, and the Reedy v. Evanson case in 2009; these briefs were submitted to support efforts to improve the law enforcement and judicial system treatment of sexual assault here in Pennsylvania. We are submitting this complaint in support of Montana NOW's actions and concerns over how Judge Baugh handled this rape case. The state office is based in Fort Washington, PA and its website is located at <http://panow.org>.

FACTS OF CASE

In 2008 Stacey Rambold was charged with three counts of sexual intercourse without consent in the case tied to Cherice Morales.

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Cherice Morales took her own life in 2010 before the case came to trial. This led to the prosecution's case being crippled by the death of the girl (14 at the time of the crime; 16 at the time of her death) whose testimony in this case was crucial. As a result, the State and Stacey Rambold agreed to a sentencing that would be deferred. He would plead guilty to one count of sexual intercourse without consent stemming from the 2007 assault on Morales and the State agreed to defer the case for three years if Rambold completed a sex offender treatment program.

In November 2012 the treatment program administrators advised the prosecutors that Rambold was dismissed from the program for missing sessions, unsupervised contact with minors, and a sexual relationship with an adult female. Stacey Rambold did not report the unsupervised contact or the sexual relationship to his treatment program as was stipulated in his agreement when he entered the sexual offender treatment program

As a result of the non-compliance with the terms of the deferred plea agreement, the case was reinstated and in April 2013, Stacey Rambold pled guilty to one count stemming from the 2007 assault on Cherice Morales

At the sentencing hearing on August 26, 2013 the State asked that Stacey Rambold be sentenced to 20 years with half suspended. Rambold's attorney asked for a much lighter sentence arguing that Stacey Rambold lost his wife, his home and his job. As a result, Judge G. Todd Baugh sentenced Stacey Rambold to 15 years with all but 31 days suspended and credit for one day served.

At the hearing and before sentencing, the Judge described Morales as “a troubled youth, but a youth that was probably as much in control of the situation as was the Defendant.” Also he went on to say that Morales was “seemingly though troubled, older than her chronological age.” It should be noted that the age of consent is 16 in the State of Montana and no exceptions are given because of appearing to be “older than chronological age”.

During the following two days, mounting public outrage, culminated in several on-line petitions and an announcement on late Tuesday, that Montana NOW along with several other community organizers (Sheena Rice and Kate Olp) would stage a protest outside Baugh's courthouse offices on Thursday, August 29.

On Wednesday, August 28, Judge Baugh while reading from a written statement, apologized for his comments. This was done amid rising public outcry. Members of the community and others throughout the state, nation and world did not accept the apology, stating that Judge Baugh's apology did not seem heart felt and if he really believed he was wrong, he would never have made the statements or imposed the sentence he did two days earlier.

On Thursday, August 29, somewhere between 500 and 700 protesters rallied outside the courthouse in Billings, Montana. This protest was attended by diverse group of citizens from both Billings and Montana. It should be noted that Judge Baugh attended the protest but stood quietly in the back.

By the time Friday, August 30 came, the Yellowstone County Attorney vowed to appeal the
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sentence, saying the judge likely misapplied state criminal laws and sentencing guidelines and the proper sentence would have required a minimum of two years in jail.

On Tuesday, September 3, Judge Baugh ordered a new hearing for Friday, September 6, saying the sentence imposed was “likely illegal” and that he might amend it at a Friday hearing. He had not signed or produced a written judgment at this point. Yellowstone County Attorney Scott Twito said he believed the judge did not have the authority to amend the sentence as an illegal judgment can only be appealed by the state or the defendant.

On Wednesday, September 4, the Montana Attorney General's Office filed a Notice of Intent to Appeal the sentence as illegal to the Montana Supreme Court. The same day, Yellowstone County Prosecutor Rod Souza filed a motion asking Baugh to vacate (cancel) the hearing planned for Friday on the same grounds. The judge refused to cancel the hearing and indicated he would see everyone in his court on Friday.

On Thursday evening, the Montana Attorney General filed an emergency petition with the Montana Supreme Court asking the Court to cancel the hearing scheduled for the reasons stated above.

On Friday, approximately 90 minutes before the scheduled hearing, the Montana State Supreme Court ordered the hearing vacated saying that District Court Judge Baugh does not have the authority to possibly revise a sentence. They also ordered Baugh to submit a written judgment. The state's appeal of the sentence was based on oral pronouncement by Baugh on August 26.

The hearing did not go on as scheduled. However, Baugh appeared before the press and some concerned citizens including Montana NOW. He reiterated the facts of the case and the entire non hearing/press conference can be viewed at https://docs.google.com/file/d/0B_-amx-nllUKU2dta1UtRWRSY0U/edit?usp=sharing.

At this non-hearing/press conference, Judge Baugh read from a prepared statement and spoke in a mumbled tone with no emotion. He indicated he “was not thinking clearly” and “didn't know the sentencing guidelines” because they were not presented to him by the prosecution.

This non-hearing could be construed as being in violation of the Montana Supreme Court Order vacating the hearing. The Court was called to order, there was a court clerk, court reporter and at the end, Judge Baugh said “Court is adjourned”.

ETHICS VIOLATIONS COMPLAINT

The facts of the above Judge’s misconduct or unethical conduct are as follows:

On Monday, August 26, 2013, Judge G. Todd Baugh sentenced confessed child rapist Stacey Rambold to only 31 days in jail for that offense. Judge Baugh justified that slap on the wrist sentence by commenting, incredibly, that the 14-year-old child victim – two years under the legal

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age of consent – was “as much in control” of the rape as her 49-year-old teacher because, according to the judge, she was “older than her chronological age.” Judge Baugh then attempted to justify the sentence with “It was not a violent, forcible, beat-the-victim rape, like you see in the movies.”

Judge Baugh’s victim-blaming, rape-trivializing, rapist-protecting comments and actions come less than a year after the United States Department of Justice was called in to address civil rights violations and rape victim-blaming by the University of Montana, Missoula County and Missoula City authorities over many years.

Then on September 3, 2013, according to an article in the Billings Gazette, Judge G. Todd Baugh announced that he had filed an order to hold a hearing on Friday, September 6 to determine whether the sentence he imposed on August 26 should be revised. In this order for a rehearing, he stated, “In this court’s opinion, imposing a sentence which suspends more than the mandatory minimum would be an illegal sentence.”

We are filing this complaint on behalf of men, women, and children in Montana as well as men, women, and children across the country. We believe that it is long past time for Montana’s authorities to protect the right-thinking citizens of and visitors to Montana from sexual predators rather than freeing those predators so that they can rape again.

Judge Baugh’s actions demand that he be immediately removed from his position as a district court judge for violation of the following provisions of the Montana Judicial Canons of Ethics:

RULE 1.2

*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.***

Far from promoting public confidence, Judge Baugh’s claim that a 14 year old girl was “as much in control” of her rape as her 49-year- old teacher seriously undermines public confidence in the judiciary, as clearly shown by the world-wide outrage in response to his comments.

RULE 2.2

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

Judge Baugh’s comments make it clear that he did not uphold the law on the age of consent and was not impartial in upholding and applying the law to protect 14-year-old Cherice Morales and other potential victims of this sexual predator. A child is not responsible for her own sexual victimization at the hands of her 49-year-old teacher, a man on whom Judge Baugh imposed a sentence of only 31 days for raping a child after this man failed to follow through on participation in a sexual predator program.

Judge Baugh failed to apply the law by imposing a sentence of only 31 days for raping a child
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when the minimum sentence by law is two years. His reversal and order to hold a second hearing on September 6 stating that he may have broken the law is a concurring statement by the judge himself of a violation of this rule. Since double jeopardy may apply in increasing a sentence once handed down, Judge Baugh may not legally be able to “right” his “wrong.”

RULE 2.3

(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 permit court staff, court officials, or others subject to the judge's direction and control to do so.

Judge Baugh's comments and conduct clearly manifest bias in the demeaning treatment of child-rape victim Cherice Morales, whom the judge blamed for her own rape. Judge Baugh's bias is clearly rooted in the child victim's (lower-income minor, Hispanic female) and the rapist's (middle-class adult, white male) socioeconomic status age, race, and gender.

The names and addresses of other persons who are witnesses to or have information as to the misconduct of the above judge are:

More than 250,000 people from all parts of the world have signed multiple different petitions calling for Baugh's resignation, including but not limited to the following such petitions:

Sign the Petition: Judge who blames 14-year-old victim needs to go

http://act.weareultraviolet.org/sign/montana_judge_sp As of September 6, 2013, this petition has been signed by approximately 80,000 people from all over the world. The petition provides their names, cities, and home countries if outside the US. It does not provide specific addresses. Copies of all those who signed this petition are included with the filing of this Complaint. This is the specific statement of the petition: “Judge G. Todd Baugh has shown that he has no respect for the law and no compassion for survivors of sexual violence. Montana Judicial Standards Commission should remove Judge Baugh from the bench.”

Resign, Judge G. Todd Baugh http://petitions.moveon.org/sign/resign-judge-g-todd-baugh?source=s.icn.tw&r_by=8646657 As of September 6, 2013, this petition has been signed by 56,531 people from countries across the world. The petition provides their names, cities, and home countries if outside the US. It does not provide specific addresses. Copies of all those who signed this petition are included with the filing of this Complaint

Unseat Judge Who Let Rapist Off With 30-Day Sentence! As of September 6, 2013, this petition has been signed by 109,757 people from countries across the world. The petition provides their names and home countries. It does not provide specific addresses.

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Remove Judge G. Todd Baugh from the bench <http://www.change.org/petitions/remove-judge-g-todd-baugh-from-the-bench> As of September 6, 2013, this petition has been signed by 7,100 people from countries across the world. The petition provides their names and cities. It does not provide specific addresses.

A survivor's letter signed by approximately 350 sexual assault survivors calling for the removal of Judge Baugh.

Members of the media, including

Hadley Freeman, a columnist and features writer for The Guardian news in Great Britain. She wrote an article on victim-blaming of young 11-14 year-old rape victims by judges (including Judge Baugh), lawyers and reporters. The article is titled “The painful lesson of the Cherice Moralez rape trial: Misogyny is now at the point where girls as young as 11 are being portrayed as the voracious temptresses of grown men” and can be found at <http://www.theguardian.com/commentisfree/2013/sep/03/painful-lesson-cherice-moralez-rape>;

Jessica Valenti , founder of feministing.com and author of several books, including the award-winning anthology *Yes Means Yes: Visions of Female Sexual Power and a World Without Rape*. She wrote an article in The Nation titled [Acting Older Isn't Being Older: How We Fail Young Rape Victims](#) that focuses on “why biological maturity or “acting” mature are not the same thing as being a consenting adult;” Judge Baugh’s statements are discussed in this article.

We have not contacted the judge in regard to our complaint except through the first listed petition above (set up in part by Montana NOW) and through the protest organized by Sheena Rice, Kate Olp, Marian Bradley and Montana NOW that was held outside of the Yellowstone County Courthouse in Billings, MT and attended by hundreds of individuals on August 28, 2013.

(If more space is needed, you may attach additional sheets to this complaint and mark them a, b, c, etc.)

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My full name, address and telephone number is:

NAME: Marian Bradley

ADDRESS: 636 Epkarisch St, Pryor, MT 59066

PHONE #: 406-282-1327

DATED this _____ day of _____, 20__.

SIGNATURE

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20__.

(SEAL)

Notary Public for the State of Montana
Residing at _____
My Commission expires _____

CONTACT INFORMATION FOR MONTANA NOW

NAME: Marian Bradley, Montana NOW
ADDRESS: P.O. Box 81, Pryor, MT 59066
PHONE: 406-290-9238

CONTACT INFORMATION FOR PENNSYLVANIA NOW, INC.

NAME: Joanne L. Tosti-Vasey, Ph.D. President Emerita and At-Large Member of Executive Committee, Pennsylvania NOW, Inc., and (for information only) Board Member – Mid-Atlantic Region, National Organization for Women and Julia Ramsey, President Pennsylvania NOW, Inc.
ADDRESS: PO Box 4, Fort Washington, PA 19034-0005
PHONE: for organization: 814-280-8571; for direct contact with Dr. Tosti-Vasey: 814-355-3056; for direct contact with Julia Ramsey: 215-805-2414

RETURN TO:

SHELLY NASH, EXECUTIVE SECRETARY
JUDICIAL STANDARDS COMMISSION
PO BOX 203005
301 S. PARK, SUITE 328
HELENA, MT 59620-3005