

*The following is a real-time transcript taken as closed captioning during the oral argument proceedings, and as such, may contain errors. This service is provided solely for the purpose of assisting those with disabilities and should be used for no other purpose. These are not legal documents, and may not be used as legal authority. This transcript is not an official document of the Florida Supreme Court.*

## **Inquiry Concerning a Judge: Dennis P. Maloney Docket Number: SC04-22**

„ „ „ „ „ HEAR YE. HEAR YE. HEAR YE. THE SUPREME COURT OF THE GREAT STATE OF FLORIDA IS NOW IN SESSION. IF YOU HAVE CAUSE TO PLEA, DRAW NEAR, GIVE ATTENTION AND YOU SHALL BE HEARD. GOD SAVE THE UNITED STATES, THE GREAT STATE OF FLORIDA AND THIS HONORABLE COURT. LADIES AND GENTLEMEN, THE FLORIDA SUPREME COURT. PLEASE BE SEATED.

CHIEF JUSTICE: GOOD MORNING, LADIES AND GENTLEMEN, AND WELCOME TO THE FLORIDA SUPREME COURT. THE FIRST MATTER ON THE COURT'S DOCKET IS THE PUBLIC REPRIMAND OF JUDGE DENNIS MALONEY. JUDGE MALONEY, PLEASE APPROACH THE PODIUM AND REMAIN STANDING AS I ADMINISTER THE REPRIMAND. JUDGE MALONEY, THE FLORIDA CONSTITUTION ENTRUSTS THIS COURT WITH THE DUTY TO IMPOSE APPROPRIATE DISCIPLINE ON JUDGES WHOSE CONDUCT VIOLATES OUR CODE OF JUDICIAL CONDUCT. THE PUBLIC REPRIMAND IS A DISCIPLINARY TOOL THAT WE USE TO DEMONSTRATE TO YOU, TO ALL WHO SERVE AS JUDGES IN OUR STATE COURT SYSTEM, AND TO THE PUBLIC THAT WE TAKE ETHICAL BREACHES BY OUR JUDGES VERY SERIOUSLY. YOU ARE BEFORE THE COURT BECAUSE OF THE FOLLOWING MISCONDUCT TO WHICH YOU STIPULATED. DURING THE EARLY MORNING HOURS OF JANUARY 10, 2003, A LAKE LAND POLICE OFFICER STOPPED THE DRIVER OF A VEHICLE IN WHICH YOUR SON WAS A PASSENGER. THE DRIVER WAS ARRESTED AND CHARGED WITH DRIVING UNDER THE INFLUENCE OF ALCOHOL. YOU HAD KNOWN THE DRIVER AS WELL AS HIS FATHER, FOR APPROXIMATELY 15 YEARS. YOU MAINTAINED A CLOSE PERSONAL RELATIONSHIP WITH THE DRIVER, SUCH THAT YOUR IMPARTIALITY MIGHT REASONABLY BE CALLED INTO QUESTION IF HE WERE TO APPEAR BEFORE YOU IN JUDICIAL PROCEEDINGS. UPON LEARNING OF THE DRIVER'S ARREST, YOU CONTACTED THE POLICE DEPARTMENT AND DIRECTED THAT THEY IMMEDIATELY RELEASE THE DRIVER INTO THE CUSTODY OF HIS FATHER. YOU DID SO OVER THE OBJECTIONS OF THE POLICE DEPARTMENT AND DESPITE THE PROVISIONS OF FLORIDA LAW REQUIRING THAT THOSE ARRESTED FOR DUI BE HELD FOR EIGHT HOURS OR UNTIL THEY ARE NO LONGER IMPAIRED. BASED SOLELY UPON YOUR DEMANDS TO LAW ENFORCEMENT, THE DRIVER WAS RELEASED TO THE FATHER, IN VIOLATION OF STATE LAW. IN ADDITION TO STIPULATING TO THESE FACTS, YOU ACKNOWLEDGE THAT YOUR ACTIONS VIOLATED THE CODE OF JUDICIAL CONDUCT, AND YOU DID NOT CONTEST THE RECOMMENDATION OF DISCIPLINE WHICH INCLUDES THIS REPRIMAND, AND WE HAVE FOUND THAT YOUR ACTIONS VIOLATED CANONS 1 AND 2-A OF THE CODE OF JUDICIAL CONDUCT. CANON 1 REQUIRES JUDGES TO UPHOLD AND PRESERVE THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY, WHICH IS THE CORNERSTONE OF OUR JUSTICE SYSTEM. CANON 2-A STATES ANOTHER ESSENTIAL PRINCIPLE, THAT JUDGES MUST RESPECT AND COMPLY WITH THE LAW AND AT ALL TIMES ACT IN A MANNER THAT PROMOTES -- AT ALL TIMES ACT IN A MANNER THAT PROMOTES PUBLIC CONFIDENCE IN THE ACTIONS OF THE JUDICIARY. YOUR ACTIONS ALSO VIOLATED CANON 2-B, WHICH REQUIRES THAT A JUDGE NOT PERMIT FAMILY, SOCIAL, POLITICAL OR OTHER RELATIONSHIPS TO INFLUENCE HIS CONDUCT OR JUDGMENT AND FORBIDS A JUDGE FROM LENDING THE PRESTIGE OF JUDICIAL OFFICE TO ADVANCE THE PRIVATE INTERESTS OF THE JUDGE OR OTHER PERSONS. CANON 2-B ALSO EMBODIES THE -- 2-B EMBODIES THE PRINCIPLE THAT A JUDGE CANNOT HOLD THE SCALES OF JUSTICE AND PLACE A JUDICIAL THUMB ON THE SCALES IN ANY MANNER TO BENEFIT A FRIEND OR FAMILY MEMBER. SUCH CONDUCT IS THE AND THE ETHICS OF OUR SWORN OBLIGATION TO UPHOLD THE LAW. BY CONTACTING THE POLICE DEPARTMENT, YOU PERMITTED A PERSONAL RELATIONSHIP TO cloud YOUR JUDGMENT, THEREBY PERMITTING PUBLIC IN CONFIDENCE IN THE IMPARTIALITY OF THE JUDICIARY, AND DESPITE PROTESTS OF THE DEPARTMENT, YOU THEN USED THE PRESTIGE AND

POWE R OF YOUR JUDICIAL OFFICE TO DEMAND THE DRIVER'S RELEASE, IN VIOLATION OF STATE LAW . JUDGE MALONEY , THE AUTHORITYOF OUR COURTS IS BUILT ON A FOUNDATION OF PUBLIC RESPECT. THIS RESPECT CA NNOT BE T AKEN FOR GRANTED, BUT MUST BE EARNED EVERYDAY BY ALL OUR JUDGES IN HO W THEY CONDUCTTHEIR AFFAIRS, BOTH IN AND OUTSIDE OF THE COURTROOM. WE MUST BE EVER MINDFUL OF THE UNIQUE HONOR THAT HAS B EEN BESTOWED UPON US BY THE CITIZENS OF THIS STATE AND EVER VIGILANT THAT WE CA RRY OUT THE DI CTATES OF PUBLIC OFF ICE IN A MANN ER THAT IS BEYOND REPROACH. WHEN PUBLIC CONF IDENCE IN ONE M E MBER OF THE JUDICIARY IS IMPAIRED , WHICH OCCURS WHEN A JUDGE COMMITS MISCONDUCT, THE EN TIRE JUSTICE SY STEM SU FFERS . JUDGE MALONEY , YOUR LAPSE OF JUDGMENT IN DIRECTING THE RELEASE OF AN ARRE STEE , BASED ON A PERSONAL RELATIONSHIP, CA LLED INTO QUESTION YOUR IMPARTIALITY AS A JUDGE AND THER EBY HARMS THE JU STICE SYS TEM WHICH YOU SERVE.NOW , THE COURT RECOGNIZES THAT YOU HAVE BEEN A RESPECTED MEMBER OF THE BENCH FOR MORE THAN 28 YEARS AND HAVE NEVER BEEN THE SUBJECT OF A JUDICIAL QUALIFICATIONS PROCEEDING.F URTHER TO YOUR C REDIT , YOU HAVE EXHI BITED CANDOR FROM THE INCEP TION OF THIS INQUIRY. WE ALSO ACKNOWLEDGE YOUR S WORN TESTIMONY TO THE INVESTIGATIVE PANEL OF THE JUDICIAL QUALIFICATIONS COMMISSION THAT YOU ARE UNAWARE THAT YOUR CONDUCT CONSTITUTED A VIOLATION OF STATE LAW . BUT AS HAS OFTEN BEEN STATED , IGNORANCE OF THE LAW IS IS NO EXCUSE , EVEN FOR THOSE UNSCHOOLED IN THE LAW AND CERTAINLY THIS M A XIM AP PLIES WITH EVEN GR EATER FORCE, TO A MEMBER OF THE JUDICIARY. WE HOPE THAT YOU WILL CONSIDER YOURSE LF FORTUNATE THAT MORE SE VERE DISCIPLINE WAS NOT IMP OSED AND THAT YOU WILL CONDUCT YOURSELF IN THE FUTURE I N AN EXEMPLARY WAY , SO AS TO IN SPIRE R ATHER THAN TOUND MINE PUBLIC TRUST AND CONFIDENCE IN OUR JUDICIARY , BUT WE ADV ICE YOU TO REMEMBER THAT, AS WE HAVE S AID MANY TI MES ON JUDICIAL MISCONDUCT CASES, A SE COND E THICAL BR EACH BY A JUDGEWILL BE SANCTIONED FAR MORE SEVERELY. JUDGE MALONEY , YOUR PUBLIC REP RIMAND IS CONCLUDED ANDYOU MAY LEAVE.