

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A JUDGE, NO. 05-131
RE: JUDGE BRANDT C. DOWNEY, III

Case No.: SC 05-2228

NOTICE OF FILING

Special Counsel to the Florida Judicial Qualifications Commission hereby gives notice of filing the original Stipulation between Judge Brandt C. Downey, III and the Investigative Panel of the Florida Judicial Qualifications Commission, and the original Findings, Conclusions, and Recommendations of the Investigative Panel of the Florida Judicial Qualifications Commission, both of which are attached. The Investigative Panel of the Florida Judicial Qualifications Commission respectfully requests the Court enter an order pursuant to the Stipulation and the Findings, Conclusions, and Recommendations.

SMITH HULSEY & BUSEY

By _____
E. Lanny Russell
Scott B. Kalil

Florida Bar Number 303097
Florida Bar Number 667994
225 Water Street, Suite 1800
Jacksonville, Florida 32202
(904) 359-7700
(904) 359-7708 (facsimile)

Special Counsel for the Florida
Judicial Qualifications Commission

AND

Thomas C. MacDonald, Jr.
Fla. Bar No. 049318
1904 Holly Lane
Tampa, FL 33629
(813) 254-9871
(813) 258-6265 (facsimile)

General Counsel for the Florida
Judicial Qualifications Commission

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by mail to the Honorable Brandt C. Downey, III, 315 Court Street, Room 421, Clearwater, Florida 33756, Thomas C. MacDonald, Esq., 1904 Holly Lane, Tampa, Florida 33629, John R. Beranek, Esq., Ausley & McMullen, P.A., Washington Square Building, 227 South Calhoun Street, Tallahassee, Florida 32302; and Brooke S. Kennerly, Judicial Qualifications Commission, 1110 Thomasville Road, Tallahassee, FL 32303-6224, this ____ day of May, 2006.

Attorney

00525480

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A JUDGE, NO. 05-131
RE: JUDGE BRANDT C. DOWNEY, III

Case No.: SC 05-2228

STIPULATION

The Investigative Panel of the Florida Judicial Qualifications Commission (the “Panel”) and the Honorable Brandt C. Downey, III (“Respondent”), pursuant to Rule 6(j), Florida Judicial Qualifications Commission Rules, enter this stipulation and agree as follows:

1. Respondent admits the allegations in count one of the notice of formal charges, and admits this conduct violated Canons 1 and 2A of the Code of Judicial Conduct. A copy of the notice of formal charges is attached as Exhibit 1.

2. Respondent denies the allegations in counts two and three of the notice of formal charges.

3. Respondent and the Panel agree the interests of justice, public welfare, and sound judicial administration will be served by the following procedures and discipline, which the Panel hereby recommends to this Court:

- (i) Respondent may retain his position as Circuit Judge until the end of his term on January 1, 2007, at which time he will retire;
- (ii) After his retirement pursuant to this stipulation, Respondent will not serve as a Senior Judge and will not seek appointment or election as a Judge;
- (iii) Respondent shall sign and provide to the Florida Judicial Qualifications Commission a letter of apology to the public, his fellow judges, and the legal community for his actions which have resulted in this case, which letter the

Commission may distribute to the public. A copy of the form of this letter is attached as Exhibit 2;

- (iv) Respondent's restricted access to email and the internet at the Courthouse shall continue to remain in place until his retirement;
- (v) Respondent shall continue his present counseling until such time as his counselor releases him. A copy of such release will be provided to the Florida Judicial Qualifications Commission;
- (vi) Respondent shall personally appear before this Court to receive a public reprimand at a date and time to be determined by this Court;
- (vii) Respondent shall sign a letter of resignation to take effect upon the finding of probable cause by the Florida Judicial Qualifications Commission of (1) any violation of the Code of Judicial Conduct other than the conduct set forth in the notice of formal charges or (2) Respondent's failure to abide by the terms of this stipulation. A copy of this letter of resignation is attached as Exhibit 3; and
- (viii) Respondent shall not file for re-election, even if this Court has not ruled on this stipulation prior to the end of the qualifying period for the next election.

4. Respondent and the Panel acknowledge and understand this stipulation and the recommendations of discipline contained herein are subject to the review and approval of this Court, and may be rejected by this Court. If the stipulation and recommendations of discipline are rejected by this Court, this matter may be returned to the Hearing Panel of the Florida Judicial Qualifications Commission for a formal plenary hearing. In such event, Respondent and the Panel agree that neither the statements in this stipulation, nor any of the negotiations thereto, are admissible for any purpose in the final plenary hearing, and are made exclusively for the

purpose of resolving this proceeding. Respondent and the Panel further agree this stipulation is not admissible for any other matter, proceeding, or purpose; and

5. Respondent and the Panel agree that oral argument before this Court and briefing of this proceeding is not necessary in light of the record, the nature of the charges, and the contents of this stipulation, unless this Court orders otherwise. Respondent knowingly and voluntarily waives his right to any further hearings or other proceedings if this Court accepts this stipulation and these recommendations of discipline.

_____, 2006

Governor Jeb Bush
The Capitol, Room 207
300 South Monroe Street
Tallahassee, Florida 32399-0001

Re: Resignation as Circuit Court Judge

Dear Governor Bush:

Effective immediately, I resign as Circuit Court judge.

Sincerely,

Brandt C. Downey, III

_____, 2006

Honorable James R. Wolf
Chair of the Investigative Panel
First District Court of Appeal
301 S Martin Luther King Jr. Blvd.
Tallahassee, Florida 32399-1850

Re: Inquiry Concerning a Judge No. 05-131, Re: Brandt C. Downey, III;
Supreme Court of Florida, Tallahassee, Florida, Case No. SC05-2228

Dear Judge Wolf:

I have admitted to viewing pornographic Internet websites from the computer in my chambers, as stated in the notice of formal charges filed against me by the Florida Judicial Qualifications Commission. My actions caused computer viruses to infect my computer and unwittingly exposed courthouse personnel to pornographic images.

I recognize that as a judge, the public has a right to expect my conduct to be above reproach and that my integrity be unquestioned. My conduct as described above has not met these expectations, and has harmed the public confidence in the integrity of the judiciary.

I sincerely apologize to the public, my fellow judges, and the legal community for my actions and the resulting harm, and will, in the future and without fail, maintain the high standards of conduct required and expected of the judiciary of this state.

Sincerely,

Brandt C. Downey, III

_____, 2006

Governor Jeb Bush
The Capitol, Room 207
300 South Monroe Street
Tallahassee, Florida 32399-0001

Re: Resignation as Circuit Court Judge

Dear Governor Bush:

Effective immediately, I resign as Circuit Court judge.

Sincerely,

Brandt C. Downey, III

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A JUDGE, NO. 05-131
RE: JUDGE BRANDT C. DOWNEY, III

Case No.: SC 05-2228

FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

The Investigative Panel of the Florida Judicial Qualifications Commission (the “Panel”) respectfully submits its findings, conclusions, and recommendations in this case.

1. In view of the stipulation executed by the Panel and the Honorable Brandt C. Downey, III (“Respondent”), the Panel finds Respondent is guilty of the allegations stated in count one of the notice of formal charges.

2. The Panel concludes Respondent’s conduct as stated in count one of the notice of formal charges violated Canons 1 and 2A of the Code of Judicial Conduct.

3. The Panel concludes the interests of justice, public welfare, and sound judicial administration will be served by the following procedures and discipline, which the Panel hereby unanimously recommends to this Court:

- (i) Respondent may retain his position as Circuit Judge until the end of his term on January 1, 2007, at which time he will retire;
- (ii) After his retirement pursuant to the Stipulation, Respondent will not serve as a Senior Judge and will not seek appointment or election as a Judge;
- (iii) Respondent shall sign and provide to the Florida Judicial Qualifications Commission a letter of apology to the public, his fellow judges, and the legal community for his actions which have resulted in this case, which letter the Commission may distribute to the public. A copy of the form of this letter is attached as Exhibit 1;

- (iv) Respondent's restricted access to email and the internet at the Courthouse shall continue to remain in place until his retirement;
- (v) Respondent shall continue his present counseling until such time as his counselor releases him. A copy of such release will be provided to the Florida Judicial Qualifications Commission;
- (vi) Respondent shall personally appear before this Court to receive a public reprimand at a date and time to be determined by this Court;
- (vii) Respondent shall sign a letter of resignation to take effect upon the finding of probable cause by the Florida Judicial Qualifications Commission of (1) any violation of the Code of Judicial Conduct other than the conduct set forth in the notice of formal charges or (2) Respondent's failure to abide by the terms of this stipulation. A copy of this letter of resignation is attached as Exhibit 2; and
- (viii) Respondent shall not file for re-election, even if this Court has not ruled on this stipulation prior to the end of the qualifying period for the next election.

Respectfully submitted this ____ day of _____, 2006.

INVESTIGATIVE PANEL OF THE
FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

By _____
The Honorable James R. Wolf
Chair, Investigative Panel
Florida Judicial Qualifications Commission
First District Court of Appeal
301 South Martin Luther King Jr. Boulevard
Tallahassee, Florida 32399-1850