

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

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

SC19-_____

FINDINGS AND RECOMMENDATION OF DISCIPLINE

The Investigative Panel of the Florida Judicial Qualifications Commission (“Commission” or “JQC”) served an Amended Notice of Investigation dated April 15, 2018, 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

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