

Supreme Court of Florida

No. 83,957

INQUIRY CONCERNING A JUDGE,
NO. 93-391.

RE: HUGH M. FLETCHER

[January 11, 1996]

PER CURIAM.

In our previous opinion, we remanded this case to the Judicial Qualifications Commission to give it the opportunity to supplement the record or submit an explanation addressing the Court's concerns. In re Fletcher, 20 Fla. L. Weekly S533 (Fla. Oct. 12, 1995). The Commission has now submitted the following reply:

Replying to the Court's request dated October 12, 1995 for an explanation for the

stipulation entered into between Judge Hugh M. Fletcher and the Florida Judicial Qualifications Commission, the Commission responds that a full inquiry extending over eleven months was made, including the taking of fourteen discovery depositions and the interviewing of a number of other potential witnesses. After all available evidence was reviewed and the sufficiency of the proofs was evaluated, and upon the advice of special independent counsel, the Commission concluded by a vote of not less than nine members that acceptance of the negotiated plea and stipulation and the consequent recommendation to the Court were in the best interest of the State of Florida.

Upon examination of the stipulation and recommendation of the Commission, which are quoted in our previous opinion, we find Judge Fletcher guilty of violating canons 1 and 2A of the Florida Code of Judicial Conduct and publicly reprimand him for his actions.

It is so ordered.

GRIMES, C.J., and OVERTON and HARDING, JJ., concur.
ANSTEAD, J., concurs specially with an opinion.
WELLS, J., dissents with an opinion, in which SHAW and KOGAN, JJ., concur.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

ANSTEAD, J., specially concurring.

While I agree with the dissent that the Commission appears to have missed the point of our remand, I believe we should put this matter to rest and now approve the sanctions recommended.

We remanded this matter to the Commission because of the vagueness and uncertainty of the stipulation submitted by the Commission to justify the imposition of the recommended sanctions. We really could not tell by the wording of the stipulation whether Judge Fletcher had been guilty of any misconduct or, if he was guilty of misconduct, what that misconduct was. The Commission's recent response advising us that it had thoroughly investigated the case is a non sequitur and provides no additional light or guidance to this Court in carrying out its heavy responsibility to supervise the conduct of the judges of this state. Nor does it provide the public with any additional insight into the Commission's conclusions regarding the judge's conduct. We will never know what the Commission concluded.

Our prior opinion outlined the charges filed against Judge Fletcher and then pointedly noted:

The stipulation is silent as to the most critical charges contained in the complaint-- colliding with a dock while operating a boat under the influence of alcohol and lying to a Florida Marine Patrol officer when confronted. Although Judge Fletcher asserted in his answer that he did not strike the dock and that he told the officer

he did not, the stipulation contradicts his answer and admits that he struck the dock. It is unclear whether Judge Fletcher is also admitting that he lied to the officer.

In re Fletcher, 20 Fla. L. Weekly S533, S534 (Fla. Oct. 12, 1995). The primary focus in a judicial disciplinary proceeding is on the alleged misconduct. That is what this Court wants to know, and what the public has a right to know. But consider the stipulation here:

1. On the evening of April 4, 1993, Judge Fletcher was operating his motor boat on the Intracoastal Waterway in northern St. Johns county when it collided with a dock belonging to Mr. and Mrs. Frank Driggers. He left the scene without reporting the accident. Shortly thereafter, Judge Fletcher encountered a Florida Marine Patrol officer and told him he had struck an object in the middle of the channel.

2. Judge Fletcher regrets and apologizes that this incident occurred and recognizes that it diminishes the public's confidence in the Judiciary.

This vague and ambiguous stipulation fails to specifically identify any misconduct that we or the public can properly evaluate. Just what is the "incident" for which the judge offers his regrets? We certainly cannot tell from the stipulation. In fact it almost appears that the stipulation was drafted to avoid pinpointing any particular misconduct.

The Commission now tells us that it exhaustively investigated the case and this is the best that it could do. One possible inference from all this is that the Commission acted entirely too hastily in initially charging the judge with serious

allegations of misconduct that had not been fully investigated and that could not be proven. What we are left with is that the judge has agreed to be disciplined and the Commission is satisfied to get that agreement. And we are left, like the public, without really knowing precisely what it was that the judge did that prompts us to issue a reprimand. As noted above, we will never know.

The public deserves better.

WELLS, J., dissenting.

I dissent because the reply of the Judicial Qualifications Commission does not respond to the reason the majority in In re Fletcher, 20 Fla. L. Weekly S533 (Fla. Oct. 12, 1995), stated that it could not act upon the Commission's recommendation. In the previous opinion, the majority specifically pointed out that "[t]he stipulation is silent as to the most critical charges contained in the complaint--colliding with a dock while operating a boat under the influence of alcohol and lying to a Florida Marine Patrol officer when confronted." Id. at S534. The Commission's reply, which merely outlines what discovery and investigation the Commission undertook with regard to Judge Fletcher, does not sufficiently address these charges. Until the Commission, through either a stipulation of fact or a finding of fact, directly deals with these charges I do not believe this Court can perform its constitutionally mandated function of accepting or denying the Commission's recommendation.

This Court has clearly acknowledged that pursuant to the Florida Constitution, the ultimate decision on the discipline of judges is the responsibility of this Court. See In re Graham, 620 So. 2d 1273 (Fla. 1993), cert. denied, 114 S. Ct. 1186, 127 L. Ed. 2d 537 (1994). We cannot fulfill this responsibility by acting upon recommendations of the Commission that do not directly address charges which have been brought against a judge. Pursuant to our constitution, which has structured a judicial

disciplinary system to prosecute any wrongdoing by judges, the public has a right to have any charges of wrongdoing either found to be supported or dropped. If the charges just disappear, as in the case of the present stipulation, public confidence in judicial discipline and, consequently, the judicial system diminishes. If the charges are found not to be supported by clear and convincing evidence, then the Commission should make that clear.

In sum, a negotiated stipulation which fails to deal with the charges made against a judge and which allows the judge to remain on the bench leaves open too many unanswered questions which undermine the integrity of both the judge and the judiciary. Therefore, I do not believe this Court should act upon a recommendation such as the present one, which is incomplete. Rather, I believe we should return this recommendation to the Commission again with the instruction that we can only act on a recommendation that is based upon factual determinations which deal directly with the charges that the Commission brought against Judge Fletcher.

SHAW and KOGAN, JJ., concur.

Original Proceeding - Florida Judicial Qualifications Commission

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