

**IN THE SUPREME COURT
OF THE STATE OF FLORIDA**

INQUIRY CONCERNING A JUDGE,
THE HONORABLE LYNN ROSENTHAL
NO. 14-229

SC15-_____

_____/

FINDINGS AND RECOMMENDATION OF DISCIPLINE

The Florida Judicial Qualifications Commission (hereafter, “JQC” or “the Commission”) served a series of Notices of Investigation on Circuit Judge Lynn Rosenthal, Seventeenth Circuit, pursuant to Rule 6(b) of the Florida Judicial Qualification Commission Rules. Pursuant to those Notices, Judge Rosenthal appeared before the Investigative Panel of the Commission and provided sworn testimony on December 5, 2014, and again on June 5, 2015. On June 5, 2015, the Commission voted to institute the filing of formal charges that accompany this filing.

The Investigative Panel of the Commission has now entered into a Stipulation with Judge Rosenthal in which the Judge admits that the circumstances surrounding her arrest for Driving Under the Influence, including her refusal to submit to a urine and blood sample, as well as her subsequent conduct before the Commission, including the erasure of pertinent records from her cell phone, and some misleading, or incomplete statements to the Commission during her

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testimony, brought disrepute to her Court, the Broward County judiciary, and the entire Florida judicial system. The Judge also admits and acknowledges that her conduct violated Canons 1, 2A, 5A(2), 5A(3), 5A(4), and 7A(3)(b) of the Code of Judicial Conduct, as set forth in the Stipulation that is being submitted in conjunction with the filing of the Notice of Formal Charges and this Findings and Recommendations.

Judge Rosenthal has acknowledged that some of her answers during her testimony before the Commission were incomplete and misleading. The judge has explained that her lapse in judgment was borne out of personal family crisis, which Judge Rosenthal has acknowledged caused her best judgment to be overcome by a desire to protect her family, and the judge's own difficulty in dealing with the family crisis. Judge Rosenthal now also acknowledges that her conduct eroded public confidence in the judiciary and demeaned the judicial office she holds.

This Court has previously had to address the issue of judges providing incomplete and misleading responses to the JQC. In the case of In re Leon, 440 So. 2d 1267 (Fla. 1983), this Court noted that although Judge Leon had made false statements to a Commission member, he was not entitled to the defense of voluntary recantation, with the court noting that, "The integrity of the judicial

system, the faith and confidence of the people in the particular judge are all affected by the false statements of a judge.”¹ Id. at 1269.

In In re Holloway, 832 So. 2d 716, (Fla. 2002) the Court ordered Judge Holloway to be suspended for 30 days, and to receive a public reprimand for, among other things, making untruthful statements during a deposition in a contested custody case involving a close friend of the judge.

In the more recent case of In re Hawkins, SC12-2495 (Fla. Oct. 30, 2014), this Court ordered the removal of Judge Hawkins for, among other things, making misstatements during testimony to the Commission, and destroying evidence that was under subpoena on the morning of her deposition.

Finally, in 2015, this Court considered the conduct of Judge Recksiedler, who made misstatements during her unsworn testimony before the Judicial Nominating Commission regarding her driving record. In that case the Court accepted a Stipulation from the judge and the JQC for a public reprimand, and noted that, “We agree with the JQC that the incompleteness and inaccuracy of the responses constitutes a lack of candor amounting to an ethical violation, where, as

¹ The Court ultimately ordered the removal of Judge Leon for a multitude of offenses including, improper ex-parte communications with judges and attorneys, improperly securing alterations of a criminal defendant’s sentence, improper fraternization with a criminal defendant’s father during the pendency of the case, engaging in the sale of land to a father and daughter while the daughter’s criminal case and sentence were pending before the court, and falsely denying previous ex-parte communications.

here, the statements are misleading.” See In re Recksiedler, SC15-311 (Fla. Apr. 9, 2015).

Here, like the Recksiedler case, Judge Rosenthal has accepted responsibility for her conduct and acknowledges that the incompleteness, and inaccuracy of her responses to the Commission were misleading, and amounts to an ethical violation.

The Commission has determined, and the Judge has agreed, that based on the facts and referenced case law, the appropriate sanction should be a Public Reprimand by this Court, a 90-day suspension without pay, 12 additional hours of continuing legal education ethics, family counseling, and the repayment of fees and costs associated with this investigation by the Commission.

Dated this _14th_ day of August, 2015.

INVESTIGATIVE PANEL OF THE
FLORIDA JUDICIAL QUALIFICATIONS
COMMISSION

By: /s/ James Ruth
Hon. James Ruth,
VICE-CHAIR OF THE JQC
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