

In the Supreme Court of the State of Alaska

In the Disciplinary Matter Involving

**Honorable Romano DiBenedetto,
Superior Court Judge.**

Supreme Court No. **S-19524**

Order

Commission Request for
Reconsideration of Sua Sponte Order of
7/24/2025

Date of Order: **9/29/2025**

ACJC No. **2025-001**

Before: Borghesan, Henderson, Pate, and Oravec, Justices
[Carney, Chief Justice, not participating].

The Alaska Commission on Judicial Conduct filed a Request for Reconsideration of our Order dated July 24, 2025. For the reasons explained below, we grant the request for reconsideration.

The Commission’s request correctly anticipated our conclusion that the limited statement of facts in the agreed findings is not sufficient for us to accept the Commission’s recommendation in this case. We have a constitutional and statutory obligation to conduct an independent review of a disciplinary recommendation by the Commission.¹ “In judicial disciplinary proceedings, we conduct a de novo review of both the alleged judicial misconduct and the recommended sanction.”² Our obligation

¹ Alaska Const. art IV, § 10 (making disciplinary recommendations by Commission subject to supreme court approval); AS 22.30.70(c) (providing that “[o]n recommendation of the commission, the supreme court *may* . . . reprimand, publicly or privately censure, or remove a judge” for misconduct (emphasis added)); Alaska Jud. Conduct Comm’n R. 20(b) (explaining that settlements reached in judicial disciplinary matters will not take effect until reviewed and approved by supreme court).

² *In re Cummings*, 292 P.3d 187, 191 (Alaska 2013) (quoting *In re Cummings*, 211 P. 3d 1136, 1138 (Alaska 2009)).

to conduct an “independent evaluation of the evidence”³ necessarily requires an evaluation of the nature and context of the alleged judicial misconduct, which must be established by clear and convincing evidence.⁴ And the findings of fact here do not provide us with sufficient information to meaningfully conduct such an evaluation.

The Commission’s request also appears to express concern that under Appellate Rule 406(e) any investigative materials provided to the court would become available to the public. However, we interpret Rule 406 in light of our constitutional duty to conduct an independent review of the evidence and de novo review of the recommended sanction. This duty supports the conclusion that we have the inherent authority to take the steps necessary to review the relevant materials, including designating the materials as confidential when appropriate — as we do in other proceedings.⁵

Based on our understanding of the law and in recognition of the Commission’s role as an independent constitutional body with expertise in conducting confidential investigations into alleged judicial misconduct and recommending disciplinary action, we enter the following orders.

IT IS ORDERED: The Alaska Commission on Judicial Conduct’s Request for Reconsideration is **GRANTED**. Within 14 days the Commission shall either:

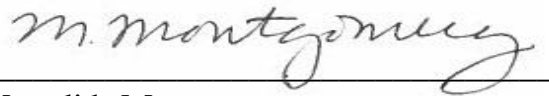
³ *In re Hanson*, 532 P.2d 303, 309 (Alaska 1975).

⁴ *In re Cummings*, 292 P.3d at 191.

⁵ *See, e.g.*, Alaska R. App. P. 512.5(b) (providing that in appellate proceedings, “[p]apers . . . filed in the appellate courts, other than records on appeal, shall be open to public inspection unless the appellate court in which the case is pending otherwise orders”).

- (1) provide the court with a copy of the investigative materials in this case under seal. The Clerk of the Appellate Courts is authorized under Administrative Rule 37.5(c)(5) to access the materials to the extent necessary to facilitate their transmission to members of the court;
- (2) notify the court of its intent to withdraw the Agreed Findings of Fact and Uncontested Recommendation for Discipline, thereby allowing the parties the opportunity to reach mutual agreement to supplement the Findings of Fact and then reengage with proceedings before the Commission so that it may submit a revised Agreed Findings of Fact and Uncontested Recommendation for Discipline; or
- (3) notify the court of its intent to neither provide a copy of the investigative materials, nor withdraw the Agreed Findings of Fact and Uncontested Recommendation for Discipline.

Clerk of the Appellate Courts



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