

Carl Barney

Love of the Good for Being Good

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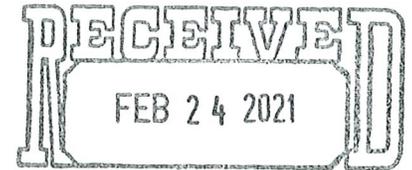
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Clerk, Court of Appeals

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Judging Judges

Posted on February 17, 2021 by Carl Barney

Three years ago, Eric Juhlin, CEO and Chairman of Center for Excellence in Higher Education (a private nonprofit college group), and I entrusted our reputations, careers, and fortunes to the Colorado judicial system—to the Honorable Ross Buchanan, a Denver district court judge.

Libby DeBlasio Webster, a political activist acting as an Assistant Attorney General in the Colorado AG's office, had spent \$10-\$15 million and nearly 10 years attacking us. Eric and I sought justice in Judge Ross Buchanan's courtroom; we believed in the judicial system, and we were confident that if we presented our case clearly, we would finally receive justice and be vindicated. Instead, a travesty occurred. On August 21, 2020, Judge Ross Buchanan issued a vindictive, malicious, and biased decision against our colleges and us individually.

Based on many courtroom appearances, discussions with dozens of excellent attorneys, and private conversations with a fine judge who is a close personal friend, I've observed that most judges are rational, conscientious, and hardworking. They are to be honored and admired.

Some judges are not so scrupulous and wise, but they do their best and deserve at least our respect.

A smaller number of judges are lazy. They don't read the documents, don't do their homework, and make half-baked and irrational decisions.

A few judges are dishonorable, biased, vindictive, and cause terrible injustice and harm. They deserve contempt.

The "Honorable" Ross Buchanan proved to be lackadaisical, incompetent, and dishonorable. In a rare case of transparency, he admitted his unconscionable delay of almost three years—once orally from the bench (see Judge Justification extract of December 4, 2020), and then in writing (December 21, 2020—see Order Re Defendants Rule 59 and 60(B) Motion). He admitted that he originally procrastinated for about two years after the end of the trial. He then confessed that he was overwhelmed and could not follow his own filing system. He then did something dishonorable: He plagiarized the false accusations of the Assistant Attorney General submitted by her at the end of the trial (she is on an ideological mission to cripple and close private career colleges). Judge Buchanan plagiarized most of the AG's draft findings word-for-word, including typos, and presented them as his own work and his final judgment.

After waiting two and a half years for Judge Buchanan's decision, Eric Juhlin and I filed complaints with the Colorado Commission on Judicial Discipline (CCJD). The CCJD eventually reprimanded Judge Buchanan, which is little more than a slap on the wrist. The history of the CCJD demonstrates that a person must have to have illicit sex with an employee or be arrested for being drunk and disorderly to be punished. But what about real judicial misconduct, which is far worse?

Some observers of the Colorado travesty have spoken up (see here, here, here, and here). I do hope that others will come forward and speak up. Only in this way can any semblance of justice be recovered.

For those who would like to explore this matter in more detail, here are the appeals on behalf of the College and Eric and me personally: Opening Brief (CollegeAmerica) and Opening Brief (Individual Appellants).

There is no question that the three-year delay in issuing an opinion was unconscionable. The CCJD said as much.

There is also no question that Judge Buchanan plagiarized word-for-word most of the AG's 152-page list of preferred findings (about 86% was copied). He even admits that he used the AG's preferred findings "as a starting point." That is a stunning admission! He then ignored the evidence and rejected every one of our evidence-based arguments.

Judge Buchanan waited three years to issue what are called "urgent" injunctions that would "protect students". If he truly believes what he issued, then he condemns himself: condoning damage to students for an additional three years is criminal. (Three years earlier, a different judge, Judge Mullins, had reviewed the very same evidence and rejected all 21 injunctions demanded by the Assistant AGs.)

After two complaints to the CCJD made by us, and after eight months of challenges and admonitions, and after a humiliating reprimand from the CCJD, Buchanan was cornered. He was out of time. The CCJD was scheduled to meet on August 21, 2020 to again review his misconduct. What could he do? He quickly copied the AG's list of preferred findings into his computer, made minor edits, and filed it as "his" opinion at 4:46 a.m. on the *very morning* of the scheduled meeting in which the CCJD would review his misconduct once again.

The consequences of Judge Buchanan's criminal misconduct have caused massive damages. CEHE's private colleges in Colorado are now closed. Staff are unemployed. Students who graduated from the college feel like their credentials are worthless. And based on his false judgments, state and federal agencies have piled on, demanding massive amounts of information and threatening college executives with career-destroying actions.

Judge Buchanan is responsible for devastating, evil, and unjust consequences. What he did was criminal. One observer commented: "He should be in jail." I agree. But that still would not make up for the massive damage which he is guilty of.

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