

**BEFORE THE FLORIDA
JUDICIAL QUALIFICATIONS COMMISSION**

INQUIRY CONCERNING A JUDGE,
THE HON. KENNETH N. "SONNY" SCAFF, JR.
JQC NO. 2019-118

SC20-

NOTICE OF FORMAL CHARGES

TO: Hon. Kenneth N. "Sonny" Scaff, Jr.
Hamilton County Judge
207 N.E. First Street
Jasper, FL 32052

The Investigative Panel of the Florida Judicial Qualifications Commission, at its meeting on January 10, 2020, 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. You routinely conducted first appearances in a manner that did not comport with the requirements of Rule 3.130 of the Florida Rules of Criminal Procedure, or chapter 903 of the Florida Statutes.
 - a. Between approximately June 2009 and December 2019, you regularly conducted first appearance hearings without the presence of or input from the Office of the State Attorney for the Third Judicial Circuit, the Office of the Public Defender, or victims. These bond hearings, often

occurring by telephone, frequently transpired with little or no notice to the Office of the State Attorney, the Office of the Public Defender, or victims. Sometimes the hearings would be conducted without the participation of the defendants. Examples of this conduct include:

- b. On August 8, 2019, you telephonically set bonds in three cases without notice to or participation by the State Attorney, the defendants or their attorneys, or the victims.
- c. On February 25, 2019, you set bonds of eleven arrestees by telephone without notice to, or the participation by the State Attorney, the defendants' attorneys, or victims.
- d. On September 14, 2017, you set bonds in several cases without the presence of, or participation of the State Attorney, the defendants' attorneys, or victims.
- e. On April 29, 2017, you telephoned the Booking Department of the Hamilton County Jail to set the bond of three arrestees, Eric Law, Garrett Ethan Cone, and Jared Rickey, who had been arrested during a fight. You initially ordered the defendants to be released on their own recognizance ("ROR"). Your call to the jail, and order setting ROR bonds occurred before the arrest reports had been written, before the defendant's had been booked into the jail, and before the three arrestees had even arrived at the jail. Throughout the evening, you continued to communicate with the jail asking for updates on the arrest reports, and subsequently learned that the defendants had each been charged with

felony Battery on Law Enforcement Officer. A prosecutor also found out about your ROR of the three arrestees, and complained to you. In a subsequent call to the Jail, you learned that the final reports were not yet ready, and it was not clear what the final charges or counts would be for the arrestees. Nevertheless, you ordered the Jail to modify the bonds from ROR, to \$8,000 for Mr. Cone, \$10,000 for Mr. Law, and \$10,000 for Mr. Rickey. You told the booking officer, “[t]hat is the bonds (sic), no matter if they got (sic) ten charges or a hundred, that’s the bonds.” In setting these bonds you failed to comply with the applicable rules of procedure and statutory law, and failed to provide adequate notice or receive input from the State Attorney, Public Defender, the defendants themselves, or the victims. State v. Eric Law (Hamilton County Case No. 2017CF0091); State v. Garrett Ethan Cone (Hamilton County Case No. 2017CF0091); State v. Jared Rickey (Hamilton County Case No. 2017CF0091).

- f. During the same evening of April 29, and morning of April 30, 2017, you telephonically set the bond in another, unrelated, DUI case at \$3,000. You did this without notice to, or input from the State Attorney, the Public Defender, or the defendant.
2. You have conducted improper ex-parte communications with defendants, witnesses, litigants, family members, and others regarding cases or matters pending, impending, or likely to come before you.
 - a. In the matter pertaining to the 2017 arrest of Eric Law, Garrett Ethan

Cone, and Jared Rickey, you have admitted that you were initially informed of the arrests after being contacted by some family members of the arrestees. At one point you told the officer at the Jail that you had heard, "...19 different stories (sic)...". You continued to communicate with the family and friends of the arrestees by telephone and text message throughout the evening of April 29 and into the early morning of April 30, 2017. At one point you asked the jail employees if the family members could write a check to post the bonds. You also told the family and friends of the arrestees that it was going to be a while before the defendants could be released. You also ended up presiding over two of the cases which were pled down to misdemeanors.

- i. i. In one case, you accepted a negotiated guilty plea, withheld adjudication, and sentenced the defendant pay court costs, fees and fines, provide 50 hours of community service, and serve 12 months of county probation. You subsequently granted the the defendant's unopposed request to terminate his probation after six-months. State v. Eric Law (2017MM348).
- ii. ii. In the other case, the State Attorney permitted the defendant to enter a pre-trial diversion program for two misdemeanor charges, and while the case was officially refiled in the Hamilton County Court, he was successfully discharged from the diversion program and no further judicial action was taken by you in that

matter. If he had not successfully completed the diversion program, the State Attorney would have had the option to proceed with the prosecution before your court. State v. Garrett Ethan Cone (2017MM240).

- b. You also inappropriately modified a bond based on improper ex-parte communications. On February 25, 2019, in the matter of State v. Jimmy Lee Davis, Jr. (Hamilton County Case No. 2019CF0076) you modified the defendant's bond from \$100,000 to \$10,000 surety or \$800 cash, after you had ex-parte contact with relatives of the defendant. In fact, while conducting the first appearance, you admitted that relatives of the defendant had come to visit your chambers prior to the hearing, and had convinced you to lower the bond because the case was "overcharged." You did not notify or seek input from the State Attorney, or victim (a police officer) regarding this modification of the bond.
- c. Also on February 25, 2019, you told another arrestee that his mother had come to your chambers to speak with you.
- d. You routinely volunteered to have your judicial assistant make phone calls on behalf of arrestees trying to bond out of the Hamilton County Jail.
- e. You have, in the past, been cautioned by the JQC against permitting or participating in ex-parte communications involving matters that are pending, impending, or likely to come before you.

Your actions constitute inappropriate conduct that violates Canons 1, 2A, 2B,

3B(2), 3B(4), 3B(7), 3B(9), and 3B(10) of the Code of Judicial Conduct. Collectively, your actions represent a pattern of misconduct.

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, and the Executive Director of the Commission.

Dated: this 31st day of March, 2020.

**THE INVESTIGATIVE PANEL OF
THE JUDICIAL QUALIFICATIONS
COMMISSION**




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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Formal Charges has been furnished by electronic service, on this the 31st day of March, 2020, to the following:

Hon. Kenneth N. "Sonny" Scaff
Hamilton County Judge
207 N.E. First Street
Jasper, FL 32052

C/o Bruce Robinson, Esq
COUNSEL FOR JUDGE SCAFF



Alexander John Williams
GENERAL COUNSEL