

**BEFORE THE FLORIDA
JUDICIAL QUALIFICATIONS COMMISSION**

INQUIRY CONCERNING A JUDGE,
THE HONORABLE MARK HULSEY, III
JQC NO. 16-056

SC16- 1278

SECOND AMENDED NOTICE OF FORMAL CHARGES

TO: The Honorable Mark Hulsey, III
Circuit Judge, 4th Judicial Circuit of Florida
501 W. Adams Street, Room 7266
Jacksonville, Florida 32202-7266

The Investigative Panel of the Florida Judicial Qualifications Commission, at its meeting on July 7, 2016, 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.

Canon 2A of the Florida Code of Judicial Conduct (the “Canons”) requires a judge to avoid even the appearance of impropriety, stating that a judge “...shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.”

Similarly, Canon 5 provides, in pertinent part, that, “[a] judge shall conduct all of the judge’s extra-judicial activities so that they do not:

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- (1) cast reasonable doubt on the judge's capacity to act impartially as a judge;
- (2) undermine the judge's independence, integrity, or impartiality;
- (3) demean the judicial office.

The specific allegations are as follows:

1. By engaging in bullying, intimidation, ridicule, rude and discourteous behavior, persistent unfair and demeaning criticism, by being overly demanding, and by making inappropriate comments on race and sex, you have created and maintained a hostile work environment for the judicial administrative support staff and staff attorneys who assisted you. This pattern of behavior demeans the judicial position you occupy. Examples of this conduct include:
 - a. You referred to the prior lead Staff Attorney as a "bitch" and a "cunt".
 - b. You have demeaned female Staff Attorneys by referring to them as being like cheerleaders who talk during the national anthem.
 - c. You berated a Staff Attorney who failed to remain in the courtroom while a jury was deliberating. During this capital trial you required the Staff Attorney to provide you with basic information about capital trial procedures, and then, at the end of

the two-week trial, you unfairly berated, and blamed the Staff Attorney for mistakes you made during the course of the trial.

- d. In 2011, during a conversation with a Staff Attorney in your chambers in which she was reporting about the status of an order, you offhandedly observed about African-Americans, “They should go get back on a ship and go back to Africa.”
- e. You have also exploited your Judicial Assistant to the extent that she felt compelled to perform personal tasks, such as paying your personal bills, writing letters, and making personal phone calls on your behalf. You even directed her to use state-postage paid for by the 4th Judicial Circuit to mail your personal correspondences. This misuse of a government employee unduly burdened your Judicial Assistant, and created an unhealthy atmosphere where the boundaries between personal tasks and professional work became indistinct.
- f. One consequence of your misuse of your Judicial Assistant is that you are unable to respond to post-conviction matters promptly and efficiently. After attending training on post-conviction motions, you gave your instructional notebook to your Judicial Assistant and instructed her to read it and figure it out. Further, you have

failed to promptly issue orders sought by the Attorney General's Office, forcing them to unnecessarily seek extensions in responding to petitions.

g. Another consequence of your misuse of your Judicial Assistant is that, despite her best efforts, she often fell behind on her court-related work, and had to routinely take boxes of court files home to complete her official duties at night.

2. Because of your indifference to your judicial duties, you rely upon Staff Attorneys to unnecessarily prepare word-for-word "scripts" of even routine and mundane judicial acts. You have demanded that specific Staff Attorneys be available to assist you at any time. In doing so, you have limited their availability to other judges:

a. In one such instance you allowed a Staff Attorney to wait for two hours before telling her that the hearing she was there for had been continued to a later time.

b. In another case, you required a Staff Attorney to sit with you, and be present through an entire two-week capital trial, even during jury deliberations.

c. You routinely called upon one specific Staff Attorney to do work for you, calling her directly, rather than going through the

assignment process for the pool of Staff Attorneys. Thus, your actions resulted in her doing double duty: work assigned directly by you as well as her regularly assigned work. When she finally told her supervisor what was happening, the Chief Judge was made aware of what you were doing and the Chief Judge instructed you to stop overusing the Staff Attorneys. It was this action that prompted you to refer to the Staff Attorney supervisor as a “bitch” and “cunt” in a conversation with a third party.

3. Finally, in 2016, when the JQC became aware of your continuing pattern of misconduct it opened an Inquiry. When you found out that your Judicial Assistant had been contacted by the JQC, you directed her to “tell the truth”, but then you also instructed her to make sure that she mentioned that she doesn’t think you would ever make a derogatory remark about women or African Americans. You later confronted your JA regarding her cooperation with the JQC’s inquiry, and her apparent refusal to say what you wanted. Your conduct represents an interference with the JQC’s Inquiry process, and your JA was temporarily reassigned to prevent further attempts at interference.

4. Even after the foregoing, you have continued to request and suggest to your new Judicial Assistant that she undertake tasks that are purely personal in nature.
5. Chapter 106.143 of the Florida Statutes states that, “It is unlawful for any candidate ... to represent that any person or organization supports such candidate, unless the person or organization so represented has given specific approval in writing to the candidate to make such representation.” (See §106.143(4) F.S.). During the course of your 2016 judicial campaign, you publically advertised the endorsements of 12 public officials. You claim to have received “oral endorsements” from each of the 12 persons listed. You admit, however, that you did not seek or receive “specific approval in writing,” from those public officials for the use of their endorsements, in violation of Florida law.
6. Further, you did not receive any approval, “oral” or otherwise, to claim the endorsement of Clay County Commissioner Ronnie Robinson, who explicitly explained to you that he was unable to publicly endorse you because he was serving on the Serving on the Clay County Canvassing Board, and was therefore prohibited from making public endorsements of candidates. (See §102.141 F.S., and Florida Department of State Opinion

DE 09-07, dated October 15, 2009). Nevertheless, you published an advertisement claiming Mr. Robinson's endorsement anyway.

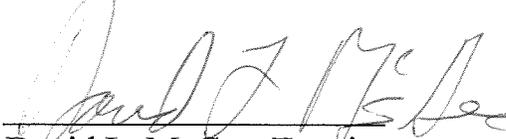
7. Moreover, during your re-election campaign, you directed your Judicial Assistant to overnight personal packages related to your campaign, using the 4th Judicial Circuit's own FedEx account. You did not reimburse the Court for the cost of shipping those personal items.

Your actions constitute inappropriate conduct, and demonstrate a present unfitness to hold judicial office, in violation of Canons 1, 2A, 2B, 3A, 3B(1), 3B(2), 3B(4), 3B(5), 3B(8), 3C(1), 5A(1), 5A(2), 5A(3), 5A(6), 7A(3)(a), 7A(3)(b), 7A(3)(c), 7A(3)(d), and 7A(3)(e)(ii) of the Code of Judicial Conduct, and Section 106.143(4) of the Florida Statutes.

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 Counsel for the Judicial Qualifications Commission, and the General Counsel of the Commission.

Dated: this 9th day of December, 2016.

**THE FLORIDA JUDICIAL
QUALIFICATIONS COMMISSION**



David L. McGee, Esquire

Florida Bar No. 220000

dln@beggsllane.com

Gregory R. Miller, Esquire

Florida Bar No. 284777

grm@beggsllane.com

SPECIAL COUNSEL TO THE FJQC

Beggs & Lane RLLP

PO Box 12950

Pensacola, Florida 32591-2950

Tel: (850) 432-2451

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Second Amended Notice of Formal Charges was filed via the E-Portal which will notify all counsel of record on this 9th day of December, 2016:

The Honorable Mark Hulsey, III
Circuit Judge, 4th Judicial Circuit of Florida
501 W. Adams Street, Room 7266
Jacksonville, Florida 32202-7266

C/o

Michael Tanner, Esq.
mtanner@tannerbishop.com
Gil Feltel, Jr., Esq.
gfeltel@tannerbishop.com
COUNSEL FOR JUDGE HULSEY



David L. McGee

Gregory R. Miller

SPECIAL COUNSEL TO THE FJQC