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Inquiry Concerning a Judge: Cheryl Aleman

SC07-198

>> PLEASE RISE.

HEAR YE, HEAR YE, HEAR YE.

THE SUPREME COURT OF FLORIDA

IS NOW IN SESSION.

ALL WHO HAVE CAUSE TO PLEAD,
DRAW NEAR, GIVE ATTENTION, AND
YOU SHALL BE HEARD.

GOD SAVE THIS UNITED STATES,
THIS GREAT STATE OF FLORIDA,
AND THIS HONORABLE COURT.

LADIES AND GENTLEMEN, THE
FLORIDA SUPREME COURT.

PLEASE BE SEATED.

>> GOOD MORNING AND WELCOME TO
THE FLORIDA SUPREME COURT.

THE FIRST ITEM ON THE COURT'S
AGENDA IS THE PUBLIC REPRIMAND
OF JUDGE CHERYL ALEMAN.

IS JUDGE ALEMAN IN THE
COURTROOM?

PLEASE APPROACH THE PODIUM.

>> GOOD MORNING.

>> JUDGE ALEMAN, YOU ARE BEFORE
THIS COURT TODAY BECAUSE OF A
ETHICAL CONDUCT IN YOUR
OFFICIAL ROLE AS A JUDGE.

THIS IS A SAD DAY YOU, FOR US,
AND FOR THE ENTIRE STATE.

>> AT THE MOST FUNDAMENTAL LEVEL,
YOU HAVE DAMAGED THE PUBLIC'S
TRUST AND CONFIDENCE IN OUR
STATE COURTS.

THUS, THIS IS A VERY SERIOUS
MATTER BECAUSE THE
EFFECTIVENESS OF OUR JUDICIARY
ULTIMATELY RESTED UPON ON THE
TRUST AND CONFIDENCE THAT THE
PEOPLE CONFER UPON JUDGES.

ALTHOUGH NONE OF US CAN UNDO
WHAT YOU HAVE, WE HAVE
COMMANDED YOU TO APPEAR HERE
TODAY, FOR PUBLIC REPRIMAND
THAT IS BEING BROADCAST
THROUGHOUT THE STATE.

IT IS ONE WAY WE CAN ASSURE THE
PUBLIC THAT WE TAKE ETHICAL

MISCONDUCT BY A JUDGE VERY SERIOUSLY, AND THAT WE WILL NOT HESITATE TO PUNISH ERRANT JUDGES IN A MOST PUBLIC MANNER. JUDGE ALEMAN, YOU HAVE BEEN FOUND GUILTY OF VIOLATING CANNONS 1, 2-A AND 3-B-4 OF THE FLORIDA CODE OF JUDICIAL CONDUCT.

AS IT PERTAINS TO YOUR CASE, CANNON 1, SAYS JUDGES SHOULD PARTICIPATE IN 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. CANNON 2-A, PROVIDES THAT JUDGES SHALL RESPECT AND COMPLY WITH THE LAW AND SHALL ACT AT ALL TIMES IN A WAY THAT PROMOTES PUBLIC CONFIDENCE IN THE INTEGRITY AND IMPARTIALITY OF THE JUDICIARY.

CANNON 3-B-4, STATES THAT, JUDGES SHALL BE PATIENT, DIGNIFIED AND COURTEOUS TO LITIGANTS, JURORS, WITNESSES, LAWYERS, AND OTHERS WHOM THE JUDGE CONFRONTS IN AN OFFICIAL CAPACITY.

BY YOUR MISCONDUCT, YOU FAILED TO OBSERVE THE HIGH STANDARDS OF INTEGRITY REQUIRED OF YOUR OFFICE. YOU FAILED TO FOLLOW CONTROLLING LAW.

YOU ACTED IN A MANNER THAT UNDERMINED A PUBLIC CONFIDENCE IN YOUR INTEGRITY AND IMPARTIALITY, AND YOU EXHIBITED A LACK OF PATIENCE THAT WAS HIGHLY DISCOURTEOUS TO THE LAWYERS APPEARING BEFORE YOU, AND TO THEIR CLIENTS.

SPECIFICALLY, ON JANUARY 24th, 2006, YOU REACTED HARSHLY TO A ORAL RECUSEAL REQUEST OF DEFENSE ATTORNEYS IN A FIRST-DEGREE MURDER CASE THAT WAS BEFORE YOU.

THESE TWO LAWYERS ASSERTED THAT YOU HAD ENGAGED IN AN AGGRESSIVE AND INTIMIDATING QUESTIONING OF PERSPECTIVE

JURORS DURING VOIR DIRE.

YOU KNEW, OR SHOULD HAVE KNOWN THAT UNDER THE CONTROLLING AUTHORITY OF ROGER VERSUS STATE, THE DEFENSE ATTORNEYS REQUESTED AND IN FACT WERE REQUIRED TO REQUEST THE OPPORTUNITY TO PUT THEIR RECUSEAL MOTIONS IN WRITING. YOU IN TURN, WERE REQUIRED TO GIVE THEM A REASONABLE OPPORTUNITY TO REDUCE THE MOTION TO WRITING, YES YET YOU DENIED THEIR REQUEST AND IMMEDIATELY DENIED THE MOTION ON THE MERITS.

LATER, ONE OF THE ATTORNEYS MADE A SECOND ORAL MOTION TO RECUSE YOU, BASED ON YOUR ALLEGED PREFERENTIAL TREATMENT OF THE ASSISTANT STATE ATTORNEY.

WHEN THE TWO ATTORNEYS REQUESTED AT LEAST AN HOUR TO REDUCE THE MOTIONS TO WRITING, YOU GAVE THEM PAPER AND PENCIL, AND ALLOWED THEM 15 MINUTES TO PUT THEIR MOTION IN WRITING.

AFTER BOTH OF THESE ATTORNEYS HAD NOT YET RETURNED AT THE APPOINTED TIME, YOU WAITED UNTIL ONE OF THEM APPEARED AND THREATENED TO HOLD THEM BOTH IN CONTEMPT.

WHEN BOTH ATTORNEYS WERE AGAIN PRESENT, YOU THEN PRESENTED, REPRESENTED THAT YOU HAD ALREADY ALLOWED A SHOW CAUSE TO BE ENTERED.

YOUR STATEMENT TO THIS EFFECT PROMPTED ONE THE ATTORNEYS TO MOVE TO WITHDRAW FROM THE CASE. INDICATING THAT HE COULD NOT EFFECTIVELY REPRESENT HIMSELF AND HIS CLIENT.

AND IN RESPONSE TO YOUR THREAT OF CONTEMPT PROCEEDINGS, THE OTHER DEFENSE ATTORNEY, AGAIN, ORALLY MOVED FOR YOUR RECUSEAL, AND FOR SUFFICIENT TIME TO REDUCE THE MOTION TO WRITING. YOU GRANTED 15 MINUTES, AND WHEN COUNSEL OBJECTED YOU REDUCED IT TO 12 MINUTES.

THE ATTORNEYS WERE UNABLE TO COMPLY IN THIS TIME, AND RETURNED TO THE COURTROOM WITHOUT A WRITTEN MOTION. WHEN FINALLY PRESENTED WITH THE MOTION, YOU DENIED IT AS WELL. ULTIMATELY, YOU NEVER ISSUED THE SHOW CAUSE, AND YOU MADE NO ATTEMPT TO BEGIN THE CONTEMPT PROCEEDINGS.

JUDGE ALEMAN, THE RULE OF LAW ANNOUNCED IN ROGERS WAS DESIGNED TO ELIMINATE PRECISELY THE KIND OF BEHAVIOR YOU EXHIBITED.

JUDGES ARE NOT, AND MUST NEVER BECOME ADVERSARIES OF ANY ATTORNEY APPEARING BEFORE THEM, ESPECIALLY IN A FIRST-DEGREE MURDER CASE.

ALL OF US WHO SIT ON BENCH ARE SUBJECT TO CRITICISM, INCLUDING RECUSEAL REQUESTS THAT MAY BE HIGHLY UNFLATTERING TO US. NONETHELESS, WE STILL MUST BE FAIR, COURTEOUS, AND IMPARTIAL WHEN RESPONDING TO THESE REQUESTS.

AND NONE OF US ARE PERMITTED TO IGNORE THE LETTER OR SPIRIT OF CONTROLLING LAW SIMPLY BECAUSE AN ACCUSATION HAS BEEN MADE AGAINST US AS GROUNDS FOR CUESAL.

BY YOUR ACTIONS, YOU FAILED TO MEET YOUR ETHICAL OBLIGATIONS TO THE DEFENSE ATTORNEYS AND THEIR CLIENT.

FOR THAT LAPSE, YOU ARE HEREBY REPRIMANDED.

FINALLY, I CAUTION YOU TO REVIEW THE CASE LAW RELATED TO JUDICIAL DISCIPLINE IN THIS STATE.

YOUR OBLIGATION NOW AND HENCEFORTH TO SEE THAT YOU NEVER AGAIN COMMIT AN ETHICAL VIOLATION THAT REQUIRES THIS COURT TO DISCIPLINE YOU.

AS OUR PRIOR CASES HAVE INDICATED, A SECOND VIOLATION WILL BE VIEWED MORE HARSHLY. JUDGE ALEMAN, YOUR REPRIMAND IS CONCLUDED AND YOU ARE FREE TO

LEAVE.

>> GOD BLESS YOU AND THE COURT.