



1 THE COURT: Thank you very much.

2

3 ISSUE: RENEWED MOTION FOR JUDGMENT OF ACQUITTAL

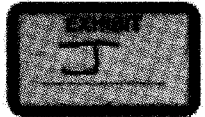
4 THE COURT: Okay. Mr. Sendra's just
5 handed me something that was filed today at
6 1:38 PM. It is a motion for judgment of
7 acquittal based on jury instructions being
8 improper, and not providing the jury with two
9 elements to be proven beyond and to the
10 exclusion of every reasonable doubt.

11 That was the subject of the jury
12 instruction discussion pretrial where I found
13 that the text of the statute did not contain
14 two elements, it contained one.

15 → My job is not to legislate from the
16 bench. My job is to follow the law that the
17 legislature has set forth.

18 And, therefore, I denied the request to
19 add an additional element because the
20 legislature had not added an additional
21 element. And, therefore, there was no legal
22 basis for me to do so.

23 And although Mr. Bross is correct --
24 Well, both of you have signed this, but
25 although the Defense is correct, that there's



1 MS. STEWART: Well, what did she look
2 at?

3 MR. BROSS: And I said: Would it
4 refresh your recollection to see those papers?
5 And I am now showing them to her, so she can
6 look at them and refresh her recollection.

7 MS. STEWART: Judge, the question would
8 be: What has she looked at? And if she didn't
9 know, then he could refresh her --

10 THE COURT: How is this relevant?

11 MR. BROSS: Because she was asked on
12 cross examination numerous times about the
13 documents and evidence that she looked at in
14 forming her opinions.

15 And she, the State, asked her to list
16 all of those things. And she said that she
17 could remember some of them, but she couldn't
18 remember all of them.

19 So, I am asking -- I'm now going to show
20 her some of those things, so it can refresh her
21 recollection, so she can tell the ladies and
22 gentlemen of the jury the things that she
23 looked at in forming her opinion and the basis
24 for making the call.

25 THE COURT: Mr. Bross, that does not go

1 to any material allegation in the case. This
2 is not a case of whether or not your client
3 believed that there was some form of injustice
4 occurring or some bad act occurring.

5 The question for the jury is whether or
6 not there was a false allegation of child abuse
7 made; period, end of story. Whether -- whether
8 your client believed she was doing it for a
9 good reason or not she's -- she can say, but
10 you are getting way far afield.

11 MR. BROSS: Your Honor, I was --

12 THE COURT: You are getting way far
13 afield.

14 MR. BROSS: I'm going to have to ask to
15 approach.

16 THE COURT: You're welcome to.

17 (Whereupon, the following sidebar
18 proceedings, out of the hearing of the Jury:)

19 ISSUE: DEFENSE MOTION FOR MISTRIAL

20 MR. BROSS: Based upon the comments that
21 the Court just made, I'm going to ask for a
22 mistrial. I think based upon those comments,
23 that was akin to jury instructions.

24 You just basically tried to take away
25 the complete defense, the things that are her

1 belief and the things that she thought were not
2 relevant to the facts of this case. I believe
3 that's basically instructing the jury.

4 The jury just heard everything you said,
5 and I believe that's an improper instruction of
6 the jury. And there's no way un-ring that bell
7 and I'm asking for a mistrial.

8 Because when you -- I was trying -- the
9 State asked numerous times: What did you look
10 at? What documents did you look at for making
11 this call?

12 And she tried to answer, she couldn't
13 remember everything. And so I was going to let
14 her look at some of the documents, the
15 documentation, so she could answer Ms.
16 Stewart's questions more effectively.

17 And they objected, and then Your Honor
18 basically said that none of that was relevant.
19 And her thoughts about, you know, whether or
20 not if it was true in the allegations.

21 And Judge -- not that it was relevant,
22 and the only thing that's relevant is the false
23 call. That's akin to instructing the jury.

24 And that's akin to, in my opinion, that
25 the Court is making opinions about the case and

1 basically telling the jury that she's guilty.

2 And I'm asking for a mistrial, there's no way
3 to un-ring that bell.

4 THE COURT: Ms. Stewart?

5 MS. STEWART: Judge, first of all, what
6 he was trying to do at that time when he says:
7 You looked at documents?

8 Yes, I did.

9 Will it refresh your recollection?

10 He didn't say: What documents did you
11 look at?

12 And she didn't say: I don't know.

13 So that was the reason for my saying
14 that it was improper. I don't think now -- I
15 mean, I don't have an opinion on a mistrial,
16 except that the whole -- well, no; I don't -- I
17 don't. You're making a ruling on an objection,
18 that's all.

19 MR. BROSS: But you went beyond that,
20 Your Honor, you basically told the jury that
21 this case was about whether or not she made a
22 false call. And I think that --

23 THE COURT: It took me (indicating
24 document) I'm going to tell the jury that in
25 about an hour.

1 MR. BROSS: Uh-huh, in looking at that

2 --

3 THE COURT: About an hour from now.

4 MR. BROSS: And if you --

5 THE COURT: I'm reading all -- I'm
6 looking at the instructions here.

7 MR. BROSS: All right, but that's --

8 THE COURT: And the State is going to be
9 (indiscernible). That's why I have it turned
10 back (indicating) to open this page here, so we
11 could see what the elements were, and if there
12 was any relevant reason for you to now go down
13 the whole rabbit-hole to --

14 MR. BROSS: Knowing and willfully making
15 a false report, that is why they are relevant.

16 COURT'S RULING

17 THE COURT: Mr. Bross. Mr. Bross,
18 respectfully, your motion for mistrial is
19 denied. You have made a record of it and your
20 -- and the -- bringing in the documents that
21 she used to form her opinion --

22 MR. BROSS: Goes to whether or not it
23 was knowingly and willfully making a false
24 report. That's why it's relevant.

25 MS. STEWART: Those documents are not

1 even near the time period of the phone call.

2 MR. BROSS: They are -- they are
3 relevant and they are -- I mean, they are
4 damning, I mean, pictures of the child --

5 MS. STEWART: Based on his unfounded --
6 (More than one speaker, indiscernible.)

7 MR. BROSS: -- of ejaculation and all
8 sorts of things. I mean, ~~it's obscene and it's~~
9 relevant to --

10 THE COURT: Mr. Bross, this is getting
11 way too far afield. She stated that she looked
12 at documents. You held documents up for the
13 jury to see. Please, please move on.

14 MR. BROSS: And the State --

15 THE COURT: Please move on.

16 MR. BROSS: Huh.

17 THE COURT: That's all.

18 (Whereupon, before the Court and Jury.)

19 BY MR. BROSS:

20 Q. Ma'am, was part of the basis for your call
21 looking at [REDACTED] private journal?

22 A. Not the entire -- Not the entire journal --
23 but there was pieces from the journal that I looked
24 at; yes.

25 Q. Was part of the basis of your phone call



IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT IN AND
FOR BREVARD COUNTY, FLORIDA.

CASE NO. 05-2015-CF-039871-AXXX-XX

STATE OF FLORIDA,

Plaintiff,

vs.

DANA LYNN LOYD,

Defendant.

ORDER DENYING MOTION TO DISQUALIFY JUDGE

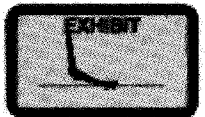
THIS CAUSE came before the Court upon the Defendant Dana Lynn Loyd's Motion to Disqualify Judge, filed on July 26, 2016, pursuant to §§38.02 and 38.10 Fla. Stat. Based upon a review of the motion and being otherwise fully advised on the premises, the Court finds that the Motion to Disqualify Judge is legally insufficient. Accordingly, it is

ORDERED AND ADJUDGED that the Defendant's Motion to Disqualify Judge is **DENIED.**

DONE AND ORDERED this 1st day of August, 2016, at Titusville, Brevard County, Florida.

A handwritten signature in black ink, appearing to read "Robin C. Lemonidis", written over a horizontal line.

ROBIN C. LEMONIDIS
CIRCUIT JUDGE



**IN THE SUPREME COURT OF THE
STATE OF FLORIDA**

**INQUIRY CONCERNING A JUDGE,
THE HONORABLE ROBIN LEMONIDIS
JQC NO. 2019-101 & 2019-175**

SC19-1302

AMENDED FINDINGS AND RECOMMENDATION OF DISCIPLINE
(Amended as to the date of the Amended Notice of Investigation on Page 1)

The Investigative Panel of the Florida Judicial Qualifications Commission ("Commission" or "JQC") served an Amended Notice of Investigation dated April 15, 2019, on Circuit Court Judge Robin Lemonidis of the 18th Judicial Circuit, pursuant to Rule 6(b) of the Florida Judicial Qualification Commission Rules. The Investigative Panel conducted a Rule 6(b) hearing on May 24, 2019, at which Judge Lemonidis appeared, with counsel, and provided sworn testimony. At the conclusion of that hearing, the Panel determined that probable cause exists that Judge Lemonidis violated Canons 1, 2A, 3B(4), and 3B(5) the Florida Code of Judicial Conduct.¹

¹ Canon 1 provides that, "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 2A states that, "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."

Canon 3B(4) requires, in pertinent part, that, "A shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity."

Canon 3B(5) states in relevant part, "A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice..."

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Factual Findings

This case results from Judge Lemonidis' intemperate conduct in two matters: *State of Florida v. Skyler² Francis* (Brevard Case No. 2016-CF-12745), and *State of Florida v. Anthony Welch* (Brevard Case No. 2000-CF-44961).

Findings Regarding *State v. Skyler Francis*

The first instance of misconduct occurred while Judge Lemonidis presided over the felony criminal trial of *State of Florida v. Skyler Francis* (Brevard Case No. 2016-CF-12745). The defendant was charged with one count of Attempted Second Degree Murder of a Law Enforcement Officer, and one count of Aggravated Battery on a Law Enforcement Officer. At the conclusion of a multi-day trial, the jury returned a verdict finding the defendant guilty of Aggravated Battery on a Law Enforcement Officer, and Attempted Manslaughter (a lesser included offense of Attempted Second Degree Murder).

Almost from the beginning of the trial, Judge Lemonidis adopted an inappropriately adversarial tone and demeanor when addressing the defendant and his attorney in response to defense counsel's failure to comply with courtroom rules such as not addressing all participants by their surname and not standing while addressing Judge Lemonidis. The Commission finds that the intemperate

² The spelling of the defendant's name alternates between "Skyler" or "Skylar" throughout the trial and appellate court record.

and inappropriate conduct by Judge Lemonidis permeated the entirety of the trial,
and includes:

1. Judge Lemonidis repeatedly and loudly struck her gavel and reprimanded the defendant's counsel for advertantly or inadvertently using only his client's first name, after being told by the Court not to do so. This action occurred in full view and hearing of the jury, on five or more occasions throughout the trial, and was often accompanied by facial expressions and a tone of voice clearly demonstrating aggravation on behalf of the Court.
2. Throughout the trial, Judge Lemonidis addressed counsel, witnesses, and others without the patience, dignity, and courtesy required by Canon 3B(4), at times appearing openly annoyed or aggravated by the person she was addressing.

Most egregious, however, is that Judge Lemonidis' failure to exercise self-control continued to occur throughout the trial, even after she had been made aware early in the proceedings, of allegations that a member of the jury had been overheard in the hallway commenting about Judge Lemonidis' treatment of the defense counsel. After taking testimony from the witness to the comments, Judge Lemonidis stated that she did "not find that any of that rises to the level of challenge for cause."

While the Court was entitled to make its own determination on the veracity or sufficiency of the allegations, the Commission finds that at the very least, such a troubling allegation should have put Judge Lemonidis on notice, or served as a reminder, that she needed be vigilant in regulating her own conduct to maintain the impartiality of the Court.

The commentary to Canon 3B(5) highlights the importance of maintaining neutrality and impartiality during proceedings. It states:

A judge must perform judicial duties impartially and fairly. A judge who manifests bias on any basis in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute. Facial expression and body language, in addition to oral communication, can give to parties or lawyers in the proceedings, jurors, the media and others an appearance of judicial bias. A judge must be alert to avoid behavior that may be perceived as prejudicial.

Judge Lemonidis concedes that during the Francis trial she did not respond appropriately to what she perceived as unprofessional conduct by the defendant's counsel. However, the Florida Supreme Court has repeatedly determined that unprofessional conduct by a lawyer or litigant does not justify or excuse inappropriate conduct by a judge. In In re Shea, this Court noted that, "Due to the demands of his or her position of trust and responsibility, a judge may not act in a manner unbecoming a member of the judiciary—even if provoked by the unprofessional behavior of those appearing before the judge. The disparity in power between a judge and a litigant requires that a judge treat a litigant with

courtesy, patience, and understanding.” *In re Shea*, 110 So. 3d 414, 418 (Fla. 2013) [internal citations omitted].

The Commission has determined, and Judge Lemonidis has acknowledged and agreed, that her conduct during the Francis trial was inappropriate, and created the appearance of bias. She further agrees that her conduct undermined the public’s perception of the fairness and impartiality of the Court. Therefore, the Commission finds that the allegations and conclusions regarding the Francis matter are supported by clear and convincing evidence.

Findings Regarding Sentencing in *State v. Anthony Welch*

The Commission was also made aware of allegations that Judge Lemonidis made inappropriate comments during the sentencing of a criminal defendant. In the matter of State of Florida v. Anthony Welch (Brevard Case No. 2000-CF-44961), the defendant pled guilty in 2005 to two counts of First-Degree Murder, Robbery, and Grand Theft of a Motor Vehicle. In March of 2019, Judge Lemonidis presided over a retrial of the penalty phase as the State sought the death penalty. On March 21, 2019, the penalty-phase jury returned a verdict declining to impose the death penalty. Because of the jury’s recommendation, the only legal sentence that could be imposed was life in prison. At the request of defense counsel, instead of taking a recess, Judge Lemonidis proceeded to conduct a sentencing hearing immediately after the jury returned its recommendation, at

about 9 p.m. During the sentencing, Judge Lemonidis and those assembled in the Courtroom heard horrific details about the crime, and heartfelt impact statements from members of the victim's families about the positive traits of the victims, and the devastating impact on the victims' family and friends. She then imposed the legally required life sentences. During the sentencing colloquy, Judge Lemonidis made the following comments:

And uh sir, I cannot disagree with a single thing that [the victim's family member] said and I'm glad she said it.

[Other impact speakers] are far more gracious soul[s] than a person like you deserves. And that, is something you're going to get to ponder for the rest of your miserable life. There is a Chinese proverb, do good, reap good, do evil, reap evil- which section will you sit in sir? There's no doubt in my mind. And I tend to agree that the outcome might have been different had this been three years ago. So, uh, you've been adjudicated guilty and I will now remand you back to the custody of the sheriff to serve your three consecutive life sentences.

I hope you see the [victim's] faces on every single face you see. You have-- The collateral damage that you have caused, sir, is immeasurable and your life is—is not worthy of what you have done to these people. I do hope you do fight for your life every minute of every day. And that would be the only reason that I would hope your life is any longer than six weeks. Remand him to the custody of the sheriff. Thank you.

In making these statements, Judge Lemonidis surrendered the impartiality and integrity of the Court to cast scorn and vitriol upon the defendant. And while

the crimes for which this defendant was sentenced are worthy of scorn, it is essential for judges to maintain the dignity of the judiciary, and must not degrade the solemnity of proceedings by casting insults and abuse upon litigants.

The Commission is particularly troubled by the Judge's comments reflecting a desire to see the defendant fight for his life every day, or die within six weeks. While proceedings, especially sentencing hearings such as this one, are often filled with tension and emotion, comments such as these, from a judge, demonstrate a level of antagonism and animosity that is inappropriate for the Court to display, and which undermine the integrity of the judicial office.

Judge Lemonidis has agreed and acknowledged that her comments during the Welch sentencing were inappropriate, and the Commission finds that the allegations and conclusions regarding the misconduct in the Welch matter are supported by clear and convincing evidence.

Mitigation

Judge Lemonidis has admitted the foregoing, accepted full responsibility, and acknowledged that such conduct should not have occurred. She has cooperated fully with the JQC throughout the investigative process, and deeply regrets that her actions could have eroded the public's perception of the fairness and impartiality of the judiciary. Judge Lemonidis has acknowledged that stress

from factors outside of her judicial duties contributed to her overreactions and intemperate conduct.

The Commission also notes that Judge Lemonidis is a relatively new judge, having been elected in 2014. Prior to taking the bench, Judge Lemonidis was admitted to the Florida Bar in 1987. She became Board Certified in criminal trial law in 1994 and has remains so certified to present. She has had no prior disciplinary proceedings with The Florida Bar. Judge Lemonidis has also undertaken efforts, including stress management counseling, to assure the Commission and this Court that her misconduct in will never be repeated.

Precedent

This Court reviews the findings of the JQC to determine “whether the alleged violations are supported by clear and convincing evidence, and reviews the recommended discipline to determine whether it should be approved.” *In re Woodard*, 919 So.2d 389, 390 (Fla. 2006). Where a judge stipulates to the JQC’s findings of fact, no additional proof is necessary to support the JQC’s factual findings.” *Id.* at 390–91.

The Commission believes it is useful to note how prior cases involving similar misconduct have been treated by this Court.

“This Court has repeatedly concluded that a public reprimand is the appropriate form of discipline for a judge’s rude or intemperate behavior in open

court. See *In re Wood*, 720 So.2d 506, 509 (Fla.1998).” Id. See also, *In re Contini*, 205 So. 3d 1281 (Fla. 2016) (publicly reprimanding a judge and ordering the completion of a mental health program, a letter of apology, and judicial mentoring, where the judge conducted an ex-parte communication, and then made intemperate remarks in court on two separate occasions).

In *In re Collins*, 195 So. 3d 1129, 1132 (Fla. 2016) this Court publicly reprimanded a judge for using intemperate conduct during a contempt hearing for a witness who refused to honor a subpoena for trial. The Court also ordered Judge Collins to undertake counseling and participate in a judicial training course on domestic violence.

Finally, as recently discussed in *In re Bailey*, it is important for judges to maintain control over the personnel and proceedings in their courtroom; All the more so when a jury trial is underway. However, as pointed out by Chief Justice Canady during the public reprimand of Judge Bailey:

A judge must also exercise self-control in the courtroom. Few things are more corrosive of public respect for the judiciary than the conduct of judges who do not exercise self-control but in-temperamentally abuse lawyers and litigants.

See *In re Bailey*, 267 So. 3d 992 (Fla. 2019) (publicly reprimanding a judge for intemperate treatment of a lawyer in the presence of a jury during a criminal trial).

Recommendation as to Discipline

The Commission finds that by repeatedly using an intemperate tone and displaying other conduct that appeared to manifest a bias of the Court against one party, in view of the jury, and making injudicious comments during a sentencing proceeding, Judge Lemonidis's misconduct was egregious enough that it harmed the integrity of the judiciary, as well as the public's confidence in the judicial system.

As such, Investigative Panel of the Commission has now entered into a Stipulation with Judge Lemonidis pursuant to FJQC Rule 6(k) in which Judge Lemonidis admits that her conduct as alleged in the Notice of Formal Charges and these Findings violated the Code of Judicial Conduct and agrees to receive the sanction recommended below.

In this case, Judge Lemonidis's lack of restraint resulted in conduct that created the appearance of bias, and undermined the impartiality and integrity of the judiciary. Accordingly, and in consideration of the facts, mitigation, and prior relevant precedent, the Commission hereby finds and recommends that the interests of justice will be well served by a public reprimand of Judge Lemonidis. The Commission also recommends that the judge continue to participate in a course of stress management counseling to ensure that such conduct is never repeated.

Dated this ____ day of July, 2019.

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

By: s/ Krista Marx
Hon. Krista Marx
CHAIR OF THE FLORIDA
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