

**BEFORE THE INVESTIGATIVE PANEL OF THE
FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA**

INQUIRY CONCERNING A
JUDGE, RALPH E. ERIKSSON,
NO. 09-629

SC10-

1007

FILED
THOMAS D. HALL
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CLERK, SUPREME COURT
BY _____

NOTICE OF FORMAL CHARGES

TO: Honorable Ralph E. Eriksson
Seminole County Judge
Criminal Justice Center
101 Bush Blvd.
Sanford, Florida 32773

YOU ARE HEREBY NOTIFIED that the Investigative Panel of the Florida Judicial Qualifications Commission, at its meeting May 27, 2010, by a vote of the majority of its members, pursuant to Rule 6(f) of the Rules of the Florida Judicial Qualifications Commission and Article V, Section 12(b) of the Constitution of the State of Florida, finds that probable cause exists for formal proceedings to be instituted against you. Probable cause exists on the following formal charges:

1. In a series of misdemeanor cases in which you sought to collect unpaid fines and costs, you caused summonses to be issued to the last known address of the defendants in their court file, despite some of the files dating from 2007 and before. You also sent copies of those notices to the Office of Public Defender. You issued these

summonses for a proceeding that you termed a Sentence Review Hearing. The defendants in these cases had been ordered to pay fines and costs; however, the defendants were no longer on probation and more than 60 days had passed from the expiration of their sentences.

2. In the case *State v. Potiah*, Seminole County Case No. 09-36-AP, Circuit Judge Donna L. McIntosh granted a Writ of Habeas Corpus releasing Mr. Potiah from custody. The Writ was issued in a decision dated June 30, 2009. In granting the Writ, Judge McIntosh found that no rule or statute provides for Sentence Review Hearings, and that the county court of Seminole County had no jurisdiction to enforce the financial obligations in the manner you later employed.
3. The first Sentence Review Hearings you conducted after the *Potiah* case took place on July 20, 2009. At the conclusion of the hearings you issued bench warrants for the arrest of those who failed to attend without regard to whether personal service had been perfected. The Office of the Public Defender filed motions to set aside those warrants, which you denied. Those denials were challenged by a Petition for Writ of Certiorari or Habeas Corpus in *Otis Wellon, et al. v. State*, 09-46-AP – 09-62-AP.
4. On August 24, 2009 you again conducted Sentence Review Hearings. At the conclusion of those hearings you issued bench warrants for those who failed to attend without regard to whether personal service

had been perfected. Those warrants were challenged by a Petition for a Writ of Certiorari or Habeas Corpus in *Alvarez, et al. v. State*, 09-67-AP. The Petition was filed September 16, 2009.

5. On August 28, 2009 Judge McIntosh issued an Order to Show Cause why the Petition for the Writs should not be granted in *Otis Wellon, et al. v. State*, 09-46 – 09-62-AP.
6. On September 18, 2009 Judge McIntosh ordered the warrants in the majority of these cases to be withdrawn.
7. On September 30, 2009 you again conducted Sentence Review Hearings. Again you issued bench warrants for those who failed to attend without regard to whether personal service had been perfected. Those bench warrants were challenged in *Creamer, et al. v. State*, 09-91. Also on that date in *State v. Kellum*, 08-13433-MM and *State v. Brogden*, 08-9006-MM you issued Orders to Show Cause concerning the nonpayment of monetary obligations associated with the case, and set those hearings for October 6, 2009.
8. On October 6, 2009 you sentenced Mr. Kellum and Mr. Brogden to 60 days in jail without affording them the right to counsel or due process, a practice contrary to the ruling in the *Potiah* case.
9. On October 30, 2009, Judge McIntosh granted Writs of Habeas Corpus to twelve of the petitioners in *Alvarez v. State*, 09-67-AP. The basis of the granting of the Writs was the same as elucidated in the *Potiah* case.

10. On November 2, 2009 you again conducted Sentence Review Hearings. In *State v. Brockington*, 07-225-MM, *State v. Molina*, 08-13256-MM and *State v. Bundick*, 02-11775-MM you issued Orders to Show Cause concerning the nonpayment of monetary obligations associated with these cases, and set those hearings for November 10, 2009.
11. On November 3, 2009, Mr. Kellum and Mr. Brogden filed Petitions for Writs of Habeas Corpus in 09-101-AP and 09-102-AP. They challenged the process you employed in the Alvarez cases and recited your continued use of procedures found to be improper in *Potiah*. Judge McIntosh granted those petitions the next day on November 4, 2009. The written opinion was filed November 18, 2009.
12. On November 10, 2009, in contravention of the ruling in the *Potiah* case, you sentenced Mr. Brockington, Mr. Molina and Mr. Bundick to sixty days in jail for failure to fulfill the financial obligations in their cases.
13. On November 23, 2009 Petitions for a Writ of Habeas Corpus were filed in *Brockington*, *Molina* and *Bundick*. Judge McIntosh granted those writs the next day, on November 24, 2009.
14. On December 7, 2009 you again conducted Sentence Review Hearings. In *State v. Kelly*, 09-2830-MM, *State v. Ryder*, 08-5083-MM, *State v. Kuse*, 09-3568-MM, and *State v. Colon*, 09-3294-MM you issued Orders to Show Cause concerning the nonpayment of

monetary obligations associated with these cases, and set those hearings for December 15, 2009.

15. In spite of the foregoing series of rulings, on December 15, 2009, and continuing to employ the procedures discredited by *Potiah*, you sentenced Mr. Kelly, Mr. Ryder, Mr. Kuse and Mr. Colon each to thirty days in jail for failure to fulfill the financial obligations in their cases.

16. On December 16, 2009 Petitions for a Writs of Habeas Corpus were filed in *Kelly, Ryder, Kuse* and *Colon*. Judge McIntosh granted those writs the next day, on December 17, 2009. The written orders were filed January 8, 2010.

17. The next scheduled Sentence Review Hearings were scheduled for January 11, 2010. On January 7, the Orlando Sentinel published a news article that recounted the foregoing series of events. It stated in part, "Seminole County Judge Ralph Eriksson improperly jailed more than 20 people during the last five months, finding them in contempt of court and locking them up for failing to pay court costs, court records show."

18. At the January 11, 2010 Sentence Review Hearing with the press in attendance, you conducted the Sentence Review Hearings in a different manner. When it appeared that a defendant had been unable to fulfill his or her financial obligations, you followed the mandate of *Potiah* and appointed the defendant an attorney.

These acts, if they occurred as alleged, violated the Code of Judicial Conduct as follows: Canon 1 (impairing the confidence of the citizens of the state in the integrity of the judicial system and in you as a judge); Canon 2A (respect for and compliance of the law); 3B (2) (faithful to the law and having a professional competence in it); 3B (7) (according all parties the right to be heard); and 3B (8) (disposing of all judicial matters fairly).

The foregoing conduct also constitutes a pattern of conduct. In *In re Eriksson*, SC07-1648, 2010 WL 455267, ___ So.3d ___ (2010), a case not yet final, ordinary citizens were discouraged from exercising their right to be heard, the hallmark of due process. Here citizens were again denied basic fundamental due process by this conduct.

The foregoing conduct, if proven as alleged, would constitute conduct unbecoming a member of the judiciary; would demonstrate your unfitness to hold the office of judge; and would warrant discipline, including but not limited to reprimand, fine, suspension with or without pay, lawyer discipline or your removal from your judicial office.

You are hereby notified of your right to file a written answer to these charges within twenty (20) days of service of this notice upon you. The original of your response and all subsequent pleadings must be filed with the Clerk of the Florida Supreme Court, in accordance with the Court's requirements. Copies of your response should be served on the undersigned General Counsel for the Judicial Qualifications Commission, 1110 Thomasville Road, Tallahassee, FL

32303 and John R. Beranek, Counsel for the Hearing Panel, Post Office Box 391, Tallahassee, FL 32302.

Respectfully Submitted,

Michael L. Schneider
General Counsel
(850) 488-1581
Judicial Qualifications Commission
Florida Bar No. 525049
1110 Thomasville Road
Tallahassee, Florida 32303

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Investigation has been furnished by certified mail 7001 2510 0007 6248 5736 to the Honorable Ralph E. Eriksson, Seminole County Courthouse, 101 Bush Blvd., Sanford, Florida 32773, this 1st day of June, 2010.

Michael L. Schneider
Associate General Counsel