

Colorado Supreme Court 2 East 14th Avenue Denver, CO 80203	DATE FILED: July 14, 2023 CASE NUMBER: 2023SA114
Original Proceeding in Discipline Commission on Judicial Discipline 21-118	
In the Matter of Complainant: The People of the State of Colorado, and Respondent: Nathan B. Coats, a former Chief Justice of the Colorado Supreme Court.	Supreme Court Case No: 2023SA114
ORDER OF COURT	

Upon consideration of Andrew Rottman’s Motion to Withdraw his Motion for Appropriate Relief and Response to the Commission’s “Updated Recommendation for Judicial Discipline” filed on June 22, 2023, the Special Tribunal GRANTS THE MOTION IN PART and allows Mr. Rottman to withdraw his Motion for Appropriate Relief, which was filed on May 16, 2023. As a result, the Special Tribunal will not rule on the Motion for Appropriate Relief and expresses no opinion regarding whether a non-party may file a motion to intervene in the Special Tribunal’s review of a stipulation filed pursuant to R.J.D. 37(e) and R.J.D. 40. To the extent Mr. Rottman’s Motion to Withdraw seeks any other relief, such as “vacat[ing] filings” made in this proceeding, such requests are DENIED.

Upon consideration of the Unopposed Motion to Withdraw Respondent's Response to Order of Special Tribunal filed by former Chief Justice Coats on June 20, 2023, the Special Tribunal GRANTS THE MOTION and allows former Chief Justice Coats to withdraw his Response to Order of Special Tribunal, which was filed on May 31, 2023.

The Special Tribunal has also reviewed the Updated Recommendation for Judicial Discipline filed by the Colorado Commission on Judicial Discipline on June 20, 2023, wherein the Commission asserts that former Chief Justice Coats' and Mr. Rottman's withdrawal of their respective pleadings "should effectively vacate the potential record, excepting the Commission's originally filed Recommendation and Stipulation for Public Censure." Although the Special Tribunal agrees with the Commission that the "issues of standing and record supplementation raised by the Special Tribunal's Order of May 22, 2023" are now moot, the Special Tribunal does not agree that any part of the record of these proceedings has been "vacate[d]."

The parties have not cited, and the Special Tribunal is unaware of, any authority allowing it to strike, excise, or vacate any part of the record. Thus, the record shall consist of all documents filed and orders entered in this disciplinary proceeding, including documents filed by Mr. Rottman.

In addition, although the Special Tribunal previously ordered that the responses to Mr. Rottman's Motion for Appropriate Relief be maintained under seal as SUPPRESSED, the Special Tribunal is unaware of any reason why any part of the record of this disciplinary proceeding should remain confidential.

R.J.D. 6.5(a) provides in relevant part that, once the Commission files a recommendation with the Special Tribunal under R.J.D. 37, "[t]he recommendation and the record of proceedings shall thereupon become public, subject to the limitations provided in Rule 37." R.J.D. 37(e) similarly provides that "[t]he recommendation, the stipulated resolution, the record of proceedings, and any sanctions proposed in the stipulated resolution shall become public upon the Commission's filing of the recommendation with the Court." Under R.J.D. 6.5(a), however, the Special Tribunal "may enter a protective order requiring that certain portions of the record remain confidential upon a showing of good cause by the Commission, special counsel, special masters, or the Judge."

Absent a motion by the Commission, special counsel, or former Chief Justice Coats for entry of a protective order under R.J.D. 6.5(a), the complete record of this proceeding shall be made public.

IT IS THEREFORE ORDERED that any motion for entry of a protective order under R.J.D. 6.5(a) shall be filed within 14 days of the date of this Order. The Special Tribunal will hold in abeyance its decision on the Commission's

Updated Recommendation for Judicial Discipline until the expiration of 14 days or until it resolves any motions for protective order, whichever occurs later.

BY THE SPECIAL TRIBUNAL

JULY 14, 2023