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Inquiry Concerning a Judge: Cynthia A. Holloway

LADIES AND GENTLEMEN, THE FLORIDA SUPREME COURT. PLEASE BE SEATED. MONY WAS ACTUALLY NINE DAYS LATER. ATE0Q0V0X1S10=50 IS NO CARRIERRINGCONNECT 1200/ IN SO FAR AS NOT ANSWERING HER QUESTIONS AND THERE WAS NO EFFORT TO RECONVENE THE DEPOSITION AFTER HER ERRATA SHEET. SO THERE WAS NOTHING FURTHER, FROM THE STANDPOINT OF THAT PROCEEDING, YOUR HONOR. I THINK THE QUESTION PUT TO ME AT THE OUTSET BY JUSTICE WELLS IS WHAT ARE THE PROBLEMS WITH THE RECOMMENDATIONS? AND I TALKED ABOUT --

ARE YOU -- DO YOU, ALSO, CONTEST THE CONTACT WITH JUDGE ESSERING? AND ARE WE TO LOOK AT THAT IN LOOKING AT THE RECOMMENDED DISCIPLINE?

I WOULD RESPECTFULLY SUGGEST, JUST PIECE PARIENTE, THAT THAT THE INNOCUOUS CONTACTS, WHERE NOTHING IS REQUESTED OTHER THAN WHAT WOULD H. E. OF FRANK, I WOULD SUGGEST THAT THAT, TOO, SHOULD BE REJECTED BY THIS COURT.

THE FINDING OF GUILT THAT NOTHING INAPPROPRIATE OCCURRED, WHEN A SITTING JUDGE GOES INTO ANOTHER JUDGE'S CLAIM BERX AND IN VIEW OF AND THIS IS WHAT THE JQC FOUND, IN VIEW OF THE ATTORNEYS, REGARDING ESS ERRING ERRING'S CONTACT, THAT --

MAYBE I AM MISSING THE QUESTION. I AM SORRY. THE REVIEW OF THAT SHOWS NOTHING FURTHER DONE.

IN PERCEIVING THESE CHARGES, JUDGES CAN'T DO WHAT ANY OTHER PERSON CAN DO, AND JUDGES, IN THEIR OFFICIAL CAPACITY IN ASKING FOR FAVORS, THE PERCEPTION IS ONE OF TRYING TO INFLUENCE, AND WHETHER IT ACTUALLY INFLUENCES, AND THAT THESE ARE THE CHARGE THAT IS THE JQC HAS BROUGHT TO OUR ATTENTION THAT HAVE RESULTED IN THE RECOMMENDATIONS OF NOT ONLY THE PUBLIC REPRIMAND BUT THE 30-DAY SUSPENSION.

I AGREE WITH THAT STANDARD FOR JUDGES BURKES I, ALSO, TAKE ONE EXCEPTION, AND THAT IS WITH REGARD TO THE EXTENT THAT STANDARD CONFLICTS WITH THE RIGHT OF A JUDGE -- I AGREE WITH THAT STANDARD FOR JUDGES, BUT I, ALSO, TAKE ONE EXCEPTION, AND THAT IS WITH REGARD TO THE EXTENT THAT STANDARD CONFLICTS WITH THE RIGHT OF A JUDGE OF INSTRUCTING A WITNESS NOT TO ANSWER OR FOLLOWING PROCEDURE, I DON'T THINK A JUDGE WAIVES THOSE PARTICULAR RIGHTS, EVEN THOUGH A JUDGE MIGHT BE HELD TO A HIGHER STANDARD.

THOSE WERE THE FINDINGS OF THE JQC, AND GOING BACK TO JUSTICE WELLS'S ORIGINAL QUESTION, IF WE WERE HERE, BASED UPON SOME OR ALL OF THESE THINGS ANDRION WASIOND WE FIND THAT TO BE EXCESSIVE UNDER THE CIRCUMSTANCE CIRCUMSTANCE?

FRANKLY I THINK THIS COURT WOULD FIND THAT TO BE EXCESSIVE, GIVEN THE PUBLIC REPRIMAND THAT WAS THE DISCIPLINE FOR JUDGE FRANK. I DO NOT FIND THESE CHARGES, INVOLVING JUDGE HOLLOWAY AS SERIOUS AS THOSE, IN THE CONTEXT OF THE FINDINGS MADE IN THAT OPINION, IN ALL DUE RESPECT TO JUDGE FRANK, HE WAS FOUND TO HAVE INTENTIONALLY MISLED AND FOR THE PURPOSES OF CONCEALMENT.

WASN'T JUDGE FRANK, HE WAS RETIRING --

I HAVE READ THAT PORTION OF THAT DECISION MANY TIMES, AND I DO NOT BELIEVE, AT LEAST FROM MY READING, THAT THAT WAS ONE OF THE CRITERIA THAT RESULTED IN THE PUBLIC REPRIMAND.

CHIEF JUSTICE: YOU ARE IN YOUR REBUTTAL TIME.

WITH THAT, ILL STAND DOWN. THANK YOU. -- WITH THAT, I WILL STAND DOWN. THANK YOU.

CHIEF JUSTICE: MS. ROSS.

MAY IT PLEASE THE COURT. LAURIE ROSS ON BEHALF OF THE JUDICIAL QUALIFICATIONS COMMISSION. TODAY WITH ME IS BEATRICE BUTCHKO, WHO IS THE PROSECUTOR AND THE JUDGE WHO RECOMMENDED THE RECOMMENDATION. AS YOU POINTED OUT THESE SERIOUS ISSUES HERE, THEY ARE SERIOUS ALLEGATIONS BUT THEY HAVEN'T ADDRESSED ANY OF THE THINGS THAT MAKE THEM MORE SERIOUS, THE MERELY, AND I DO SAY THAT WITH THE UTMOST RESPECT, MERELY AN EXPARTE COMMUNICATION, NOT ONLY DID SHE GO ACROSS THE STREET, AND IN ORDER FOR HER TO GO SEE JUDGE STOTTART, THEY ARE NOT IN THE SAME BUILDING. THEY DON'T HAVE ADJACENT CHAMBERS. SHE WALKS DOWN AND GOES ACROSS THE STREET AND STORMS INTO JUDGE STOTTART'S CHAMBERS AND SHE TELLS HIM YOU WILL HOLD A HEARING, AND THEN SHE SAYS, ON THE WAY OUT OF THE ROOM, THAT I DON'T KNOW WHAT THE LAWYER ON THE OTHER SIDE HAS, WHAT KIND OF HOLD HE HAS OVER YOU, HE MUST HAVE PICTURES OF YOU AND A DOG. THAT IS --

BUT JUDGE STOTTART, I MEAN, HE TOOK THAT, REALLY, E HE MOMENT TYPE OF SITUATION, AND HE TESTIFIED THAT HE, REALLY, THOUGHT THAT THIS WAS SOMETHING THAT WAS NOT TOTALLY UNUSUAL IN HIS EXPERIENCE, TO SEE, IN THIS TYPE OF HEATED CONTEXT, BUT MS. ROSS, I WANT TO ASK YOU SOMETHING THAT DOES CONCERN ME IN THIS CASE.

YES, SIR.

AND THAT IS THIS IS THE THIRD CASE, NOW, IN WHICH THERE HAVE BEEN ALLEGATIONS CONCERNING LEAKS OUT OF THE JQC.

YES.

AND IT APPEARS TO ME THAT THERE IS NO WAY THAT THIS INFORMATION COULD HAVE GOTTEN INTO THE PUBLIC DOMAIN, WITHOUT IT COMING FROM THE JQC. NOW, I THINK THE JUDGES HAVE A RIGHT TO EXPECT THE JQC TO FOLLOW THE JQC'S RULES.

I AGREE WITH YOU 100 PERCENT, IN TERMS OF THEY HAVE A RIGHT TO EXPECT THE LEAKS, THAT THEY HAVE A RIGHT TO EXPECT CONFIDENTIALITY. I DISAGREE TO THE EXTENT THAT THERE HAS BEEN A LOT OF SPIN PUT ON THIS CASE AS TO WHERE LEAKS ARE COMING FROM, AND I WILL TELL YOU THAT THE ONLY PEOPLE IN THIS CASE, AND WE HAVE FILED THE NEWSPAPER CLIPPINGS WITH THIS COURT, THE ONLY PEOPLE WHO PERSISTED IN MAKING STATEMENTS TO THE PRESS, WERE JUDGE HOLLOWAY'S TEAM. ALSO IN JUDGE HOLLOWAY'S TESTIMONY, YOU HAVE GOT TO UNDERSTAND, JUSTICE WELLS, WE CANNOT PREVENT WITNESSES WHO COME OUT OF JQC INVESTIGATIONS FROM TALKING TO ANYBODY. THERE IS A U.S. DISTRICT COURT CASE THAT SAYS THAT THOSE PEOPLE ARE ALLOWED TO TALK. WE CAN CAUTION THEM WITH REGARD TO YOU CAN'T SAY ANYTHING, BUT WE CAN'T PREVENT THEM FROM TALKING.

THE BASIS OF THE ALLEGATIONS HERE APPEAR TO BE MATTERS WHICHEELY HELD BY THE JQC. THAT WAS THE SAME SITUATION THAT WE HAVE HAD IN AT LEAST TWO OTHER CASES THAT I RECALL, AND I JUST MAKE THIS STATEMENT THAT THAT IS A MATTER WHICH GREATLY CONCERNS ME.

IT GREATLY CONCERNS ME, TOO, JUDGE, AND LET ME SAY THIS. WHILE AN ONGOING PROSECUTION OF A JUDGE IS GOING ON, THE COMMISSION IS NOT IN THE POSITION TO SIMPLY DEFEND ITSELF AND GO FORWARD AND MAKE PUBLIC STATEMENTS AND CONDUCT AN INVESTIGATION AND AIR EVIDENCE. WE ARE IN THE, WE ARE IN THE PROSECUTION OF THE JUDGE, ITSELF. IF THERE IS GOING TO BE AN INVESTIGATION OF THESE MATTERS, WHICH IF YOUR HONOR SUGGESTS WE WOULD BE ABLE TO PROVE, THAT THE LEAKS WERE COMING FROM JUDGE HOLLOWAY'S CAMP AND NOT OURS. IF WE HAD SUCH A HEARING, WE WOULD BE ABLE TO DEMONSTRATE EVIDENCE.

LET ME ASK, LET ME SHIFT YOU TO THE FACTS OF THIS CASE.

CERTAINLY.

AND ASK YOU ISN'T IT CORRECT THAT THE, THIS WHOLE BUSINESS ON THE DEPOSITION AND THE ERRATA SHEET WAS SOMETHING THAT WAS A STATEMENT GIVEN BY THE JUDGE, CORRECTED BY THE JUDGE, NO EFFORT MADE BY THE OPPOSITION THAT WAS TAKING THE DEPOSITION, TO ANY FURTHER INQUIRE IN THE MATTER, AND SO, REALLY, IT IS NOT, IT IS SORT OF A DIM I KNOW MUST THING.

-- OF A DIMINIMOUS THING.

NO, YOUR HONOR, AND THAT IS BECAUSE JUDGE HOLLOWAY WENT TO GREAT LENGTHS TO CONCEAL THE EXPARTE COMMUNICATIONS, AND I WOULD SUGGEST TO THE COURT THAT YOU READ JUDGE HOLLOWAY'S DEPOSITION TESTIMONY IN THE CASE WHICH IS PLAINTIFF'S EXHIBIT NO..UKT THE SCENARIO OF WHAT HAPPENED IN THIS CASE, YOU WERE ASKING ABOUT TIMING. THE EXPARTE COMMUNICATIONS OCCUR ON MARCH 3. JUDGE HOLLOWAY IS DEPOSED ON JULY 19. WHY JULY 19? BECAUSE JUDGE HOLLOWAY WAS COMING UP FOR REELECTION, AND SHE AND HER HUSBAND MADE A DECISION THAT THEY DIDN'T WANT ANY INFORMATION GETTING OUT ABOUT ANY JQC INQUIRY OR WHAT WAS GOING ON IN THAT CASE, UNTIL AFTER SHE QUALIFIED FOR REELECTION. THAT IS AT EXHIBIT 14 PAGE 153. SO THEY REARRANGED FOR HER DEPOSITION IN THAT CASE TO TAKE PLACE, AFTER SHE QUALIFIED FOR ELECTION, SO WHAT HAPPENED, WHAT HAPPENS WITH REGARD TO THE TESTIMONY IN THAT CASE? SHE SAYS I KNEW THAT A JQC INVESTIGATION WAS PENDING, AND I CERTAINLY DIDN'T WANT THIS INFORMATION COMING TO LIGHT DURING, BEFORE QUALIFYING. THAT IS AT PAGE 154 OF HER TRANSCRIPT. SO WHAT HAPPENS? SHE GOES TO THE DEPOSITION, AND SHE, EXCUSE ME, IN THE WORDS OF THE COMMISSION, THEY FOUND SHE WAS INTENTIONALLY MISLEADING, THAT SHE ANSWERED THESE QUESTIONS, DID YOU EVER HAVE ANY CONTACT WITH JUDGE STOTTART? THESE ARE BROAD QUESTIONS. DID YOU EVER HAVE ANY CONTACT WITH JUDGE STOT ARRESTED? ANSWER -- WITH JUDGE STOTTART?

ANSWER, NO.

DID YOU MEET WITH HIM, TALK WITH HIM IN ANY WAY? ANSWER, NO. SHE HAS A MEETING WITH HER HUSBAND, AND THEY DECIDE THAT, IF SHE HAS ANY QUESTIONS AT ALL ABOUT EXPARTE COMMUNICATIONS, THEY ARE NOT GOING TO ANSWER THOSE QUESTIONS BECAUSE THEY ARE IRRELEVANT. THAT IS WHAT THEIR MEETING IS. THAT IS WHAT THEIR GAMEPLAN IS. THEY ARE GOING TO KEEP IT SECRET. BUT THE LITIGANT ASKED THE QUEST. AFTER SHE GIVES THE TESTIMONY ON JULY 19, WHICH IS AFTER SHE QUALIFIES. AFTER SHE GIVES THEY, SHE TESTIFIES, AND SHE IS, THEN, TIPPED OFF BY THE LAWYER FOR HER FRIEND, RAY BROOKS, WHO CALLS HER HUSBAND, TO TELL HER THAT HER TESTIMONY DOES NOT MATCH UP WITH DETECTIVE YEARICH. THAT IS THE TIME LINE. THEN THE ERRATA SHEET COMES FORWARD. THEY SAY THEY WERE IN THE PROCESS OF PREPARING AN ERRATA SHEET ANYHOW, BUT WHAT DOES THE ERRATA SHEET SAY? NOW, LET ME TELL YOU THE CHANGES IN THIS TESTIMONY AND HOW IT WAS CONCEALING. HERE WERE THE QUESTIONS ASKED AND HERE WERE JUDGE HOLLOWAY'S NUANCES. DID YOU

CONTACT RALPH STOTTART? NO. THAT WAS THE ANSWER BEFORE. NOW HERE IS THE ANSWER DID YOU CONTACT RALPH STOTTART? NO, NOT ON THAT SATURDAY. DID YOU TELEPHONE HIM, CONTACT HIM IN ANY WAY? ANSWER BEFORE? NO. NOW ANSWER? NO, NOT ON THAT SATURDAY. DID YOU GO TO SEE HIM? ANSWER BEFORE? NO. ANSWER NOW. NO. NOT ON THAT SATURDAY. SO THE ERRATA SHEET DIDN'T CLEAR UP ANYTHING, BECAUSE A FOLLOW-UP QUESTION IN DEPOSITION WILL BE --

TELL ME AGAIN WHAT THE SIGNIFICANCE OF THE QUALIFYING DATE WAS? THE DEPOSITION, THE SIGNIFICANCE WAS THAT THE DEPOSITION WAS POSTPONED?

THE DEPOSITION WAS POSTPONED UNTIL AFTER SHE QUALIFIED, THEN, AT THE DEPOSITION, SHE --
WHAT DIFFERENCE DOES THAT MAKE THEN?

BECAUSE IT SHOWS AN INTENT TO DECEIVE AND TO KEEP SECRET THE EXPARTE CONTACT. REMEMBER, THE FATHER ON THE OTHER SIDE OF THIS HOT HOTLY-CONTESTED --.

BUT DID THE POSTPONING OF THE DEPOSITION CAUSE ANY PREJUDICE IN THE LITIGATION?

NO. NOT THAT I KNOW OF. IT SHOWS AN INTENT TO CONCEAL ON HER PART.

IT SEEMS TO ME IT IS PERFECTLY REASONABLE THAT A JUDGE THAT IS HAVING TO RUN FOR REELECTION AND CAUGHT UP IN SOME TYPE OF LITIGATION MAY WANT TO PUT THAT OFF TO SEE WHAT IS GOING TO HAPPEN, AS FAR AS HER ELECTION IS CONCERNED.

THAT MAY VERY WELL BE TRUE, JUSTICE WELLS, INT,WHAT HAPPENS NEXT? SHE TESTIFIES AT THE DEPOSITION, SHE HAD NO CONTACT WITH RALPH STOTTART, WHICH, AS THE JQC FOUND, EVERYBODY IN THE ROOM KNEW WAS UNTRUE, BUT THE FATHER, THEY DIDN'T KNOW THE FATHER HAD ANY INKLING ABOUT THIS. THE FATHER LEARNED IT FROM A THIRD PARTY SOURCE. THEY DIDN'T TELL HIM. THEY DIDN'T APOLOGIZE TO HIM. THEY SAID NOTHING. THE IDEA WAS TO KEEP THIS INFORMATION FROM HIM.

WHAT IS THE SIGNIFICANCE OF THE QUALIFYING SATURDAY?

WELL, THE QUALIFYING SATURDAY WAS THAT WAS THE DAY OF THE SHELTER HEARING OF THE MINOR CHILD, AND SHE WOULD, WHAT SHE MEANT BY QUALIFYING IT, IS OH, I DIDN'T GO TO SEE HIM ON THE SHELTER HEARING DATE, WHICH WAS FEBRUARY 26.

IS THAT THE QUESTION THAT WAS ASKED? OR PRECEDING THE --

IT WAS SEVERAL QUESTIONS AGO, IN CONTEXT, WAS WHEN DID YOU LEARN THAT PARKER HAD BEEN SHELTERED? ON A SATURDAY MORNING. THAT WAS THE 26th. I DON'T RECALL. I WAS AT A BASEBALL FIELD. NOW, THIS IS COMING OUT OF THEIR ANSWER. DID CINDY TIGER CALL YOU? ANSWER YES. WHAT WAS YOUR REACTION? I WAS SHOCKED. DID YOU DO ANYTHING IN RESPONSE TO THAT DEVELOPMENT IN THE CASE? THERE IS NO TIME LIMITATION ON THAT QUESTION. ANSWER, I DON'T RECALL BEING ABLE TO DO ANYTHING. THEN WE HAVE THE QUESTIONS DID YOU CONTACT RALPH STOTTART? NO.

LET ME ASK YOU THIS, WHAT WAS GOING ON, HERE, WITH THE JQC BRINGING, ALSO, THESE CLAIMS ABOUT THIS EPISODE HAVING TO DO WITH THE TREE, PUTTING OUT ALL THIS TESTIMONY, AND THEN DISMISSING THE CLAIM.

WELL, THE PROBLEM WITH THAT, JUDGE, IS WE HAD A WITNESS WHO REFUSED TO SHOW UP TO SUBPOENA. WE HAD ANOTHER WITNESS. ONCE AGAIN, WE ARE HAPPY IN A SEPARATE EVIDENTIARY HEARING, AND WE PUT THIS IN OUR RESPONSE N. ID, WE WOULD PRODUCE THE

EVIDENCE WE HAD TO GO FORTH FORWARD WITH THAT CLAIM, BECAUSE THERE WAS A REASONABLE BASIS FOR THIS CLAIM. WE WENT FORWARD WITH IT. WE ARE IN THE MIDDLE OF THE HEARING, AND MR. DICK WAS ONE OF OUR WITNESSES WHO WAS SPPD, WHO WAS SUBPOENAED. -- WHO WAS SUBPOENAED, WHO WAS SUBPOENAED, REFUSED TO COME TO THE HEARING, SO THAT LEFT US IN THE POSITION WHERE WE FELT WE WERE BETTER OFF DISMISSING THE CLAIM.

WOULD YOU EXPLAIN ON THE FIRST CHARGE, REGARDING THE CONTACT WITH THE DETECTIVE, HOW THE PANEL'S FINDING GUILTY BUT ONLY AS VIEWED IN THE OVERALL CONTEXT OF THE CASE, WHAT THAT MEANS?

SURE.

WAS THIS A FINDING OF GUILT, AND HOW, LET'S LEAVE THE DEPOSITION TESTIMONY ASIDE. JUST ON THE OTHER CHARGES, DOES IT JUSTIFY THE 30-DAY SUSPENSION?

SURE. LET ME PUT THIS IN CONTEXT FOR YOU. FROM THE POLICE REPORT, THIS WAS A MINOR CHILD FOUR YEARS OLD, WITH WHOM JUDGE HOLLOWAY WANTED THIS CHILD DESPERATELY TO GO TO HER FRIENDS IN THE CUSTODY DISPUTE. THESE WERE NOT HER ONLY CONTACTS. WITH ANYBODY HAVING TO DO WITH THIS CASE. IF YOU LOOK AT EXHIBIT NO. 9, THE MOTHER OF THE CHILD MADE TWO FALSE ACCUSATION OF MISCONDUCT ON THE PART OF THE FATHER. SEXUAL MISCONDUCT. AT THE THIRD, IT SAYS THEY WERE, BY THAT TIME AWARE IT WAS A HOTLY-CONTESTED CUSTODY DISPUTE, I MEAN THE POLICE DEPARTMENT. AFTER RECEIVING NUMEROUS DOCUMENTS FROM THE ATTORNEYS IN THIS CASE, IT APPEARS THAT EVERY TIME THERE IS TO BE NEW LEGAL ACTION, THE MOTHER IS ABLE TO MANIPULATE THE SYSTEM AND HAVE A NEW REPORT MADE IN THE HOPES TO INTERFERE WITH THE VISITATION BY THE FATHER OR TO INFLUENCE THE COURT'S ACTION. WHILE ADAIR, THAT IS THE MOTHER, DOES NOT MAKE THE ACTUAL ABUSE REPORTS CALLS HERSELF, SHE PRTO SOMEONE ELSE WHO IS OBLIGATED TO MAKE A REPORT, BASED ON THE LIMITED STATEMENTS OF THE CHILW, W? DET IS MADE ON THE 23th. ON THE 24th, NOT SEVERAL DAYS LATER AS CONTESTED, AS CONTENTED ON THE 24th, JUDGE HOLLOWAY IS ON THE PHONE TWICE, TO DETECTIVE YEARICH THAT DAY, LEAVING MESSAGES WITHIN FIVE MINUTES. THAT IS NOT THE SECOND CHARGE, JUSTICE QUINCE. THAT IS A LATER DATE. BUT ON THE SAME DAY, SHE MAKES TWO PHONE CALLS TO REACH THIS DETECTIVE. CAC INTERVIEWS ARE NOT REQUIRED. THEY ARE AT THE DISCRETION OF THE INTERVIEWER. HER EXPLANATION INITIALLY, AS TO WHY SHE MADE THE CONTACT, IS SHE WANTED TO MAKE SURE THAT MEMORIES DIDN'T FADE. WELL, THE DETECTIVE SPECIFICALLY TESTIFIED IN THIS CASE THAT HE THOUGHT IT WAS AN IMPROPER CONTACT ON A JUDGE TO PUT PRESSURE ON HIM AND CERTAINLY IN THE TIMING THAT IT TOOK PLACE, IT WAS.

IT WAS ONE DAY LATER?

IT WAS ONE DAY LATER. THERE WAS NO QUESTION OF DILIGENCE.

BUT WHAT IS THIS GUILT BUT ONLY AS VIEWED IN THE OVERALL CONTEXT OF THE CASE. WHAT DOES THAT MEAN?

YOUR HONOR, ALL I CAN SAY TO YOU IS THEY FELT VERY STRONGLY THAT JUDGE HOLLOWAY WAS INVOLVED IN TRYING TO INFLUENCE THE OUTCOME OF THIS CASE, AND THAT WAS THE PROBLEM. IT WASN'T THE ISOLATED INSTANCE OF CALLING JUDGE, DETECTIVE YEARICH ALONE.

SO LOOKING AT THIS IN CONJUNCTION WITH THE CONTACT WITH JUDGE STOTTART --

THESE WERE NOT ISOLATED INSTANCES. THIS IS WHERE JUDGE HOLLOWAY WAS NOT SOMEBODY WHO WAS WILLY-NILLY DRAGGED INTO THINGS BY HER FRIENDS AS PORTRAYED. THIS IS SOMETHING WHERE JUDGE HOLLOWAY ACTUALLY REACHED OUT, MADE THE PHONE CALLS,

MADE THE CONTACT, AND I JUST WANTED TO GO BACK TO ONE THING WITH REGARD TO THE CONCEALMENT, BECAUSE THEY KEEP SAYING WE HAVE BEEN VINDICATED ON THE INTENTIONAL FALSEHOOD. THE DEFINITION OF INTENTIONALLY MISLEADING TESTIMONY IS DECEPTIVE TESTIMONY. THIS COURT HAS REQUIRED JURORS TO GIVE, JURORS, PEOPLE SITTING IN THE VENIRE, TO GIVE TESTIMONY THAT ONLY TRUTHFUL BUT WHICH IS CALCULATED NOT TO DECEIVE BY OMISSION. IN HER FOLLOW-UP ERRATA SHEET, SHE DOESN'T SAY I DIDN'T HAVE CONTACT WITH JUDGE STOTTART ON THAT SATURDAY, BUT I DID CALL HIM AND I DID GO SEE HIM AND I DID TALK TO HIM ABOUT THE MERITS OF THE CASE, AND I DID HOLD A HEARING, AND AT THAT TIME THESE PEOPLE WERE THE MOST IMPORTANT PEOPLE TO ME IN THIS CASE.

I THOUGHT IN THAT DEPOSITION YOU SAID, FIRST OF ALL, THAT EVERYONE KNEW THAT SHE HAD HAD THIS CONTACT, AND THAT IN THE DEPOSITION, SHE HAD THAT HER ATTORNEY HAD INSTRUCTED HER NOT TO ANSWER QUESTIONS ABOUT JUDGE STOTTART.

WHAT I SAID WAS THEY HAD A GAMEPLAN, AND IT IS BEST EXPLAINED IN HER --

WEREN'T THERE SOME PARTS OF THE DEPOSITION WHERE SHE WAS, SAID SHE WOULD NOT ANSWER THE QUESTIONS?

THERE WERE SUBSEQUENT QUESTIONS THAT THEY TOLD HER NOT TO ANSWER, BUT NOT THESE AS TO HER CONTACT WITH JUDGE STOTTART.

BUT WHETHER IT IS INTENTIONALLY MISLEADING, AT THAT TIME WAS JUDGE STOTTART ALREADY OFF THE CASE?

YES, JUDGE STOTTART WAS ALREADY OFF THE CASE.

WHAT RECEIVE ENTHE RELEVANCE ABOUT ASKING ABOUT HER CONTACT WITH JUDGE STOTTART?

VERY SIMPLE, JUDGE. SHE HAD APPEARED, ACCORDING TO JUDGE STOTTART, SHE HAD APPEARED NOT ONCE BUT TWICE AS NOT JUST A CHARACTER WITNESS BUT THE KEY CHARACTER WITNESS IN THE CASE. THEY BROUGHT HER IN TO TELL JUDGE STOTTART TO HOLD AN EVIDENTIARY HEARING ON THE CAC.

LET ME ASK YOU, IF WE DECIDE THAT ON THAT CHARGE THAT, THERE ISN'T ENOUGH EVIDENCE AND IT IS CONFLICTING AND THAT IT IS NOT PROVEN BY CLEAR AND CONVINCING EVIDENCE, WHAT IS THE JQC'S POSITION AS TO WITH THE REMAINDER OF THE CHARGES, WHETHER IT JUSTIFIES THE 30-DAY SUSPENSION, IN ADDITION TO THE PUBLIC REPRIMAND.

WE HAVE ALWAYS FELT THAT THIS CASE WAS SERIOUS. WE HAVE ALWAYS FELT THAT THE EXPARTE COMMUNICATIONS IN AND OF THEMSELVES, WERE SERIOUS, THE COMMADDEOE STOTTART WERE SERIOUS, THE ACCUSATIONS OF CORRUPTION WERE SERIOUS, AND THE COVER-UP WAS SERIOUS.

AND HOW DOES THE JQC DISTINGUISH THIS FROM THE FRANK CASE?

VERY SIMPLE, YOUR HONOR. WITH REGARD TO WHAT HAPPENED WITH JUDGE FRANK IN THE JUDGE FRANK CASE, JUDGE FRANK WAS ALREADY RETIRED. HE WAS IN POOR HEALTH. THOSE WERE MITIGATING FACTORS TOWARDS JUDGE FANG. YOU DIDN'T CALL HIM TO COME UP HERE. THERE WOULD BE NO POINT OF A REMOVAL. HE WAS ALREADY OFF THE BENCH. HE HAD 30 YEARS OF DISTINGUISHED SERVICE IN THAT CASE, AND HE DIDN'T HAVE OR SHOW AN INTENT TO CONCEAL LIKE SHE DOES IN THIS CASE, AND LET ME JUST POINT TO ONE MORE THING IN THE RECORD, BECAUSE --

THERE IS NO CONTENTION HERE THAT THIS IS REMOVAL CASE. WE ARE --

NO. WE ARE NOT CONTENDING THAT. WHAT WE ARE CONTENDING IS THIS IS A CLASSIC SUSPENSION CASE. AND THAT THIS FALLS BETWEEN THE AREA OF PUBLIC REPRIMAND AND REMOVAL.

THE CLASSIC SUSPENSION CASE. WHAT CASE ARE YOU REFERRING TO THAT WE HAVE SUSPENDED A JUDGE IN?

THERE HAS ONLY BEEN ONE SINCE THE CONSTITUTION WAS AMENDED. THAT WAS THE BRENDA WILSON CASE. THIS IS COMPARABLE TO THAT, ALTHOUGH WE THINK IT IS MORE SEVERE, BASED ON THE LYING AND THE INTENTIONAL CONCEALMENT, AND I THINK IF YOU LOOK AT HER TESTIMONY AND THE TESTIMONY OF HER HUSBAND, AND I THINK THIS IS WHAT I WAS TRYING TO GET OUT, JUSTTIS PARIENTE -- JUSTICE PARIENTE, AND THAT IS THE FACT THAT THEIR GAMEPLAN WAS NOT TO ALLOW HER TO ANSWER THE QUESTIONS. THEY DIDN'T WANT THE ANSWERS COMING OUT, BUT THE GAMEPLAN DIDN'T WORK, BECAUSE WHEN JOHNSON ASKED THE QUESTIONS, SHE GAVE UNEQUIVOCAL NO ANSWERS. NOW, WHAT DO YOU DO AFTER THAT? THEY ISSUE AN ERRATA SHEET AND THE ERRATA SHEET DOESN'T SAY NO, NOT ON THE SATURDAY, BUT I DIDK TO JUDGE STOTTART, I DID GO TO HIM, AND I I DID ATTEMPT TO INFLUENCEM AFT. HING AB. AN INTENTIONAL OMISSION. THE FATHER NEVER GOT THAT INFORMATION FROM HIM, AND I WANT TO MAKE ONE LAST POINT, BECAUSE THEY HAVE SAID REPEATEDLY AND THROUGHOUT THAT THEY HAVE ALWAYS STOOD READY, THAT SHE ALWAYS ADMITTED HER GUILT, THAT SHE ALWAYS STOOD READY TO TAKE A PUBLIC REPRIMAND, THAT THE COMMISSION, THIS IS RETALIATORY ACTION BY THE COMMISSION. THIS IS ALL ATTACHED TO OUR RESPONSE TO JUDGE HOLLOWAY'S MOTION TO DISMISS. THESE ARE ALL THE PUBLIC QUOTES THAT WERE BEING GIVEN BY THE SAME LAWYERS WHO ARE SITTING IN THIS COURTROOM. JANUARY 23, 2001. HER ATTORNEY SCOTT TOZIAN SAID THE JUDGE COULD HAVE HANDLED THEMSELVES BETTER DURING THE OCTOBER SESSION 6-B, WHICH HE CALLED EXTREMELY HOSTILE COMPARED TO A LYNCHING.

CHIEF JUSTICE: THANK YOU, MS. ROSS. I THINK YOUR TIME IS UP.

THANK YOU.

CHIEF JUSTICE: REBUTTAL?

FIRST, IF I MAY, LET ME ADDRESS THIS QUESTION ABOUT THESE LEAKS. MR. TOZIAN AND I STAND READY TO ANSWER TO ANYTHING THIS COURT FEELS WE DID INAPPROPRIATE. I SUGGEST, HOWEVER, THAT WE WERE AS TROUBLED BY THOSE LEAKS AS THIS COURT WAS. WE REPEATEDLY ASKED QUESTIONS, AND THAT IS NOT PART OF THE NEWSPAPER QUOTES, BECAUSE AS THIS COURT, I THINK, APPRECIATES THESE LEAKS WERE NOT IDENTIFYING THEMSELVES TO THE PAPER.

CHIEF JUSTICE: WELL, RATHER THAN WASTE YOUR TIME IN SOMETHING THAT REALLY ISN'T THAT MUCH FOCUSED HERE, LET ME ASK YOU ABOUT THE, THIS ERRATA SHEET BUSINESS. NOW, DOESN'T THE, MS. ROSS MAKE A GOOD POINT THAT THE ERRATA SHEET WAS NOT THAT FORTHCOMING AS TO WHAT HAD BEEN THE MISSTATEMENTS IN THAT DEPOSITION? > LET ME RESPOND TO THAT, JUSTICE WELLS, IN THIS MANNER. THT N WHICH THE QUESTIONS AT ISSUE WERE PROPOUNDED TO JUDGE HOLLOWAY, CLEARLY INDICATED TO EVERYONE IN THAT ROOM, THAT HE WAS REFERRING MR. JOHNSON, I AM REFERRING TO, THAT HE WAS REFERRING TO THAT SATURDAY, AND I HATE TO PLAY A WHAT-IF GAME WITH THE COURT, BUT WHAT IF, IN FACT, MR. JOHNSON DID, IN FACT, MEAN THAT SATURDAY AND IT IS ONLY AFTER THE FACT THAT HE REALIZES THAT HE CAN CAUSE A SIGNIFICANT AMOUNT OF TROUBLE TO JUDGE HOLLOWAY, BY CHANGING WHAT HE MEANT BY THAT QUESTION, BECAUSE IT IS A VERY OPEN ENDED QUESTION. I SUGGEST THAT QUESTION WAS RESPONDED TO ABSOLUTELY APPROPRIATELY, GIVEN THE CONTEXT IN WHICH IT WAS ASKED, AND AS INDICATED BY ONE OF THE WITNESSES, MR. BROOKS, WHO HAD NO CONTACT, NO KNOWLEDGE, WAS NOT A FRIEND OF JUDGE HOLLOWAY OR HER HUSBAND.

IF IT WAS A TRUTHFUL ANSWER THAT IS NO, SHE DIDN'T HAVE IT ON THE SATURDAY, WHY DID IT NEED CORRECTING?

BECAUSE OF THE PENDENCY OF THE JQC INVESTIGATION. AS HER COUNSEL TESTIFIED, JUSTICE PARIENTE, AFTER THEY READ THE COLD TRANSCRIPT, THEY REALIZED THAT THIS MAY BE A CONFUSING RESPONSE, AND SOUGHT TO CLARIFY IT. THAT CLARIFICATION AND THAT ERRATA SHEET CLEARLY INDICATED IMPLICITLY THAT THERE WAS A CONTACT WITH JUDGE STOTTART BUT NOT ON THAT SATURDAY. ONE THING THAT WAS OVERLOOKED IN THE JQC'S PRESENTATION BEFORE THE COURT IS THAT PORTION OF JUDGE HOLLOWAY'S DEPOSITION FROM PAGE 39 TO 44, WHEN THERE IS A COLLOQUY. BETWEEN MR. JOHNSON AND MR. ALI, ABOUT HOW, IN FACT, SHE IS NOT GOING TO ANSWER ANY QUESTIONS. MR. JOHNSON SPECIFICALLY PUTS THOSE QUESTIONS TO JUDGE HOLLOWAY.

LET ME ASK YOU THIS NOW. AT THE POINT IN TIME THAT THAT DEPOSITION WAS TAKEN, THERE IS MUCH MADE HERE, OF THE, BY YOUR SIDE, THAT THEY ALREADY KNEW E JQC WAS ON TO AN INVESTIGATION HERE. NOW, AND, TN SHE KNEW THAT SHE HAD HAD THIS CONTACT, WHICH YOU SAY THAT, AS ADMITTED IN THE RECORD, WAS WRONG.

YES, SIR.

NOW, WASN'T IT MISLEADING, THEN, IN THIS DEPOSITION, TO KIND OF PLAY WITH WORDS ABOUT AND NOT BE FORTHCOMING ABOUT THE FACT, YES, I HAD A CONTACT WITH JUDGE STOTTART. I MEAN THAT SEEMS TO ME THAT A JUDGE THAT IS UNDER THAT KIND OF SCRUTINY, AND IF THEY ARE GOING TO BE FORTHCOMING, WHY ISN'T THE JUDGE GOING TO ACTUALLY BE FORTHCOMING?

THIS GETS BACK TO A COUPLE OF POINTS THAT HAVE BEEN BRIEFLY TOUCHED ON BUT I WOULD LIKE TO EXPAND ON THEM IF I COULD. ONE IS THE STRATEGY THAT JUDGE HOLLOWAY'S COUNSEL EMPLOYED. IF HE IS TO BE CRITICIZED FOR THAT, SO BE IT, BUT THAT IS A STRATEGY THAT WAS IN PLACE THROUGHOUT THIS DEPOSITION, WAS ENUNCIATE ODD THE PAGES I HAVE JUST REFERENCED FOR THE COURT. THEY WERE NOT GOING TO LET THE CHILD CUSTODY CASE AND THE DISCOVERY CONDUCTED BY MR. JOHNSON, TO BE A FORUM FOR THE JQC INVESTIGATION. THEY KNEW THAT THIS INVESTIGATION WAS GOING ON. MR. JOHNSON KNEW OF THE CONTACT. MR. JOHNSON HAD, IN FACT, ALREADY BEEN IN CONTACT WITH THE JQC.

CHIEF JUSTICE: THANK YOU ARE -- THANK YOU, COUNSEL.

THANK YOU.

CHIEF JUSTICE: THANK YOU, COUNSEL, FOR YOUR ASSISTANCE IN THIS CASE.