

BEFORE THE JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

INQUIRY CONCERNING JUDGE,

SC20-605

BARBARA HOBBS, NO. 19-409.

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**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND RECOMMENDATIONS OF THE HEARING PANEL,
FLORIDA JUDICIAL QUALIFICATIONS COMMISSION**

Pursuant to the Florida Constitution, art.v, §12(a)(1), (b), (c), and the Florida Judicial Qualifications Commission (“FJQC”) Rules, the FJQC Hearing Panel hereby certifies these “Findings of Fact, Conclusions of Law, and Recommendations” to the Florida Supreme Court.

COURSE OF PROCEEDINGS¹

On April 28, 2020, the Investigative Panel of the FJQC filed a Notice of Formal Charges against the Hon. Barbara Hobbs (Haynes), Circuit Judge for the Second Judicial Circuit. The case proceeded to final hearing on an “Amended Notice,” which deleted a charge. (Original notice, paragraph 6(a)).

The Amended Notice alleged that the judge: (1) acted as her son’s attorney after he was taken into custody in connection with a

¹ References are to the transcript of the final hearing (T.), and the parties’ respective trial exhibits (JQC Ex.__; Resp. Ex.__). Judge Hobbs uses her maiden, rather than her married, name. (T.253).

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shooting at his residence on July 30, 2019 (Amended Notice, ¶1); (2) in that capacity, was permitted to consult with her son outside the presence of police investigators, with the audio turned off (Amended Notice, ¶2); (3) was present during the formal interview of her son by police investigators, participated by asking clarifying questions, and told her son to stop speaking (Amended Notice, ¶2); (4) subsequently attempted to arrange “unmonitored and unrecorded” telephone and/or video access to her son while he was in jail, despite being warned to avoid the appearance of preferential treatment (Amended Notice, ¶4); (5) failed to recuse herself in two criminal cases in which her son’s criminal counsel appeared (Amended Notice, ¶5); (6) failed to adequately supervise her judicial assistant (Amended Notice, ¶6); (7) failed to issue timely orders on emergency matters (Amended Notice, ¶7); and (8) summoned a case manager to chambers to interrogate her about the source of the Commission’s amended notice of investigation. (Amended Notice, ¶7(d)).

The judge answered, admitting the allegations in paragraphs 1-3, apologized, and asserted facts in mitigation. The judge denied the remaining allegations, including seeking, requesting or initiating action to receive preferential treatment.

The Hearing Panel conducted a final hearing on March 29 and 30, 2021. The Hearing Panel was chaired by the Hon. Kerry Evander, and included the Hon. James Ruth, John G. (Jay) White, III, Esq. (ad hoc), William Schifino, Esq., Lawrence Tyree (lay person) and Abigail MacIver (lay person/ad hoc). Alexander Williams, Esq. represented the FJQC Investigative Panel. Roosevelt Randolph, Esq. and Erroll Powell, Esq. represented Judge Hobbs. Lauri Waldman Ross, Esq. represented the FJQC Hearing Panel.

FINDINGS OF FACT

On November 6, 2012, Barbara Hobbs was elected as a circuit judge for the Second Judicial Circuit. (T.283). At the time of her election, Judge Hobbs was an experienced attorney, who had served as an assistant attorney general, district general counsel for the Department of Transportation, and as a private attorney with her own firm, practicing criminal defense. (T.281-83,418-19).

The Second Judicial Circuit encompasses six counties. (T.122). Judge Hobbs was initially assigned to the family division. (T.283;JQC Ex.31). After a year, she was reassigned to the criminal division as the sole circuit judge handling criminal cases in Liberty and Gadsden counties; another circuit judge handled all of the civil cases in these counties. When a conflict of interest arose in a criminal case (by

virtue of the judge's prior private practice), she would ask the civil circuit judge to step in and handle that case. (T.283-84).

In 2018, Justin Haynes ("Mr. Haynes"), the judge's eldest son, was charged with misdemeanor DUI in Leon County. State v. Justin Haynes, Leon County Case No. 2018-CT 1920A1. (T.393). Mr. Haynes was represented by attorney Gary Roberts, and the case fell before the Hon. Angela Dempsey. (T.257,393,398;JQC Ex.12).

On April 28, 2019 (prior to the ordinary judicial rotation), Judge Hobbs was reassigned to the criminal division in Leon County, where she assumed Judge Dempsey's caseload. (T.289,408;JQC Ex.7, Admin. Order 2018-04, third amendment). At the time of reassignment, Mr. Roberts was counsel of record in two cases pending before Judge Dempsey in the criminal division: State v. Ponder, Leon County Case No. 2018CF 2513 ("Ponder") (JQC Ex.13) and State v. Madison-Bailey Felton, Leon County Case No.2019 CF248 ("Felton") (JQC Ex.16).

On May 29, 2019, the Ponder case was called up before Judge Hobbs, at a packed calendar, for a routine case management conference. (T.398-400;Resp.Ex.5,p.2). It was continued by agreement of the parties. (T.355,400-01).

On June 12, 2019, the parties in Felton appeared before Judge Hobbs and announced that they had reached a “deferred prosecution agreement.” (T.402-03). The clerk’s worksheet for that date noted “DPA to be filed.” (Resp.Ex.6,p.2). Judge Hobbs failed to disclose that Mr. Roberts was her son’s counsel in these cases, but her contact was limited to the actions detailed. (T.405).

Justin Haynes and his three year old son Malcolm, resided in a home owned by his grandparents, next to a home where his grandparents lived. (T.290-92). On the evening of July 29, 2019, Mr. Haynes was taken into custody by the Tallahassee Police Department (“TPD”) in connection with a shooting at his residence. (JQC Ex.11). Judge Hobbs’ father frantically phoned her when he saw law enforcement outside Mr. Haynes’ home, someone said there was a shooting, no-one could tell him what had happened, or Mr. Haynes and Malcolm’s location. Unable to glean more information herself, Judge Hobbs headed to TPD headquarters determined to locate Malcolm, and see her son. (T.291-94). She found Malcolm in the care of a female police officer, and phoned Malcolm’s mother to pick him up. (T.292-93).

Judge Hobbs was well known to the TPD, and had been friends with the night commander for years. (Resp. Ex.1,¶5;T.294-95). TPD

officers told Judge Hobbs that since Mr. Haynes was an adult (currently 32 years old) the only way she could see him was if she was his lawyer. She responded “I guess I am his lawyer, because I need to see my son.” (T.255,294-95;JQC Ex.1).

TPD Officers Jerome Megna and Kelly Isaacs conducted Mr. Haynes’ interview/interrogation, which began late the evening of July 29, 2019 and continued through the early hours of July 30, 2019. (JQC Ex.11). Officer Megna submitted an affidavit reflecting that at the time of this interview, he knew Judge Hobbs was a sitting judge of the Second Judicial Circuit, and she did “nothing to hinder nor did her presence in the interview room hinder TPD’s investigation of the incident and the questioning of her son.” She told Mr. Haynes to tell the truth. (Resp.Ex.1).

TPD taped the interview, which provides the best evidence of the Judge’s conduct. (JQC Ex.11). The top of the video lists dates and military times, referenced here.

TPD placed Mr. Haynes in an interview room, where his injuries were photographed and he was given a change of clothes. Officer Megna subsequently advised Mr. Haynes that “Ms. Hobbs is down in the lobby to represent you,” and confirmed Mr. Haynes’ agreement to the representation. (JQC Ex.11, July 29, 22:53). Officer Megna told

Mr. Haynes “If she’s your attorney, talk to her,” informing him that TPD was not going to record their conversations which were “obviously going to be privileged.” (Id. at 22:58-59). He advised that “You can talk to your mom as long as you need to.” (Id. at 23:19). Sound was turned off for 19 minutes while Mr. Haynes consulted his mother. (Id. at 23:20-23:39). At the conclusion of their consultation, Officer Megna asked the judge if she wanted to be present during Mr. Haynes’ interrogation. She did. Mr. Haynes was given Miranda warnings, agreed to speak to TPD, and Judge Hobbs instructed him to tell the truth. (Id. at 23:40-23:41).

TPD’s investigation focused on the fact that Mr. Haynes shot through a closed interior door in his home, striking Jasmine Perkins, rather than Perkins’ pit-bull, which had bitten Mr. Haynes (and was allegedly threatening him and his child). (Id. at 23:47-00:36). The judge interjected several times, clarifying questions, and directing Mr. Haynes, “You don’t need to go there” when he veered off-topic. When Mr. Haynes became obstreperous, the judge told him “that’s enough,” “listen up,” “shush,” “give it a rest” and to let the officer “do his job.” (Pet. Ex.11, July 30, at 00:14, 00:20-21, 00-27, 00:30, 00:36, 00:38-39).

Judge Hobbs advocated, on Mr. Haynes' behalf, for self-defense. She urged that pitbulls, as a breed, were protective of their owner (which she knew because she owned one) (Pet. Ex. 11, July 30 at 00:36) and that "the baby was standing there, so he was out in the open." (Id. at 00:44).

Judge Hobbs also suggested, in various ways, that Mr. Haynes be released into her custody without charges until the officers completed their investigation. (Id. at 00:36). ("I'm hoping you all don't charge him tonight or whatever until you finish your investigation."); (Id. at 00:37) ("Is it possible that you can finish your investigation before you charge him? He ain't going nowhere. I live here.").(Id. at 00:41) ("I'm asking you not to put the charge on him until you're there and put the ramifications on him."). (Id. at 00:44) ("My only concern is charging him with something that may not potentially go forward; he's not going anywhere, the booking is the issue."). (Id. at 00:48) ("I don't care about the charge, but booking, if he can be given an appearance because his grandfather's just evicted him and he'll be staying with me. I've been around 30-40 years, and I don't think it will go very far, but the fact that he's booked in will go very far, especially when he's going to go to jail. I know there's an issue about my children being in the jail.").(Id. at 00:46) ("When I say my children,

I'm not trying to curry favor, I've just got people in the jail that don't like me and they may find out who he is."). (Id. at 00:46).

Officer Megna advised the judge that an arrest was required if there was probable cause, and TPD couldn't just let someone go with a felony. The nature of the charges required Mr. Haynes to be held for a first appearance hearing. (Id. at 00:41,00:53). The officer's supervisor, legal advisor and the state attorney's office would review any charges before booking, and the officer was keenly attuned to Mr. Haynes' safety, which was a "major concern." (Id. at 00:41-42, 00:46, 00:53).

At the conclusion of the police interview, Mr. Haynes and the judge spent another six minutes in the interview room with the sound turned off before the judge departed. (JQC Ex. 11, July 30 at 00:55-1:01). At 6:42 a.m. a new officer coming on shift advised Mr. Haynes (who spent the night in TPD's interview room) that he was to be charged with aggravated battery with a deadly weapon, and transported to the Leon County jail. Mr. Haynes was told to "let your mom know the charge." (JQC Ex.11, July 30 at 07:10).

Early that same morning, Judge Hobbs contacted attorney Roberts to represent her son (again), and left Mr. Roberts to deal with the case. (T.300-01,392-93). Mr. Roberts testified that, when she

phoned him, the judge was in a “crisis state.” (T.393). By that time, her son’s arrest was all over the news. (T.301;Resp. Ex. 7,¶5).

On July 31, 2019, Mr. Haynes appeared at a detention or “first appearance” hearing to determine whether he would be released on bond. Attorney Roberts, and the judge’s father (who would be posting bond) were in attendance. Unbeknownst to Judge Hobbs, so was her judicial assistant Judy Ware. (T.143,301,394;JQC Ex.20; Resp.Ex.7, ¶6). Mr. Roberts seated Ms. Ware between himself and Mr. Hobbs to assist with communication, since Mr. Hobbs is hard of hearing. (T.394-95).

Jonathan Sjostrom, Chief Judge of the Second Judicial Circuit, soon learned about Mr. Haynes’ arrest. On July 31, 2019, he texted Judge Hobbs requesting a meeting in his office, forwarding the phone number of Alex Williams, FJQC General Counsel. (T.120). At the Chief Judge’s request, Grant Slayden (Trial Court Administrator for the Second Judicial Circuit for the last 19 years), quickly gathered information. This included the probable cause affidavit for Mr. Haynes’ arrest, and the video of his first appearance hearing. (T.142-43).

At the Chief Judge’s suggestion, Judge Hobbs phoned the JQC and self-reported her attendance at her son’s police interview.

(T.120,299-300). She followed this up in writing on August 1, 2019 (T.39-40,88,120;JQC Ex.1). The Chief Judge reviewed the first appearance video, saw judicial assistant Ware seated at counsel table, and was very worried about the appearance of impropriety. (T.39-40;JQC Ex. 20).

At the request of the State Attorney's office, Mr. Haynes' cases were reassigned (by the Florida Supreme Court) to a judge from a different circuit. (T.74). The Chief Judge also transferred Judge Hobbs out of the felony division so she would have no involvement with law enforcement, thereby avoiding any appearance of impropriety. (T.75). Judge Hobbs swapped divisions with another judge, and was reassigned to family court. (T.75-76).

On August 1st, 2019, Mr. Slayden prepared draft "talking points" to prompt the Chief Judge in his discussions with Judge Hobbs. (T.46-47,144-45;JQC Ex.30). The Chief Judge made handwritten changes to this draft in advance of their meeting which took place either August 1st or 2nd, with Mr. Slayden in attendance. (T.50,131,145). Witnesses tried to be precise, but agreed that a lot happened within a relatively short period of time. (T.126-27,149-50).

The Chief Judge commiserated with Judge Hobbs, noting she was "going through a lot right now" and her fellow judges supported

and felt terrible for her; he referred her to the judicial wellness program. (Pet. Ex.30). The Chief Judge also reminded Judge Hobbs of her ethical responsibilities, that other judges had gotten into trouble over family members facing criminal charges, and that emotions can cloud logic where family is involved. The Chief Judge acknowledged that the judge's judicial assistant might be "like family," but she represented the judge, was subject to many of the same provisions of the Code of Judicial Conduct, and should not be seated at counsel table during hearings. The Chief Judge encouraged Judge Hobbs to talk to other judges, himself included, in advance as issues arose, noting she would be "under a lot of scrutiny" but they all sought to help her. (T.49-50;JQC Ex.30).

Sensing Judge Hobbs was "coming apart," the Chief Judge encouraged her to take time off. (T.87,311,313-14). Judge Hobbs took the Chief Judge up on his offer, left for Valdosta, Georgia on August 4, failed to speak to Ms. Ware about her appearance at counsel table before leaving, and did not return until August 12. (T.313-15).

During the same general time period before her departure, (August 1st or 2nd), Judge Hobbs wanted to check on her son's well-being at the jail, and Mr. Slayden offered his assistance. (T.304-05). The Leon County Sheriff's office advised against personal visits by the

judge to the jail because it would place the Judge and her son's safety at risk. (T.372-73). It recommended the judge's use of a new program which enabled family members to conduct remote visitation via video subscription (a precursor to "zoom"). (T.308,373-75).

On August 2, 2019, Mr. Slayden wrote Major Lee at the Leon County Sheriff's office that "Judge Hobbs was unable to make the video visitation work last night. She is frustrated, because like any person in a similar circumstance she would like to check on her family member." Mr. Slayden questioned whether there were alternatives to the Judge visiting the Detention Center in person during normal visitation. He emphasized that "The court is not asking for any special treatment, just the ability for a court employee to visit a family member like any other person can do." (Resp.Ex.2;T.208-10).

While discussing problems getting the program to work, Judge Hobbs queried whether the calls were monitored. This immediately made Mr. Slayden nervous that Judge Hobbs might be attempting to bypass the jail's recording of inmate calls. (T.153). Mr. Slayden reported his suspicions to the Chief Judge, as well as the fact that Judge Hobbs didn't want to use "Polycam," the public defenders' program. (T.71-72). Assuming Judge Hobbs was trying to have

unmonitored communications with an inmate, the Chief Judge directed Slayden to cease assistance. (T.71-72;153-54;304-05). In fact, the Polycam system is not monitored by the jail because of attorney client privileged communications. (T.304-05,375-76). There was a miscommunication between the parties. Judge Hobbs wanted to see her son, while following the jail's instructions, and placing neither of them at risk. (T.304-09).

According to Major Lee, the video program piloted by the Leon County Sheriff's department, was relatively new, and offered to the public at large with family members at the detention center. Judge Hobbs never sought preferential treatment, or requested unmonitored contact with her son, but had problems logging onto the system. (T.372-76). Judge Hobbs currently uses a different prison program available to other members of the public and their families. (T.310).

On August 5, 2019, Ms. Ware took official leave (with the judge's knowledge) to attend another bond hearing for Mr. Haynes. (T.278). For a second time, Ms. Ware appeared at counsel table between Mr. Roberts and the judge's father. (JQC Ex.21;T.278).

On August 12, 2019, the Chief Judge summoned both Judge Hobbs and Ms. Ware for counseling. (T.54-55;JQC Ex.18,p.3).² The Chief Judge prepared a series of bullet points:

1. Ethical limits apply even though Judge Hobbs is not assigned to felony.
2. Judge Hobbs must take no action in any of Justin Haynes's cases that would be unavailable to a member of the public or that could be perceived as trying to influence the case. For example:
 - Do not appear in court in Mr. Haynes's cases unless compelled by process.
 - Do not file documents in Mr. Haynes's court file.
 - Do not assist Mr. Haynes's lawyers with court filings.
 - Do not access Mr. Haynes's court files unless a member of the public would have the same access.
 - Do not discuss Mr. Haynes's court cases with clerk's office personnel.
 - Do not discuss Mr. Haynes's cases with law enforcement personnel unless compelled by process.
3. Judge Hobbs is responsible for Ms. Ware's conduct. The same strict limits that apply to Judge Hobbs apply to Ms. Ware. Judge Hobbs must avoid impropriety and the appearance of impropriety.
4. Please inform Ms. Ware that she operated under the same ethical constraints as the judge. (JQC Ex.18,p.3).

The Chief Judge asked Judge Hobbs to listen, as he went through each topic, and told her it was her responsibility to inform Ms. Ware of the applicable (ethical) limits of her conduct. (T.55).

² References to JQC exhibit 18 are to page numbers hand-written at the bottom of each page.

Judicial assistants occupy a somewhat “unique” role in state government. They are paid by the state, but are considered the judge’s “personal staff.” (T.56). Judges hire and train their own judicial assistants, set their working hours (within parameters), the judge’s expectations, and mete out discipline. (T.55). While other state court employees are evaluated annually, judicial assistants are exempt from that process. (T.163).

On August 12, 2019, Judge Hobbs declined to speak to Ms. Ware, requesting that the Chief Judge do so instead. (T.55;JQC Ex.18,p.3). In a contemporaneous memo about their conversation, the Chief Judge recorded Ms. Ware’s comments that “she attended court with Mr. Haynes and that we should have told her not to go to court before.” Ms. Ware said they “were treating Judge Hobbs insensitively,” that Mr. Slayden stopped by to “pretend to be sensitive to Judge Hobbs,” and then Judge Hobbs “got kicked in the butt.” When the Chief Judge questioned “what was done that was insensitive” or to “kick Judge Hobbs in the butt,” Ms. Ware responded, “that’s just my opinion,” and left. (JQC Ex.18, p.3). The Chief Judge told Judge Hobbs this constituted grounds for termination. Judge Hobbs did not terminate her judicial assistant. (T.123).

Ms. Ware returned to the Chief Judge's office later that day, and told the Chief Judge, "I've always had nothing but respect for you. I hope you know that I have nothing but respect for you." The Chief Judge didn't take this as (but thought it might have been intended) as an apology. (T.124).

After their August 12 meeting, Judge Hobbs followed the Chief Judge's guidance and recommendations, asked Ms. Ware to "let it go," and told her "God's got this Judy. Just leave it alone." (T.313).

During the week of August 19, 2019, Judge Hobbs was the assigned "duty judge" for emergencies, including domestic violence petitions. (T.383). These were delivered multiple times a day by a clerk to the duty judge for review and retrieved later the same day for processing. (T.381-83).

On August 20, 2019, Christina Rosa (Malcolm's mother who worked upstairs at the public defender's office) was spotted in Judge Hobbs' chambers. (JQC Ex.18,p.6;JQC Ex.19). Ms. Rosa regularly dropped by to see Judge Hobbs, sometimes with Malcolm. This time she brought along a hand-written petition for injunction, which she told the judge she intended to file against Jasmine Perkins (the shooting victim). (T.316-17). Judicial assistant Ware accompanied

Ms. Rosa to the clerk's office to show her where the petition should be filed (JQC Ex.5,pp.74-75;JQC Ex.19;Resp.Ex.9).

The court clerk, who was in and out of Judge Hobbs' chambers that week, did not recall any discussions about Ms. Rosa's petition with Judge Hobbs or Ms. Ware (T.383-84). As with other matters involving Justin Haynes, this petition was assigned for disposition to a different judge. (JQC Ex.18,pp.6-7;Resp.Ex.7,p.2,¶9).

When a litigant files an emergency motion in a family matter, that motion must be brought immediately to the judge's attention. (T.77-79). Family court case managers process *pro se* filings so that nothing falls through the crack. (T.211-12). The clerk's office emails the judge, the judge's assistant, and copies the family court case manager alerting them to such motions. (T.212).

On August 21, 2019, in the case of In re C.W. & KN, Case No. 2019 DR 2449, Judge Hobbs stamped and signed a "petition for temporary custody by extended family" signifying it should be handled as an emergency. (T.215-17;JQC Ex.28).

On August 26, 2019, Judge Hobbs stamped and signed a "petition for temporary custody by extended family" in In re: Riley, Case No. 2019 DR 002495, to be handled as a non-emergency. (JQC Ex.26).

On August 27, 2019, the judge's mother unexpectedly passed away. (T.325-26). With the assistance of the Chief Judge, Judge Hobbs took time off to handle family matters and arrange the funeral. (T.325-27).

On September 19, 2019, in Pittman v. Smith, 2017 DR 2941, the petitioner filed an "Emergency Motion to inform the court that the counseling sessions were changed without my agreement or court approval" (JQC Ex.23), followed the next day by the respondents' "expedited motion to order individual counseling for the children and family therapy when recommended by the therapist." (JQC Ex.24). This case was apparently referred to a magistrate years earlier, and the order of referral encompassed "any and all subsequent pleading/issues." (Resp.Ex.15,pp.1-2). The Magistrate heard both motions and issued her report on October 8, 2019. (Resp.Ex.15,pp.15-18). Judge Hobbs ratified the Magistrate's report on October 29, 2019, no exceptions having been filed. (Resp.Ex.15,p.10).

There was a great deal of confusion over how the petitions in In re C.W. & KN and Riley were handled. The judge's assigned case manager thought that Ms. Ware had one of the cases recharacterized as a "non-emergency" to avoid extra work, while the judge indicated

that the case was re-classified at her direction because the respondents had not been served. There was further confusion regarding whether pleadings were filed in the wrong queue. (T.217-25,331-332;Resp.Ex.7,16&17).

On October 3, 2019, while Judge Hobbs was in Orlando appearing before an investigative panel of the JQC, Mr. Haynes showed up at her office looking for his grandfather's health insurance papers. (T.275,319). Unbeknownst to Judge Hobbs, Ms. Ware gave Mr. Haynes her security badge to retrieve these papers. This gave Mr. Haynes access to a restricted elevator, which ran from the clerk's office on the first floor (where Mr. Haynes was previously employed) to a parking lot on the fourth floor used by elected public officials. (T.155-57). This elevator is only to be used by authorized personnel, and is secured by badges, and a badge reader on every floor. When the door of the restricted elevator opened at the clerk's office, occupied by Mr. Haynes, it was duly reported by an "unnerved" clerk. (T.155,191-92,403).

Judge Hobbs agreed that Ms. Ware's action in turning over her security badge to Mr. Haynes was "dead wrong." (T.319). She noted that "If anybody is scared of security issues, it is a judge, especially a judge who gets death threats on a regular basis..." (T.320). Judge

Hobbs warned Ms. Ware about the seriousness of her act, and that no one should have possession of her security badge “as it puts all persons who work in the Courthouse in danger.” (Resp.Ex.7,p.3,¶12).

On October 22, 2019, the Investigative Panel served Judge Hobbs with an “Amended Notice of Investigation” adding paragraphs 5 (failure to supervise) and 6 (failure to issue timely orders and decisions) (JQC Ex.6&8). The “Notice of Formal Charges” alleged that after Judge Hobbs received the “Amended Notice of Investigation” outlining the allegations in paragraphs 7 (a)-(c) [relating to rulings on emergency motions], she summoned a case manager to chambers and interrogated her about the source of the commission’s information. (Formal charge 7 (d)). Counsel urged that, as a result of Judge Hobbs’ behavior, the Chief Judge and court administration made the decision to move the case manager to another county. (T.15-16).

Rhonda Harris, the case manager in question, was in her office when judicial assistant Ware advised her that the judge wished to see her in chambers. Ms. Harris accompanied Ms. Ware to the judge’s chambers where Judge Hobbs referenced a paper (subsequently identified as the notice of investigation) and asked questions about the emergency motions referenced. (T.221-26). Ms. Harris asked

“what is going on?” and the judge responded that the Chief Judge and court administration had “filed something against her.” (T.223-25). Judge Hobbs did not question Ms. Harris about the source of the commission’s information. (T.225).

Ms. Harris did not feel threatened, but was “very uncomfortable” being interrogated about cases which had already been discussed with the judge’s assistant, and should already have been brought to the judge’s attention. (T.229-30). Ms. Harris testified that her move to another county was arranged before, and preceded her meeting with, the judge. (T.230-32). It had “nothing to do with” their meeting. (T.232).

Hearing panel members questioned Judge Hobbs’ continued employment of a judicial assistant, who exercised such poor judgment. (T.274-278). A member noted that “a lot of the things you’re here answering for are things that she did.” (T.276). The judge responded that she (and other members of her immediate family) had known Ms. Ware for 30 years, they had a good “interpersonal” relationship, that Ms. Ware had previously helped in her judicial campaign, and she was highly recommended for the position by her prior employer Nancy Daniels (the elected Public Defender). (T.274,276). According to Judge Hobbs, Ms. Ware “had not one iota

of an issue from January 2013 when she became my JA until August the 2nd, 2019.” Then, all of a sudden, on August 2nd “she became the worst JA in the building....” (T.276). The judge counseled Ms. Ware at the Chief Judge’s request, and “was annoyed,” by the badge situation, but indicated that all of the problems with her judicial assistant occurred while she was personally undergoing a “horrible tailspin in [her] life.” (T.277). She understood and “totally g[o]t” the Panel’s criticism. (T.276).

CONCLUSIONS OF LAW AND DISPOSITION OF THE CHARGES

In these judicial disciplinary proceedings, charges must be proven by “clear and convincing evidence.” This is an intermediate standard requiring more than “a preponderance of the evidence,” but less than “beyond and to the exclusion of a reasonable doubt.” Inquiry Concerning Graziano, 696 So.2d 744, 753 (Fla.1997). It is both qualitative and quantitative; “clear and convincing” evidence requires the evidence to be credible, the facts to which the witnesses attest to be distinctly remembered, the testimony to be precise and explicit, and the sum of the evidence to be of sufficient weight to convince the trier of fact without hesitancy. Inquiry Concerning Davey, 645 So.2d 398 (Fla.1994).

Canon 1 of the Florida Code of Judicial Conduct provides:

A Judge Shall uphold the Integrity and Independence of the Judiciary

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.

Canon 2 of the Florida Code of Judicial Conduct provides:

A Judge Shall Avoid Impropriety and the Appearance of Impropriety in All of the Judge's Activities

A. A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

B. A judge shall not allow family, social, political or other relationships to influence the judge's judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall the judge convey or permit others to convey the impression that they are in a special position to influence the judge....

Canon 3 of the Florida Code of Judicial Conduct provides:

A Judge Shall Perform the Duties of Office Impartially and Diligently

* * *

B. Adjudicative Responsibilities

(1) A judge shall hear and decide matters assigned to the judge except those in which disqualification is required.

* * *

C. Administrative Responsibilities

(1) A judge shall diligently discharge the judge's administrative responsibilities without bias or prejudice and maintain professional competence in judicial administration, and should cooperate with other judges and court officials in the administration of court business.

(2) A judge shall require staff, court officials, and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge and to refrain from manifesting bias or prejudice in performance of their official duties.

* * *

E. Disqualification

(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned....

The commentary to Canon 3E(1), which provides guidance with respect to its purpose and meaning, suggests that "A judge should disclose on the record information the judge believes the parties or their lawyer might consider relevant to the question of disqualification, even if the judge believes there is no real basis for

disqualification.” Conveyance of this information does not “automatically require” the judge’s disqualification, and the issue is to be resolved on a case-by-case basis.

Canon 5 of the Florida Code of Judicial Conduct provides:

A Judge Shall Regulate Extrajudicial Activities to Minimize the Risk of Conflict with Judicial Duties

A. Extrajudicial Activities in General. A judge shall conduct all of the judge’s extrajudicial activities so that they do not:

- (1) Cast reasonable doubt on the judge’s capacity to act impartially as a judge;
- (2) Undermine the judge’s independence, integrity, or impartiality.

* * *

G. Practice of Law. A judge shall not practice law. Notwithstanding this prohibition, a judge may act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the judge’s family.

The commentary to Canon 5G reflects that the Code “allows a judge to give legal advice to and draft legal documents for members of the judge’s family” for no compensation. However, “A judge must not... act as an advocate or negotiator for a member of the judge’s family in a legal matter.”

As acknowledged, Judge Hobbs is guilty of the charges alleged in paragraphs 1 through 3. By representing Mr. Haynes after his arrest during his TPD interview, she violated Canons 1, 2A, 2B, 5A(i), 5A(ii), and 5G. Judge Hobbs did not merely render advice to her son, without recompense. She asserted self-defense, and sought her son's release by the TPD into her custody, without charges. See Inquiry Concerning Gridley, 417 So.2d 950, 953 (Fla.1982) (Canons 1, 2A & 2B violated when the judge personally injected himself and his office into a matter as an advocate for a criminal matter as an advocate for a criminal defendant); Inquiry Concerning Holloway, 832 So.2d 716 (Fla.2002) (Canons 1, 2 and 5 violated by judge's intervention in cases involving a close friend and relative); Inquiry Concerning Turner, 76 So.3d 898, 902-904 (Fla.2011) (Canons 1, 2A and 5G violated, when the Judge began negotiating with his mother's lender in a foreclosure proceeding, and entered a notice of appearance on her behalf).

Judge Hobbs is not guilty of trying to arrange unmonitored and unrecorded contact with Mr. Haynes, while he was jailed. (Formal charge, ¶4). The evidence on this charge does not meet the "clear and convincing" standard, and was based upon inferences on inferences.

The panel also finds Judge Hobbs not guilty of the charges alleged in paragraphs 5a and 5b (failure to recuse). Judge Hobbs inherited the Ponder and Felton cases from Judge Dempsey, when she was reassigned to that division. While Judge Hobbs should have disclosed Mr. Roberts' representation of her son on a pending misdemeanor, her disqualification was not required for the **de minimus** actions taken. They consisted of granting an agreed motion for continuance (Ponder), and listening as the parties announced that they had reached a deferred prosecution agreement (Felton).

Judge Hobbs is not guilty of allowing her judicial assistant to inappropriately interpose herself in Mr. Haynes' criminal case by permitting her judicial assistant to sit at counsel table during the first appearance hearing on July 31, 2019, since she had no advance notice this would occur. She is guilty of failing to immediately inform Ms. Ware that this was inappropriate (as instructed by the Chief Judge on August 1 or 2), in time to avoid a recurrence of the same conduct on August 5, 2019 (Charge 6a(i)). Judge Hobbs knew Ms. Ware was taking time off to attend the second bond hearing, and violated Canon 1 by failing to enforce high standards of conduct, Canon 2A by failing to act in a manner promoting public confidence

in the judiciary, and Canon 2B by allowing personal relationships to influence her judgment.

Judge Hobbs is not guilty of allowing her judicial assistant to inappropriately interpose herself in Mr. Haynes' pending case by assisting Ms. Rosa with filing an injunction against the victim. The evidence on this count did not meet the "clear and convincing" standard. (Formal Charge, ¶6a(ii).

Ms. Ware's action in turning over her security badge to Mr. Haynes was egregious, placing the security of the courthouse and all personnel at risk. However, Ms. Ware's conduct was so beyond the mainstream and improbable as to be unforeseeable by anyone, including Judge Hobbs, who had no advance notice this would occur.

The panel also finds Judge Hobbs not guilty of failure to issue timely orders and decisions on emergency matters and interrogating a case manager to determine the "source" of these charges. (Formal charge Count 7). The judge was not seeking the source of the investigative charges, and was actually trying to determine what was happening in these cases.

RECOMMENDED DISCIPLINE

“[T]he object of disciplinary proceedings is not for the purpose of inflicting punishment, but rather to gauge a judge’s fitness to serve as an impartial judicial officer.” Inquiry Concerning McMillan, 797 So.2d 560, 571 (Fla.2001). To make this determination, the Hearing Panel examines judicial misconduct for present fitness to hold office from two perspectives – “its effect on the public’s trust and confidence as reflected on the judge’s standing in the community, and the degree to which past misconduct points to future misconduct fundamentally inconsistent with the responsibilities of judicial office.” Inquiry Concerning Decker, 212 So.3d 291, 308 (Fla.2017), quoting Inquiry Concerning Sloop, 946 So.2d 1046, 1055 (Fla.2007).

Judge Hobbs presented substantial evidence in mitigation. She started the first mental health court in Gadsden and Liberty Counties. (T.285-87,421). She is actively involved with the “Good Samaritan Network,” a faith based re-entry program for prisoners transitioning back in society (which has a low recidivism rate). (T.423-26). The judge developed a relationship with the community by attending their baptisms and graduations. (T.287). Character witnesses described her an “effective public servant,” who was an asset to the bench – with a good appreciation for the problems which

brought people to the courthouse. (T.420-22,426-29,250-51). She was frank, but not condescending with former prisoners, and always willing to listen. (T.427).

Alfred Lawson, a Congressional representative for District 5 in the Panhandle, has known Judge Hobbs for most of her adult life. He described Judge Hobbs as an “amazing woman, the mother of two sons... active in the Second Judicial Circuit as a parent, a community leaders, and a small business owner for most of her life.” Mr. Lawson stated that “few had contributed to this community and society in the way Judge Hobbs has.” His opinions were echoed by Carolyn Cummings, Esq, the judge’s former law partner, Bill Montford, a former Leon County Commissioner, School Superintendent and State Senator, Adam Jefferson Richardson, Jr, a Bishop with the African Methodist Episcopal (“AME”) Church (T.245-52), and others who knew or previously worked with Judge Hobbs. (Hobbs character letters).

The Judge’s actions were misguided, but not ill-intentioned. Her misconduct appears to have little to no effect on her standing in the community. It took place during a limited, tempestuous time in the judge’s personal life. The Panel believes it will not be repeated.

Judge Hobbs, nevertheless, committed serious violations of the Code of Judicial Conduct, requiring equally serious discipline. In Inquiry Concerning Maloney, 916 So.2d 786 (Fla.2005), a judge contacted the Lakeland police, and over their objection, directed the release of a friend's son (arrested for DUI into his father's custody). The parties stipulated that the judge's conduct violated Canons, 1, 2A & 2B, warranting a public reprimand (which the Florida Supreme Court approved). The Court also approved a public reprimand in circumstances where a judge intervened in legal matters on behalf of family or friends. See Inquiry Concerning Kautz, 149 So.3d 681 (Fla.2014) (public reprimand warranted when Judge appeared at a "first appearance" hearing to vouch for her sister and argued on her sister's behalf about the circumstances of the probable cause affidavit); Inquiry Concerning Cohen, 99 So.3d 926, 951 (Fla.2012) (public reprimand warranted where judge held a hearing on recusal motions and called his wife as a witness in order to vindicate her interests in running for judicial office against an attorney who backed her competitor); Inquiry Concerning Maxwell, 994 So.2d 974 (Fla.2008) (public reprimand warranted where judge intervened on behalf of and secured the release of the sister of his former law partner, at the partner's behest, without the benefit of a first

appearance on domestic violence charges, despite the fact she was currently serving a sentence of probation for obtaining controlled substances for fraud); Inquiry Concerning Richardson, 760 So.2d 932, 933 (Fla.2000) (public reprimand warranted where judge was arrested and made inappropriate comments to police, designed to obtain favorable treatment for himself); Inquiry Concerning Brown, 748 So.2d 960, 961-62 (Fla.1999) (public reprimand warranted for judge, who issued arrest warrants for his former daughter in law on charges of harassment and stalking, supported by an affidavit from the judge's son).

This case is substantially similar to Inquiry Concerning Maxwell, 994 So.2d at 979, wherein the judge actually ordered the son of his former law partner released. However, in Maxwell, the Supreme Court issued a final caveat “to the JQC, the judiciary and the public,” that because of the potential for similar conduct to seriously undermine public trust in the judicial office, it would in the future consider “harsher sanctions, including but not limited to removal from office.” Id.

In reaching its decision, the Hearing Panel has taken into account the fact that Judge Hobbs is remorseful, and has no prior history of discipline over a lengthy career as an attorney and a judge.

Judge Hobbs made no attempt to cover up or disguise her representation of her son as an attorney. See e.g. Inquiry Concerning Turner, 76 So.3d 898, 904 (Fla.2011). Nor did the judge lie, or misrepresent her conduct. See Inquiry Concerning Holloway, 832 So.2d 716, 729 (Fla.2002); Inquiry Concerning Frank, 753 So.2d 1228 (Fla.2000).

Judicial assistants play an indispensable role in the justice system. They are relied upon to carry out the judge's instructions, and assist in case management. Many of the charges at issue here arose from the conduct of the judge's assistant, and her personal loyalty to the judge, which was reciprocated. Lest there be any doubt, a judge's duty to the administration of justice is paramount and overrides loyalty to family, friends and "personal staff." The Code of Judicial Conduct requires no less.

For these reasons, the Hearing Panel recommends the following discipline:

- (1) a formally administered public reprimand;
- (2) a 60 day suspension from office without pay; and
- (3) attendance at an employee management program. Fla.Const.art.12(a)(1) (lawyer discipline); The Florida Bar, Lawyer Sanction Standard 2.8(h).

All of the Hearing Panel's findings of guilty are supported by clear and convincing evidence. The vote of the Hearing Panel on guilt, as well as the recommended discipline, has been determined by an affirmative vote of at least two thirds of the six hearing panel members. Fla.Const.art.v,§12(b);FJQC Rule 19.

So ordered this 11th day of June, 2021.

FLORIDA JUDICIAL QUALIFICATIONS
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