

BEFORE THE FLORIDA
JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A JUDGE,
THE HONORABLE VEGINA T. HAWKINS
JQC No. 2019-351

SC19-1193

JQC's FIRST MOTION IN LIMINE

Counsel for the Judicial Qualifications Commission moves for an order in limine preventing Robert Wyman from testifying as an expert at the Final Hearing or offering his opinion about video evidence, and in support states:

1. The Final Hearing will focus on a June 11, 2019 interaction inside the Broward County Judicial Complex between the Respondent and Robert Grieper.

2. The interaction was captured on video surveillance. The JQC intends to play the unaltered video and enter it into evidence at the Final Hearing. The relevant portion of the original video is less than two minutes in length. The JQC also intends to call the Respondent and Mr. Grieper during its case-in-chief to testify.

3. The Respondent intends to call Robert Wyman as an expert. Mr. Wyman is the sole operator of Wyman Enterprises, Incorporated, a business that focuses on forensic photography, evidence documentation, and traffic crash and crime scene reconstruction. He has operated the business since 1988.

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4. Mr. Wyman has a two-year degree from Miami-Dade College. He does not hold any professional licenses. He does not hold himself out as an expert in human factors.

5. The Respondent intends to offer into evidence one or more altered versions of the original video, prepared by Mr. Wyman, and elicit testimony from Mr. Wyman regarding his expert opinion of what occurred between the Respondent and Mr. Grieper.

6. “In order to be helpful to the trier of fact, expert testimony must concern a subject which is beyond the common understanding of the average person.” *Mitchell v. State*, 965 So.2d 246, 251 (Fla. 4th DCA 2007) (quoting *State v. Nieto*, 761 So.2d 467, 468 (Fla. 3d DCA 2000)). “Expert testimony should be excluded where the facts testified to are of such a nature as not to require any special knowledge or experience in order for the jury to form conclusions from the facts.” *Mitchell v. State*, 965 So.2d 246, 251 (Fla. 4th DCA 2007) (quoting *Johnson v. State*, 393 So.2d 1069, 1072 (Fla.1980)).

7. At his deposition, Mr. Wyman provided the following answer to the question of whether he has been asked to draw any conclusions about what occurred between the Respondent and Mr. Grieper:

“To some extent, but I wouldn’t call it, like, a final expert opinion type of conclusion. I was asked, really, what do you see in the video? And I could describe that to you today, what I see in the video. But I would defer to the Court system to come to a conclusion as to what actually is there.”

8. “Expert opinion should be excluded where the facts testified to are the kind that do not require any specialized knowledge or experience in order to form a conclusion.”

Johnson v. State, 314 So.2d 248 (Fla. 1975).

9. Mr. Wyman will not testify to matters beyond the common understanding of the average person. The members of the Hearing Panel can view the video and draw their own conclusions.

10. If offered as a lay witness, Mr. Wyman’s testimony is irrelevant apart from how and why he altered the original video.

11. Any probative value to Mr. Wyman’s expert or opinion testimony, if admitted, would be substantially outweighed by the danger of unfair prejudice to the JQC.

Dated this 3rd day of November, 2020.

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CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of November, 2020, a true and correct copy of the foregoing has been electronically filed with the Clerk of the Court by utilizing the Florida Courts E-Filing Portal, which will send a notice of electronic filing to:

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