BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

INQUIRY CONCERNING A Florida Supreme Court

JUDGE: CYNTHIA A. HOLLOWAY Case No.: SC00-2226
No.: 00-143
_____/

TRIAL BRIEF

INTRODUCTION

Respondent, Cynthia A. Holloway, by and through her undersigned counsel, hereby submits her Trial Brief to the Hearing Panel in this matter. The burden of proof on the remaining charges is one of clear and convincing evidence.[1] In order ~~the~~ to meet this burden, the Special Counsel was required to present this Panel with:

1. Evidence that was credible;
2. Testimony from witnesses whose recollections were clear and without confusion;
3. Testimony based upon distinct memories of the witnesses; and
4. Testimony that was precise and explicit[2].

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[1] In re Davey, 645 So. 2d 398 (Fla. 1994). "Because of the serious consequences attendant to a recommendation of reprimand or removal of a judge, the quantum of proof necessary to support such a recommendation must be clear and convincing. There must be more than a preponderance of the evidence, but the proof need not be beyond and to the exclusion of a reasonable doubt." Id. at 404. Clear and convincing evidence requires that evidence "must be of such weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of allegations sought to be established." Slomowitz v. Walker, 429 So2d 797, 800 (Fla. 4th DCA 1983). The court further stated, "[T]he facts to which the witnesses testify must be distinctly remembered; the testimony must be clear, direct and weighty, and the witnesses must be lacking in confusion as to the facts at issue." Id. at 800.

[2] In re Davey, 645 So. 2d 398 (Fla. 1994). In considering testimony from this case, the Florida Supreme Court rejected the JQC's findings and noted that "[t]estimony before the Commission on this point is indecisive, confused and contradictory a far cry from the level of proof required to establish a fact by clear and

Ultimately, the evidence must be "of such weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth" of each of the charges sought to be proven.[3] The Special Counsel has fallen far short of meeting this high standard.

The only compelling evidence adduced in this case related to Judge Holloway's acknowledged contact with Judge Stoddard.[4] With respect to the other charges, Special Counsel has fallen woefully short for proving same under the aforementioned standard as will be hereinafter analyzed.

Contact With Detective Yaratch (Charge 1(a))

Judge Holloway's contact with Detective Yaratch on February 24, 2000, does not constitute an abuse of her power as a judge or improper utilization of the prestige of her office. Judge Holloway had a personal relationship with the child who was the subject of a sexual abuse investigation. Although Judge Holloway had no information regarding the facts of the complaint which was the subject of this investigation, she had twice testified as a fact witness in the custody proceedings. This previous testimony included Judge Holloway's own observations of the child's unusual behavior, her thoughts on the fitness of the child's mother and the nature of personal threats that she had received from the child's father.

Judge Holloway contacted Detective Yaratch after the sexual abuse complaint was initiated. ~~Judge Holloway was understandably concerned that~~ At that point neither the teacher that had reported the sexual abuse or the young child had been interviewed nor

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convincing evidence." Id. at 404.

[3] Id at 404.

[4] Judge Holloway had already admitted to the improper contact and agreed to stipulate to the charges (an offer repeatedly refused by Special Counsel).

even contacted by Detective Yaratch ~~at that point~~. Judge Holloway was understandably concerned that this four-year old child might be "slipping through the cracks."[5]

In order to meet its burden, the Special Counsel must show not only that Judge Holloway contacted Detective Yaratch with the specific intent to coerce, influence or intimidate the detective, but also that she requested the detective to do something with respect to the investigation that he would not otherwise have done absent contact from the judge. The mere fact that Judge Holloway made contact with Detective Yaratch is legally insufficient

to support this charge.[6] Judge Holloway, as a mother, as a citizen, and as a person who loves this child had a moral obligation to make certain that everything possible was done to protect this young child.

The fact that Detective Yaratch felt that it was improper for Judge Holloway (or any judge for that matter) to contact him regarding a pending investigation is irrelevant.[7] It is ironic that Detective Yaratch found it appropriate for Detective Yaratch to contact Judge Holder but it was somehow improper for Judge Holloway to contact Detective

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[5] Judge Holloway's concerns about the lack of progress of the sexual abuse investigation appear to be reasonable under the circumstances. Even Judge Stoddard testified that he had concerns regarding the objectivity of Detective Yaratch in investigating sexual abuse allegations. In fact, Judge Stoddard testified that he was struggling with whether he should recuse himself from the *Adair v. Johnson* custody proceedings before he was ever contacted by Judge Holloway due to his concerns on how his knowledge of similar allegations involving Detective Yaratch would effect his judgment in the *Adair* proceedings. Hearing Transcript Pg.86 ln.15 through Pg. 87, ln.19; Pg. 91 ln. 6 through ln. 22.

[6] In re: Judge McMillan, 26 Fla. L. Weekly S522 (Fla 2001). In this case, Judge Brown, a witness for the JQC, had contacted a deputy who was investigating allegations against his son and told the deputy that she had failed to take a statement from his son. Id. at S524. The investigating deputy described Judge Brown's attitude as "demeaning" and it appeared to her as though the judge was seeking "special treatment." Id. at S524. The Supreme Court dismissed the deputy's impression and stated that there was "no reasonable basis . . . to believe that Judge Brown was guilty of asking this officer for favorable treatment of his son who in fact had not been arrested and was not even spoken to by the police on the night in question." The Hearing Panel and Supreme Court found that Judge Brown's contact ~~is~~ was permissible. Id. at S524.

[7] In re: Frank, 753 So. 2d 1228, 1240 (Fla. 2000)

Yaratch.[8] The Supreme Court has stated unequivocally that an abuse of power does not occur simply because others are aware of the judge's position. In In re: Frank, the Florida Supreme Court stated:

> Knowledge that one is a judicial officer or respectful conduct in response to such knowledge does not automatically translate into a determination that a judicial position has been abused. . .. A judicial officer should not be sanctioned simply because those with whom he or she has interaction are aware of the official position. The use of a judicial position or power of position in an unbecoming manner requires more than simply someone being aware of one's position. The gravamen of the charge under the circumstances requires that there be some affirmative expectation or utilization of position to accomplish that which would not have occurred.

[9]

The Special Counsel had ~~a~~ the burden to prove that Judge Holloway tried to intimidate, coerce or influence Detective Yaratch and his efforts to investigate the sexual abuse complaint. Judge Holloway has testified that she expressed her hope that if the detective chose to interview the child that he do so as soon as possible because she knew it sometimes took time for these interviews to be set up at the Child Advocacy Center.[10] Detective Yaratch has corroborated Judge Holloway's testimony about the nature of the phone call and steadfastly agreed that Judge Holloway did not ask him to do anything inappropriate.[11] Just

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[8] Hearing Transcript Pg. 359, lines 13-19

[9] 753 So. 2d 1228 (Fla. 2000). In Frank, Id. at 1228, there was unrefuted testimony by three employees of the Florida Bar that Judge Frank had contacted them to express his displeasure at their actions in handling a grievance proceeding against Judge Frank's former son-in-law, a proceeding instituted by Judge Frank. Each Bar employee was aware of Judge Frank's position and gave great deference to his position, but the Supreme Court (in reversing a Hearing Panel's findings to the contrary) found that the charge was not supported by clear and convincing evidence since there was no proof that Judge Frank's contact with the Bar employees caused them to do anything that they would not have otherwise done in handling the grievance process.

[10] The record of this hearing is replete with references to Judge Holloway's concern over the welfare of this 4-year old child. Ms. Cosby testified at length that it appeared to her Judge Holloway's primary concern in going to see Judge Stoddard was the welfare of this child. Hearing Transcript Pg. 62, ln. 15 through Pg. 64, ln. 10. What person who knows a 4-year old child wouldn't be concerned when there are allegations of sexual misconduct by her father~~—~~? Judge Holloway testified that her primary concern was the welfare of this 4 year-old. Hearing Transcript pg. 642, ln. 19; pg. 654, ln. 13; pg.. 669, ln. 5; pg. 721, lines. 5-21.

[11] Hearing Transcript Pg. 338 ln. 2 through Pg. 339 ln. 7; Pg. 339 lines 13-17

as Judge Brown had the right to contact an investigating law enforcement officer in McMillan and Judge Frank had the right to contact Florida Bar investigators in Frank, ~~so too did~~ Judge Holloway ~~have~~ also had the right to speak with Detective Yaratch regarding a child for whom she cares deeply.

Since the mere contact with Detective Yaratch is legally insufficient, the only way that Special Counsel could have proven this charge (since even Detective Yaratch's testimony does not support the prosecution) would be to show that Detective Yaratch intended to do a lousy job in investigating these serious charges. Specifically, it must be shown that the detective had either no intention of ever interviewing this alleged victim or that, even if he chose to interview the child, that he would have not have chosen the CAC as the location for the interview. The testimony of Detective Yaratch, the prosecution's only witness on this point does not support this proposition.

Detective Yaratch intended to conduct an adequate investigation of the case before he ever spoke to Judge Holloway. Detective Yaratch was not coerced into interviewing the child by Judge Holloway. He was not coerced or directed by Judge Holloway to conduct the interview at a location of Judge Holloway's choosing. In fact, Detective Yaratch interviewed the child at the Child Advocacy Center on February 29, 2000. The date and place of the interview were ordered by Judge Stoddard while he was presiding over the custody case. There has been absolutely no evidence proffered by Special Counsel to show that Judge Holloway's contact with Detective Yaratch had any effect whatsoever on the course of the investigation, the choice to conduct an interview of the child, or the particulars as to when and where the interview was conducted.

Special Counsel has failed to meet its burden of proving Charge 1(a) by clear and

convincing evidence. Judge Holloway's telephone conversation of February 24, 2000, did not violate any Canon since both Judge Holloway and Detective Yaratch agree that Judge Holloway in no way attempted to coerce the investigator or influence the investigation, which is the legal standard that must be met in order for Judge Holloway to be found guilty of abuse of her position. In re: Frank, 753 So. 2d 1228 (Fla. 2000); In re: McMillan, 26 FLW S522 (Fla. 2001). Charge 1(a) must therefore be dismissed.

Contact with Judge Stoddard (Charges 1(c) and 2)

Judge Holloway has admitted since the inception of these proceedings that her contact and statements to Judge Stoddard were inappropriate and amounted to a misuse of the powers of her office.[1]

[1]

The material facts relating to these charges are not in dispute, nor have they ever been. Use of testimony on this point to evoke inappropriate bias against Judge Holloway should not be accepted.

Special Counsel has made the unsupportable allegation that Judge Holloway's contact with Judge Stoddard led to the child being placed in "shelter" status for an additional five weeks after Judge Stoddard recused himself from the *Adair v. Johnson* case. The only basis for this serious allegation is the testimony of Mark Johnson, a person of questionable motive who has physically threatened Judge Holloway, told several people that he intended to "get the judge's job", and, in fact, was the person

[1]1 "Where a judge admits wrongdoing and expressed remorse before the commission, this candor reflects positively on his & her fitness to hold office and can mitigate to some extent a finding of misconduct." In re: Davey, 645 So.2d 398, 405 (Fla. 1994).

responsible for instigating the JQC proceedings against Judge Holloway. It is disconcerting that the Special Counsel would make such a serious allegation without more support, especially given the substantial burden of clear and convincing evidence. The real answer as to why the child was in shelter status for a prolonged period of time was readily available and is well documented in the court transcripts of the *Adair v. Johnson* proceedings.

In fact, Judge Holloway had nothing to do with the extended sheltering of this child. Judge Stoddard testified that he intended to have a hearing relating to the child remaining in shelter status on March 10, 2000. At a previous hearing, however, Judge Stoddard indicated to the parties that there was conflicting information about the child from experts and that he

needed to wait until the experts finished their reports before being able to make a final ruling on releasing the child from shelter status.

[12] After Judge Stoddard recused himself on March 6, 2000, Judge Vivian Maye was assigned to this case. She held a lengthy evidentiary hearing regarding the shelter status on March 9, 2000, a day **prior** to the date originally set by Judge Stoddard to hear the same motion.

As is evident from this transcript and those of subsequent hearings, Judge Maye's recent assignment to the case did not prejudice the parties or prevent her from making any expedient decisions on the case.

[13] Judge Stoddard's recusal and Judge Holloway's contact with Judge Stoddard are not even

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[12] ~~Attached hereto as Exhibit "1" are excerpts of March 9, 2001, Hearing Transcript.~~ Hearing Transcript Pg. 73, ln. 17 through Pg. 75, ln. 6.

[13] Attached hereto as Exhibit "1" are excerpts of the March 9, 2001, Hearing Transcript. In fact, Judge Maye stated at the March 9, 2000, hearing:

> Since there is a complete divergence on what Doctor Carra says and what she means I am going to recess this hearing until we get Doctor Carra in here and she can tell me face to face what she believes

mentioned in the transcripts, in stark contrast to Mark Johnson's unsubstantiated testimony before this Panel that Judge Maye was unable to do anything for weeks while she got "up to speed" on the issues. Judge Maye was unable to resolve the issue of the sheltering of the child on March 9, 2000 (the day before the earliest date that Judge Stoddard could even attempt to resolve the issue) due to the unavailability of Dr. Carra, an expert witness hired by Mark Johnson, who was to appear at the hearing (and was subpoenaed to be there) and the inability of Dr. Carra to complete the investigation necessary to provide testimony relating to the child's shelter status.

[14]

Mark Johnson was present at this hearing and has either forgotten what really happened or provided ~~this Hearing Panel~~ false testimony to this Panel. His child remained

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> is in the best interest of this child. Whether it's detrimental for this child to continue in the non-relative placement vs. being returned to the mother and supervised visitations under all other scenarios. Page 26, line 24 through Page 27, line 7.

As evidenced in this transcript, counsel for Robin Adair asked the court to analyze Dr. Carra's testimony based upon previous transcripts. Attorney Russo, counsel for Mark Johnson, objected to the Court making a determination without taking live testimony from Dr. Carra. Dr. Carra was hired as an expert by Mark Johnson. The hearing transcript indicates that Dr. Carra was subpoenaed to appear at the March 9th hearing but failed to appear due to being out of town. A court order had been issued earlier in the week permitting Dr. Carra to review the videotaped interview of the child at the CAC, but Dr. Carra had not yet completed this task due to her "full client load". Judge Maye then commented to the parties "If counsel can attempt to coordinate an expedited hearing and get a hold of Doctor Carra I will hear this matter during the lunch hour. I will hear this matter at seven o'clock in the morning or at eight o'clock at night. Whatever is necessary to get this matter resolved." Page 29, Lines 9 through 14.

[14] Attorney Rahall, counsel for Robin Adair, commented at the March 9, 2000, shelter status hearing:

> I don't want to put this on the record, but it's difficult to get Doctor Carra because she is a very busy person, to get anything done within a reasonable period of time. We have been waiting for a year and a half to complete her report in this case. I was going to impose upon the Court if you could maybe make a phone call to Sonya at her office and ask her if she wouldn't do whatever she could to expedite her review of this particular matter.Page 31, Lines 16 through 24.

Judge Maye responded that she had no problems contacting Dr. Carra's office staff in hopes of expediting the expert's reports. Judge Maye also noted that she had in fact had to make such calls in the past to Dr. Carra. Page 31, Line 25 through Page 32, Line 1. The Court also directed the Guardian Ad Litem to call Dr. Carra's office to inform her that "we are ready and we are waiting and we need this done by March 15", and Judge Maye also indicated that she would personally contact Dr. Carrra to inform her of the intention to proceed with another hearing before March ~~15th~~15, 2001. Page 32, Lines 8 through 12.

in shelter status beyond this hearing because the expert that **he** hired was unable to timely complete her investigation of this matter. Judge Stoddard's recusal had nothing to do with the delay in removing the shelter status. The only delay was that caused by the parties themselves.

Judge Vivian Maye conducted yet another hearing regarding the shelter status of the child on March 20, 2000, a hearing that Mark Johnson personally attended. Dr. Carra was present by telephone. The record for this hearing indicates that another hearing took place between March 9, 2000, and March 20, 2000, although that transcript is unavailable to Respondent. At the March 20, 2000, hearing, Dr. Carra testified:

> I think she should stay in shelter. I'm concerned about Mark's alcohol consumption over lunch. And considering this is a period of high stress and that he is basically in Tampa drinking three glasses of wine in a two-hour period at lunch, I think it is excessive considering his history. And the fact that he has had a problem with drinking. I think it's excessive. And if he were to we're talking about having him leave with P[redacted]. And I think that if he had wine at lunch, I would expect he would have wine later on in the day. And given that he has had a problem with excessive drinking, he shouldn't be drinking to that degree.[15]

Later in the same hearing, Dr. Carra was asked by counsel for Robin Adair whether it was in the child's best interests to "remain in shelter." Dr. Carra responded:

> Well, it is not in her best interest if her dad drinks and is unable to appropriately supervise her or some harm comes to her when she's in his care. And two, it's not in her best interest if the mother is questioning her and questions of her alerts her to and over sensitizes her to any kind of approach from the father and makes him appear to be sexually abusing her. So neither one of those are in her best interest either. And what happens is that, you know, it's not my recommendation that's putting P[redacted] in shelter. It's these parents and their own behavior that's putting her in shelter. [If] they want her out of shelter perhaps they should try changing?

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[15] Attached hereto as exhibit "2" are excerpts of the March 20, 2001, Hearing Transcript. Hearing Transcript Page 51, Line 13 through Page 52, Line 1.

[16]

At the conclusion of this hearing, Judge Maye ordered that the child remain in shelter status based upon the recommendations of Dr. Sylvia Carra, the expert hired by Mark Johnson. The Department of Children and Family Services also requested that the sheltering of the child be extended in light of Dr. Carra's recommendations. At the conclusion of the hearing, Judge Maye had some very harsh words for Mark Johnson and Robin Adair, words that apparently Mark Johnson forgot when he testified before this Panel:

> P[redacted] needs to see her father as much as she needs to see her mother. And I want both of you to remember what Dr. Carra said. This child is in shelter because of the behavior of both of you. So, it's about P[redacted]. And I want everybody to remember that.

[17]

Another hearing was held before Judge Maye on April 13, 2000. At that hearing, the Department of Children and Family Services announced that it was terminating the shelter status of the child after completing their investigation into the matter. Dr. Carra agreed that termination of shelter status was appropriate at that time, and an order was so entered.

As amply demonstrated by the transcripts of the hearings held in the custody case, Judge Holloway had absolutely **nothing** to do with the child remaining in shelter status for an extended period of time. Judge Stoddard's recusal was also wholly unrelated to the child remaining in shelter for an extended period of time. Judge Maye did not require the extra five weeks to "get up to speed" on the case.

[18] The child was in shelter status on the recommendation of Mr. Johnson's own expert, Dr.

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[16] Hearing Transcript of March 20, 2001 Page 54, Line 22 through Page 55, Line 12.
[17] Hearing Transcript of March 20, 2001 Page 62, Lines 11 through 16.
[18] Mr. Johnson testified at this hearing that "She (Judge Maye) said, 'I'm not this child stays in shelter until I'm comfortable, until I get up to speed.'" Hearing Transcript Pg. 166, lines 21 through 23.

Sylvia Carra, and at the request of the child welfare agency during the investigation of serious allegations regarding the behavior of both parents. If Mark Johnson needs to tell himself that Judge Holloway was responsible in order to avoid his own personal shortcomings or to assuage his own guilt over his child's sheltering, then that is his business.

Respondent's Deposition Testimony Regarding Contact with Detective Yaratch and Judge Stoddard (Charges 3, 4 and 5)

In order to prove these charges, Special Counsel had the burden to show that Judge Holloway's testimony was false or misleading and that she intended it to be false or misleading at the time that it was given. "Rather than showing simply that the judge made an inaccurate or false statement under oath, the Commission must affirmatively show that the judge made a false statement, which he/she does not believe to be true."[19] In order to prevail, Special Counsel must also prove that any mistake or lack of recollection that Judge Holloway had at the time of the deposition was unreasonable. In order to find that Special Counsel has proven these charges by clear and convincing evidence, this Hearing Panel must ignore applicable law on deposition testimony and the use of errata sheets in addition to accepting the following fallacies:

- That Judge Holloway entered into the deposition with an intention to deceive Mark Johnson.
- That Mark Johnson was uninformed on the contact between Judge Holloway and Judge Stoddard.
- That Mark Johnson was an unsophisticated pro se litigant who was taken advantage of by Judge Holloway and her counsel.

[19] In re: Davey, 645 So. 2d at 407.

- That Mark Johnson's sole purpose in taking Judge Holloway's deposition was to prepare for his final custody hearing.

- That Judge Holloway deviously intended to lie in her deposition about contact with Detective Yaratch and Judge Stoddard to deceive Mark Johnson (although he already knew about both contacts) but that she would, only a few hours or days later, decide to admit the contacts and that these admissions were made again with some devious intent to deceive Mark Johnson.

Special Counsel requested that Mark Johnson read Judge Holloway's testimony from the deposition in *Adair v. Johnson* to the Hearing Panel. Asking that the testimony be read, without fully incorporating the errata sheet, was as misleading as asking Mr. Johnson to paraphrase what might have been said (or just to permit him to make up answers that suited him). Time and again, the law relating to depositions and errata sheets has been ignored. The formal charges filed in this matter attempt to isolate the original deposition transcript and the errata sheet, which is patently unfair and contrary to the Florida Rules of Civil Procedure and the Florida case law interpreting same. To permit Special Counsel to separate the two would eliminate the entire right to read depositions, a right that any experienced lawyer knows is very valuable given the common occurrence of mistakes in transcription, faulty memories, confusion resulting from vague questions, and similar events that occur every single day in depositions. Judge Holloway's position as a judge does not magically possess her of greater recall or better abilities than other deponents. Her position as a judge does not mean that the court reporter will more accurately transcribe what occurs at her deposition. And Judge Holloway's position as a judge does not eliminate her right to read her deposition, to clarify answers, to change answers, or to ensure that her answers are accurately reflected. Only in these proceedings has the use of an errata sheet, an everyday occurrence, been transformed into a supposed vehicle for deceit and chicanery.

The Florida Rules of Civil Procedure expressly permit a witness to review his deposition and make corrections, both to the form and substance of the testimony.

[20] In Motel 6 Inc. v. Dowling,

[21] the First District Court of Appeal, in an opinion of first impression in Florida, stated that:

> Rule 1.310(e), Florida Rules of Civil Procedure, expressly permits a witness to review his deposition testimony and make corrections, in both the form and substance, to his testimony .
>
> [T]o conclude that the deposition itself would be admissible, but not the errata sheet, would render meaningless the witness' right to review his deposition testimony. One of the reasons a witness reads his deposition is to make permissible corrections to his testimony. Once the changes are made, **they become a part of the deposition just as if the deponent gave the testimony while being examined**, and they can be read at trial just as any other part of the deposition is subject to use at trial. Further, although the issue of the use of errata sheets at trial is one of first impression in Florida, we note that our decision on this point is consistent with decisions of the federal courts and other state courts which have interpreted substantially similar statutes.

[22] (emphasis added)

In ~~this~~ Motel 6, ~~case~~, the party taking the deposition objected to use of the errata sheet, filed just two weeks before trial and **90 days** after the deposition was taken, due to its inability to cross-examine the witness. The First District rejected this argument and commented:

> If the motel wished to cross-examine [the deponent] regarding the changes, the burden was on the motel to reopen the deposition. Counsel could have then asked questions which were made necessary by the changed answers, questions about the reasons the changes were made, and questions about where the changes originated, whether with the deponent or with his attorney. By availing itself of this remedy, the motel would have discovered, pretrial, whether the changed answers were the result of collusion, as the motel now charges, or were the result of improved memory.

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[20] Rule 1.310(e), Florida Rules of Civil Procedure provides "any changes in form or substance that the witness wants to make shall be listed in writing by the officer with a statement of the reasons given byte witness for making the changes".

[21] 595 So. 2d 260 (Fla. 1st DCA, 1992)

[22] Id. at page 262

[23]

The Fourth District reached a similar result in Feltner v. Internationale Nederlanden Bank,

[24] where it granted a request to reopen a deposition after the deponent filed an errata sheet containing sixty-one changes to the deposition transcript. The Feltner court commented:

> Rule 1.310(e), Florida Rules of Civil Procedure permits a deposition witness to make changes "in form or substance" to a transcribed deposition by listing them in writing with the reasons given for making the changes. Like its federal counterpart, Federal Rule of Civil Procedure 30(e), the Florida rule places no limitations on the changes a deponent can make. Accordingly, the deponent can make changes of any nature, no matter how fundamental or substantial. However, if the changes are substantial, the opposing party can reopen a deposition to inquire about the changes.
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> [25]

In accordance with the law in Florida as to errata sheets, the following is Judge Holloway's deposition testimony ~~at deposition~~:

As to Contact with Detective Yaratch

_____Did you ever speak to the detective?

> A. **I've spoken to the detective a lot, but not necessarily about this case. I don't really recall whether I spoke to him directly or not. I don't believe that I did. Upon further reflection, I do recall a brief telephone conversation with Detective Yaratch. During this conversation, I informed Detective Yaratch that I did not want to discuss the facts of this investigation but hoped that the investigation would be handled in a timely fashion.** (emphasis added)

As to Contact with Judge Stoddard

Q. When did you learn that P[redacted] had been sheltered?

A. On a Saturday morning [Saturday, February 26, 2000]. I don't really recall the date or the time. I was at the baseball field, I think, or

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[23] Id. at page 262

[24] 622 So.2d 123 (Fla. 4th DCA 1993).

[25] Id. at 124

softball field.

Did Cindy Tigert [sister of the petitioner] call you?

Yes.

What was your reaction?

I was shocked.

Did you do anything in response to that development in the case?

I don't recall being able to do anything at that point.

Q. Did you contact Ralph Stoddard?

No, **not on that Saturday**. (emphasis added)

Did you telephone him, contact him in any way?

No, **not on that Saturday**. (emphasis added)

Did you go see him?

No, **not on that Saturday**. (emphasis added)

Judge Holloway adamantly denies that her testimony relating to her conversation with Detective Yaratch was false or misleading because, as corrected, it was a truthful account of her conversation with Detective Yaratch. Judge Holloway related a description of the conversation to the best of her recollection at the time. Unlike Detective Yaratch, she did not have a police report to testify from or to use to refresh her recollection. Judge Holloway's testimony is not inconsistent with the testimony of Detective Yaratch, except the detective had more detail, which one would expect considering he had a written report detailing the conversation from which to testify.

In fact, Detective Yaratch testified at this hearing that in his August 4, 2000, deposition taken by Ray Brooks in the *Adair v. Johnson* matter (just 15 days after Judge

Holloway's deposition), he was asked if he had contacted Judge Holder. His response was that he did not recall, even though this contact with Judge Holder was referenced in his police report and despite the fact that he had already referred to that report earlier in his deposition. How often does Detective Yaratch contact judges about a sexual abuse investigation? How could he forget this? Despite this obvious mistake, Detective Yaratch did not prepare an errata sheet within days of the deposition as Judge Holloway did, and to this day his erroneous testimony has still not been corrected. Yet, Detective Yaratch is not being called a liar nor is his integrity being questioned because of his obvious lack of recall.

When Mr. Johnson asked Judge Holloway whether or not she had contacted Judge Stoddard by phone or saw him, Judge Holloway construed those questions to relate to the events of the Saturday when she learned P.A. had been sheltered and, therefore, she answered no. The questions were asked as part of a series of questions relating to the Saturday shelter hearing. Judge Stoddard was the judge who presided over the hearing on that Saturday making ~~her~~ Judge Holloway's understanding of the temporal aspects of these vague questions reasonable. Judge Holloway's lawyers also felt the questions related to that Saturday as they had advised her that they would object to any other questions and no such objection was registered at the time.

Ray Brooks, the attorney for the Petitioner, Robin Adair, was present at the deposition. Prior to this deposition neither Judge Holloway nor Mr. Alley knew Attorney Brooks. Mr. Brooks testified that he, too, recalls that this series of questions related to what

actions Judge Holloway took, if any, on that particular Saturday.[26] Mr. Brooks further ~~states~~ testified that if he had believed the questions were not so limited that he would have made objections himself. The manner, tone and context in which this series of questions were asked left the inescapable conclusion of all present at the deposition that these questions were with regard to the Saturday of the shelter hearing.

Further, it is Judge Holloway's belief that Mr. Johnson himself understood those questions and answers to be with regard to the Saturday of the shelter hearing in that, during the deposition, Mr. Johnson asked additional questions about Judge Stoddard's recusal and other contact Judge Holloway may have had with him. At that time Judge Holloway's counsel, as he had informed her he would, objected to the questions and instructed her not to answer.[27]

Finally, Judge Holloway submits that her clarifications with regard to the questions concerning Judge Stoddard contained in the errata sheet are in no way false, incomplete or misleading. The errata sheet merely clarified that the temporal context of her answers were limited to the referenced Saturday morning. It was prepared in an abundance of caution because when reviewing the "black and white" transcript, Judge Holloway's counsel became concerned

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[26] Hearing Transcript Pg. 587, ln. 6 through Pg. 588, ln. 16

[27] Holloway deposition page 39, line 16 and page 41, line 5, JQC exhibit #6

that someone might attempt to take those questions completely out of context by expanding the time frame beyond the specifically referenced Saturday morning. Given the decision not to allow Mr. Johnson to utilize the domestic court as a vehicle by which he could further his avowed intent to "get her job," the manner in which the errata sheet was prepared should be completely understandable.

In order to prove this charge, Special Counsel relies solely upon the testimony of Mark Johnson. This Hearing Panel needs to carefully examine the credibility, bias, and motives of Mr. Johnson. When the circumstances surrounding this deposition are scrutinized, something just does not add up. It is important to remember ~~what~~ Mr. Alley's ~~said his~~ concerns were about the taking of this deposition by Mr. Johnson and ~~his~~ Johnson's insistence on taking the deposition at ~~this~~ that time. Mr. Alley testified that he did not think it proper that Mr. Johnson utilize this deposition to further his stated intent to get Judge Holloway's job. He further stated that he suspected Mr. Johnson's real reason for taking the deposition was to go on a fishing expedition about the JQC inquiry in an attempt to harass Judge Holloway. More importantly, as Mr. Alley put it, "And you know what Mr. Rywant, obviously my fears were correct. This

deposition got turned over immediately to the JQC."

[28]

Mark Johnson never sought to reopen Judge Holloway's deposition after the filing of ~~an~~ the errata sheet. The final hearing in the custody case did not occur until January or February of 2001, more than 5 months after the filing of the errata sheet. Mark Johnson knew of his right to re-open a deposition and to compel testimony as he filed such a motion *pro se* on November 27, 2000, in these same proceedings.

[29] It is clear from this motion that Mark Johnson knew of this right to reopen as early as June 15, 1999, when his then attorney, Ron Russo, certified a question and specifically reserved the right to redepose the witness. If Mark Johnson took Judge Holloway's deposition solely for the purpose of preparing for the final hearing in his custody claim, as he represented to Judge Holloway's counsel (and not in any way to harass, embarrass or annoy Judge Holloway), then why did he choose not to re-open the deposition in the months that followed? If the information relating to contact with Stoddard and Yaratch was so relevant and needed by Mark Johnson in the underlying case, as contended by Special Counsel, and as he represented to this Hearing Panel,

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[28] Hearing Transcript Pg. 775, ln. 2

[29] (see certified copy of Motion to Compel attached as exhibit "3 ").

then why did he never bother to reopen the deposition or move to compel answers?

Efforts to evoke sympathy for Mark Johnson the poor "pro se litigant" taking his very first deposition and facing not one but two attorneys representing Judge Holloway should be rejected. As the Hearing Panel witnessed themselves, Mark Johnson is far from the average "pro se litigant". Ray Brooks testified poignantly about his own Mark Johnson nightmares volumes of pleadings faxed in the wee hours of the morning, hearings scheduled with only a day or two of notice, depos taken solely to harass witnesses, and discovery and litigation abuses so great that he had to unplug his fax machine at night just to avoid the morass of pleadings.

[30] Mark Johnson represented himself in the custody proceedings for months. There are dozens of separate pleadings (spanning more than 17 pages on the docket sheet) prepared and filed *pro se* by Mr. Johnson in the custody case.

[31] The day after Judge Holloway's deposition Mr. Johnson "certified" a question in another deposition so that he could later compel the witness to answer. He filed motions to compel, motions for sanctions, and motions to reopen depositions.

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[30] Hearing Transcript Pg. 595, ln. 22 through Pg. 596, ln.2; Pg. 599, ln. 2 through ln. 17.

[31] see attached as exhibit "4 "

[32]

Mark Johnson, as a litigant in protracted proceedings, had gained a legal education that probably rivals that of many young attorneys. He admitted in a letter to Mr. Alley shortly after the deposition that he was treated courteously by Judge Holloway and her counsel.

[33] However, at this hearing, he stated that he was horribly mistreated by every attorney at the deposition and especially by Mr. Alley, who was supposedly dishonest, belligerent & disrespectful to him.

[34] How credible is this assertion given the aforementioned letter?

In order to evaluate this charge, this Panel needs to accept the following positions:

Why would Judge Holloway ever attempt to deceive Mr. Johnson when he already knew about her contact with Detective Yaratch and Judge Stoddard, having had to have had that information in order to request a JQC investigation of Judge Holloway five months prior? Many witnesses appeared before the Hearing Panel and testified that Judge Holloway is an intelligent woman, a gifted lawyer, a talented jurist, and a devoted Christian. Why would someone of this level of intelligence and moral fiber make the conscious decision to lie?

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[32] see attached as composite exhibit "5"
[33] Respondent's exhibit #1
[34] Hearing Transcript Pg. 223 ln. 7 and Pg. 224 lines 2 through 4.

Why would she choose to lie when she knew that the person asking the questions would know that it was a lie? Why would she choose to lie when she knew she was already under investigation by the JQC? Why would Judge Holloway choose to lie when there were so many others who could expose the lie (Judge Stoddard, J.A. Sharon Crosby, Stoddard's Bailiff, Janice Wingate, Detective Yaratch, Robin Adair, Cindy Tigert, Todd Alley, and Ray Brooks)? Or were all of those people part of this master plan as well? In order to prove its case, Special Counsel would be required to give this Hearing Panel logical, rational answers to each of these questions. Obviously, Special Counsel has not, nor can she, because proving this charge would require proof of widespread irrational behavior by so many otherwise rational people.

There is a reasonable, rational explanation for Judge Holloway's deposition testimony and the preparation of an errata sheet, and the Hearing Panel was presented this evidence by Judge Holloway. The deposition was conducted on the day of Harry Lee Coe, III's funeral. Judge Holloway attended the service and proceeded immediately thereafter to the deposition. Despite the repugnant argument to the contrary, the evidence is that Judge Holloway had been extremely upset by Judge Coe's death and the events of the preceding week. In fact, she was almost an hour late arriving at the deposition, compounding her emotional upheaval. Notwithstanding the unusual events of

the day and Judge Holloway's desire to have the deposition rescheduled, Mr. Johnson indicated that he had come from Washington, D.C., and wanted to proceed at that time. In fact, Judge Holloway was quite candid at the beginning of the deposition that she was under considerable emotional distress and not thinking as clearly as usual.

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Further, Mr. Johnson had continuously threatened Judge Holloway both verbally and physically, including the incident at Jackson's Restaurant. He had indicated on numerous occasions that he is politically well connected and had told third parties that he intended to "get her job." In addition, prior to Judge Holloway's deposition, she had been made aware of an investigation by the Judicial Qualifications Commission. Because of his threats in the past, Judge Holloway assumed Mr. Johnson had instigated the investigation, an assumption later proven to be correct.

At the time Mr. Johnson asked Judge Holloway about speaking to Detective Yaratch, Judge Holloway simply did not recall the conversation. Even the detective indicates that it was a brief conversation that had taken place five months prior to the deposition. Certainly the events of the day had

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[35] JQC exhibit 6, page 6, line 21. Q: When did you and I first meet? A: I think at the Tigert residence. I don't know when. I couldn't even narrow it down to a year at this point. **Obviously I've had a fairly bad day and so I'm a little confused on things.** (emphasis added).

taken its toll on her concentration and recall. Once the deposition was over and Judge Holloway returned to her office, she remembered the conversation with Detective Yaratch while discussing the matter with her Judicial Assistant. Judge Holloway knew that this answer could be corrected

on an errata sheet and she called her attorney immediately to advise him of her recollection. Judge Holloway has provided a reasonable explanation for why she did not remember this conversation at ~~this~~ that particular time.

Amazingly, Special Counsel would have you believe that the errata sheet was the result of another conspiracy to lie and deceive by Judge Holloway and her attorneys, not willing to accept what it truly was, a concientious attempt to clarify her deposition testimony. The only evidence presented to this panel was that on the day of her deposition Judge Holloway contacted her attorney within minutes of returning to her office and talking to her Judicial Assistant. Ms. Wingate testified that she reminded Judge Holloway that Detective Yaratch had called her office. Ms. Wingate further testified that Judge Holloway immediately called her attorney to inform him of her recollection of the conversation with Detective Yaratch. There is absolutely no contrary evidence. These events are corroborated by the consistent, unrefuted testimony of Ms. Wingate, Judge Holloway, Todd Alley and Ray Brooks.

The law on errata sheets and deposition testimony is without dispute. Judge Holloway promptly provided an errata sheet to the deposition. She stated the basis for the changes in her responses. Special Counsel has offered no contrary authority, because there is none. The deposition must be read with full integration of the errata sheet. The only reason why Special Counsel insists on separating the two is that it is only by separating the two that there is **any** basis for this charge that Judge Holloway's testimony was false or misleading. Special Counsel has no right to ignore the law when it does not support its prosecution instead, Special Counsel has an affirmative obligation to uphold the law and, if the law shows that the prosecution is pursuing baseless charges, then the charges need to be dismissed. Special Counsel has failed to provide any trustworthy, credible or reliable evidence in support of charges 3, 4 and 5. This panel should summarily dismiss these charges.

Contact with Judge Essrig (Charge 7___)

In order to prove this charge, Special Counsel was required to show by clear and convincing evidence that the contact occurred, that it occurred in the presence of others, and that the contact was an attempt to influence the proceeding.

It is undisputed that Judge Holloway requested that Judge Essrig take her brother's uncontested divorce hearing out of turn. This request to

accommodate a scheduling conflict was not an attempt to influence the proceedings, which was an uncontested divorce. Judge Essrig herself testified that she routinely accommodates such scheduling conflicts, and that the request Judge Holloway made is a ~~pretty~~ common request. In fact, the Hillsborough County Bar Association's Standards of Professional Courtesy recognize that such requests are common and should be accommodated by judges whenever possible.

The request was made politely and not in a condescending fashion. In order to turn this innocuous behavior into something more, Special Counsel has contended that this request created an appearance of impropriety since it was made in the presence of a large number of people outside the judge's chambers. While this statement certainly bolsters the charges as they are written, it is just not true and unsupported by the evidence. Where are all of the people that overheard this conversation between Respondent and Judge Essrig? Despite its burden, Special Counsel did not put a single witness on the stand to substantiate that this conversation took place in the presence of others. It is unrefuted that there were at least 20 or so attorneys and parties scattered in the hallways, outer offices, and lobby of the judge's chambers that day. The judge's bailiff, Angela Martin, and her judicial assistant, Marie Folsom, were both within feet of the alleged place of this conversation. Yet, not one of these

20 or so people can substantiate the Special Counsel's assertion that this conversation took place in the presence of others. In fact, Ms. Folsom testified that Judge Holloway and Judge Essrig were never in the waiting area at the same time.

[36] The more credible evidence in this instance is the testimony of Judge Holloway, corroborated by Judge Essrig's staff and three other attorneys present that day (Ray Pines, Nile Brooks, Richard Pippinger), that this conversation did not occur in the presence of others. Judge Holloway does not assert that Judge Essrig was lying about where this contact took place. This contact was very brief ~~at best~~ and took place over 2 years ago. Though Special Counsel would like to say that any time two people's memories differ one person must be lying, the reality is that this is the imperfect nature of people's memories.

Special Counsel has failed to prove this charge. The request made of Judge Essrig by Judge Holloway was an innocuous scheduling request that could have been made by anyone and would have been granted by Judge Essrig. Judge Holloway never sought to "influence" the proceedings nor could she have influenced the uncontested proceedings. The statements were made

[36] Hearing Transcript Pg. 509 lines 13 through 20.

politely and without any embarrassment to Judge Essrig, especially in light of the fact that there is no credible evidence that anyone other than Judge Essrig even heard the request being made.

SANCTIONS

The objective of Judicial Qualifications Commission proceedings is not to "inflict punishment but to determine whether the one who exercises judicial power is unfit to hold a judgeship." Inquiry concerning Miller, 644 So. 2d 75, 78 (Fla. 1994) (quoting In re: Kelly, 238 So. 2d 565, 569 (Fla. 1970)). Accordingly, if the hearing panel subsequently determines that Special Counsel has met its burden of establishing by clear and convincing evidence the charged allegations, the panel must then decide whether the proven charges render Judge Holloway unfit to be a judge.

The allegations, by themselves or considered together, do not support a recommendation of removal or suspension. Rather, when the allegations are considered in conjunction with Judge Holloway's distinguished and exemplary history of service to the bench and the community, the absence of any prior disciplinary transgressions and the nature of the allegations in comparison with prior JQC determinations, it is clear that an admonishment or at worst, a public reprimand is the appropriate sanction.

In Inquiry concerning Fowler, 602 So. 2d 510, 511 (Fla. 1992), the

Florida Supreme Court noted the Commission's finding that "while public confidence was eroded by [the judge's] conduct, the erosion [was] minimized by his prior exemplary and otherwise unblemished record on the bench and community service." Similarly, Judge Holloway has established that she is a valued and respected member of the judiciary in the Thirteenth Judicial Circuit and the community in Hillsborough County. Judge Holloway called the following three witnesses to provide testimony concerning her good character: Hillsborough County Circuit Judge J. Rogers Padgett, Second District Court of Appeal Judge Chris W. Altenbernd, and Reverend James A. Harnish. Judge Padgett, who has served as a judge in Hillsborough County for twenty-seven years, testified that he has seen approximately 200 judges come and go in this circuit and that in his experience, Judge Holloway is one of the best. Judge Padgett further testified that Judge Holloway is not a volatile person and that he has never heard of her involvement in any incident similar to her transgression with Judge Stoddard.

Judge Altenbernd testified that before Judge Holloway took the bench, she had a reputation as being a professional trial lawyer. Judge Altenbernd explained that in his review of transcripts in which she was the presiding judge, he could not recall ever identifying any inappropriate or non-judicial conduct and has determined that Judge Holloway has shown good judicial

judgment. Judge Altenbernd also described Judge Holloway's participation with their children's little league team and stated that Judge Holloway was a good leader in this community.

Reverend Harnish testified that Judge Holloway and her family are active members of the Hyde Park United Methodist Church. Reverend Harnish described Judge Holloway as being a part of a very strong family who are deeply committed to each other and to their faith. He recounted the very high level of trust and confidence of his congregation in Judge Holloway, the Judge's deep passion for the welfare of children, and her demonstration of great compassion and care for others in their parish.

Judge Holloway has submitted a compilation of affidavits as an exhibit. The affidavits demonstrate a unanimous opinion of respect and admiration for Judge Holloway by people throughout the judicial system. Besides attesting to Judge Holloway's good judicial demeanor and fairness to both sides, the affidavits also demonstrate the isolated nature of Judge Holloway's improper contact with Judge Stoddard. After consideration of the character witness testimony, Judge Holloway's value to this community as a leader and her continued ability to effectively act as a circuit court judge cannot be questioned.

It must be acknowledged that Judge Holloway did everything in her

power to enforce the stipulation entered into between herself, Special Counsel and the Chairman of the JQC, and avoid the necessity of a full evidentiary proceeding. Moreover, Judge Holloway has accepted personal responsibility for her conduct toward Judge Stoddard and has stipulated to the allegations concerning her contact with Judge Stoddard. Judge Holloway's acknowledgment of the wrongfulness of her actions should be considered by this panel in recommending the appropriate sanction. See Inquiry re Schwartz, 755 So. 2d 110, 113 (Fla. 2000). In particular, Judge Holloway has expressed deep remorse for her behavior and had previously apologized both telephonically and in person to Judge Stoddard. Respondent's husband, C. Todd Alley, her friend, Cynthia Tigert, and the mother of P.A, Robin Adair, all testified that Respondent had immediately recognized the wrongfulness of her actions and regretted what she had done.

In determining the appropriate sanction, the panel must consider prior Florida Supreme Court judicial disciplinary decisions. The Court has repeatedly imposed a public reprimand for far more egregious conduct than that charged by the Amended Notice of Formal Charges in this case. The Court has determined that a public reprimand was appropriate for cases which involved, among other misconduct, misrepresentations made under oath, misrepresentations to the public through campaigning and misrepresentations

to law enforcement officers during official investigations. See Inquiry re Frank, 753 So. 2d 1228 (Fla. 2000); Inquiry re Alley, 699 So. 2d 1369 (Fla. 1997); Inquiry re Fowler, 602 So. 2d 510 (Fla. 1992). Although each of these cases involved knowing and intentional deceptions, the Court determined that a public reprimand was the appropriate sanction.

The Court has also imposed public reprimands for a judge's abusive and demeaning conduct toward lawyers, litigants and witnesses. See Inquiry v. Schwartz, 755 So. 2d 110 (Fla. 2000); Inquiry re Wood, 720 So. 2d 506 (Fla. 1998); Inquiry re Wright, 694 So. 2d 734 (Fla. 1997); Inquiry concerning Steinhardt, 663 So. 2d 616 (Fla. 1995); Inquiry concerning Golden, 645 So. 2d 970 (Fla. 1994); Inquiry re Trettis, 577 So. 2d 1312 (Fla. 1991). Certainly, if a public reprimand appropriately sanctions judges who abuse parties in a subordinate position, an admonishment or a public reprimand is sufficient to sanction a judge whose behavior is directed at another judge.

The Court has also issued public reprimands for judges whose abuse of power resulted in the deprivation of liberty. See Inquiry re: Graziano, 661 So. 2d 819 (Fla. 1995); Inquiry concerning Perry, 641 So. 2d 366 (Fla. 1994); In re Colby, 629 So. 2d 120 (Fla. 1993). In these instances, the judge's misconduct attacked the heart of the judicial system and yet, the Court determined, after full and deliberate consideration, that a public reprimand was

commensurate with the offenses.

Conclusion

At the start of this trial, Special Counsel informed this Hearing Panel that the evidence presented would "outline a disturbing series of facts and incidents" that would show "a judge that is out of control." While those quotes certainly made for juicy headlines for the television and newspaper coverage, they had no relevance to the case actually presented by Special Counsel. What did Special Counsel really offer this Panel? The "series of facts and incidents" ended up being essentially one event (perhaps two at most)-- the contact with Judge Stoddard and Detective Yaratch and testimony related to those contacts. The fact that the charges were broken up into non-sensical subparts, such as separating the deposition testimony from the errata sheet, does not suddenly turn this into a pattern of misconduct. Furthermore, the most significant portions of these charges, Judge Holloway's contact with Judge Stoddard and her salacious comments, were admitted.

There were two other "incidents" that Special Counsel at least initially contended were the evidentiary support to show some horrific pattern of abuse that negates Judge Holloway's distinguished twelve-year tenure on the Bench.

One of these "incidents" however did not have the evidentiary weight to even survive the two-day trial and was dismissed by Special Counsel's before all rebuttal testimony as to that incident could be heard. ~~The final charge as~~ As to the contact with Judge Essrig, this event was ~~is~~ so innocuous even Special Counsel finally admitted (somewhat apologetically) at the close of this case that this charge "looks kind of weak".

This case is not about a "judge out of control." It is not about a "disturbing series of incidents and facts." This case is about an unfortunate (and much regretted) lapse of judgment that resulted in contact with Judge Stoddard and a judge who stands ready to accept her punishment for that lapse. This case is about a Judge who maybe cared too much about the welfare of a four-year old child when allegations were made that this child was sexually abused by her father. This case is about a judge who refused to look the other way while a child was injured by the system. This is the case of a judge who did her very best to testify truthfully despite trying circumstances. This is a case about a judge who was prosecuted because she refused to retreat when faced with a formidable opponent. She refused to step down because of her undying conviction that refusing to fight or agreeing to admit a wrong that she did not commit would in itself be dishonest. And it is for this reason that Judge Holloway implores this Hearing Panel to thoroughly evaluate the

evidence, to delve into just what evidence the Special Counsel presented and what evidence was not presented, to examine the applicable law which does not support the charges, to ponder the reasonableness of Judge Holloway's actions with respect to the deposition testimony, and to fully evaluate the credibility, motives, and biases of the witnesses, especially those upon whom so much of the Special Counsel's case relies. After careful inquiry into these matters, the only conclusion is that Special Counsel has failed to prove anything other than the improper contact with Judge Stoddard, the one charge that was admitted since the inception of these proceedings, and this Hearing Panel should find in favor of Judge Holloway as to all the remaining charges. In addition, Judge Holloway's conduct is not comparable to the misconduct set forth above and should result in an admonishment.

Respectfully submitted,

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Michael S. Rywant, Esq.
RYWANT, ALVAREZ, JONES,
RUSSO & GUYTON
109 N. Brush Street, Suite 500
Tampa, Florida 33602
Tel.: (813)229-7007
Fax.: (813)223-6544

Scott K. Tozian, Esq.
SMITH & TOZIAN, P.A.

109 North Brush Street, Suite 150
Tampa, Florida 33602
Tel.: (813) 273-0063
Fax: (813) 221-8832

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing was served by U.S. Mail or Federal Express this __ day of October, 2001 to: Beatrice A. Butchko, Esq., Special Counsel, One Biscayne Tower, Suite 2300, 2 South Biscayne Blvd., Miami, Florida 33131; Honorable James R. Jorgenson, 3rd District Court of Appeals, 2001 S.W. 117th Avenue, Miami, Florida 33175-1716; Honorable Peggy T. Gehl, Broward County Courthouse, 201 S.E. 6th Street, Ft. Lauderdale, FL 33301; John W. Frost, II, Esq., 395 S. Central Avenue, Bartow, FL 33830; F. Perry Odom, Esq., 3014 Windsor Way, Tallahassee, FL 32312; Susan Gummey, 1613 Cresent Ridge Road, Daytona Beach, FL 32118; Frank Coletti, 1418 Valient Ave., Spring hill, FL 34608-5460; John R. Beranek, Esq., Counsel to the Hearing Panel, P.O. Box 391, Tallahassee, Florida 32302;

By: _____
Michael S. Rywant, Esq.
Counsel for Respondent