

8

>> ALL RISE.

HEAR YE, HEAR YE, THE SUPREME COURT OF FLORIDA IS NOW IN SESSION.

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

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

LADIES AND GENTLEMEN, THE SUPREME COURT OF FLORIDA. PLEASE BE SEATED.

>> FIRST CASE ON THE DOCKET IS REPRIMAND OF JUDGE KIMBERLY MICHELE SHEPARD.

JUDGE SHEPARD.

STAN AT THE PODIUM PLEASE, THANK YOU.

JUDGE SHEPARD, YOU'RE HERE BEFORE THE COURT TODAY BECAUSE OF ETHICAL MISCONDUCT IN THE ELECTION CAMPAIGN YOU RAN TO BECOME A JUDGE.

I WILL SAY HERE AND NOW HOW UNFORTUNATE A DAY THIS IS FOR YOU, FOR US, AND FOR THE ENTIRE STATE JUDICIARY.

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

THIS IS A VERY SERIOUS MATTER, VERY SERIOUS.

THE EFFECTIVENESS OF OUR JUDICIARY ULTIMATELY RESTS ON THE TRUST AND CONFIDENCE THAT THE PEOPLE CONFER UPON JUDGES. THAT IS WHY YOUR MISCONDUCT DID GREAT HARM TO THE VERY BASIS OF OUR GOVERNMENT OF SEPARATED POWERS.

NONE OF US CAN UNDO WHAT YOU HAVE DONE.

NONE OF US CAN ASK THE PUBLIC TO OVERLOOK YOUR UNETHICAL BEHAVIOR.

NONE OF US CAN CORRECT THE MISCHIEF THAT YOUR MISCONDUCT

UNFAIRLY INTRODUCED INTO AN ELECTION.

THAT IS WHY WE HAVE TO COMMANDED YOU TO APPEAR TODAY FOR A PUBLIC REPRIMAND THAT IS BEING BROADCAST THROUGHOUT THE STATE. IT IS ONE WAY WE CAN ASSURE THE PUBLIC THAT WE TAKE THE ETHICAL FAULTS OF A JUDGE VERY SERIOUSLY.

AND IT SHOWS EVERYONE THAT FLORIDA WILL NOT HESITATE TO PUNISH ERRANT JUDGES IN A MOST PUBLIC WAY.

JUDGE SHEPARD, THIS COURT IN ITS OPINION HAS FOUND CLEAR AND CONVINCING EVIDENCE THAT YOUR CAMPAIGN MADE FALSE STATEMENTS. THESE STATEMENTS MISLED THE PUBLIC.

WE ALSO FOUND THAT YOU KNEW THESE STATEMENTS WERE FALSE WHEN YOU AUTHORIZED ADVERTISEMENTS CONTAINING THEM.

SPECIFICALLY YOU SENT OUT MATERIALS SAYING THAT THE "ORLANDO SENTINEL" HAD ENDORSED YOU.

YOU SAID THAT THE "ORLANDO SENTINEL" PRAISED YOU FOR WORKING HARD, FOR KEEPING YOUR PROMISES AND FOR MAINTAINING YOUR INTEGRITY.

BUT IN FACT THE "ORLANDO SENTINEL" SAID NO SUCH THING IN YOUR 2014 JUDICIAL CAMPAIGN. TO THE CONTRARY, THE "ORLANDO SENTINEL" ENDORSED YOUR OPPONENT.

YET YOU HAVE CLAIMED IN THESE PROCEEDINGS YOU TOLD THE TRUTH IN STRICTLY LITERAL SENSE IN THESE CAMPAIGN MATERIALS. THE ACTUAL PROVE IS THIS. YOU USED SELECTIVE QUOTATIONS FROM AN ORLANDO ENDORSEMENT, "ORLANDO SENTINEL" ENDORSEMENT GIVEN TO YOU 20 YEARS EARLIER WHEN YOU RAN A TOTALLY SEPARATE CAMPAIGN FOR RE-ELECTION TO THE

LEGISLATURE.

THE MATERIAL YOU SENT TO THE PUBLIC IN 2014 OMITTED THE 1994 DATE FROM THE EARLIER NEWSPAPER ENDORSEMENT.

AS A RESULT, ANYONE SEEING YOUR CAMPAIGN MATERIALS WOULD HAVE ASSUMED INCORRECTLY THAT THE ENDORSEMENT WAS MADE IN THE PRESENT DAY.

IT WAS NOT.

LIKEWISE, YOU PURPOSE FULLY EXCLUDED PARTS OF THE 1994 ENDORSEMENT THAT MENTIONED YOU WERE RUNNING FOR LEGISLATIVE OFFICE 20 YEARS EARLIER.

AS A RESULT, PEOPLE WOULD HAVE ASSUMED, INCORRECTLY, THAT THE "ORLANDO SENTINEL" HAD ENDORSED YOU FOR JUDICIAL OFFICE IN 2014.

IT HAD NOT.

MOREOVER, YOU FAILED TO USE ELLIPSES OR OTHER MARKS THAT MIGHT HAVE ALERTED READERS TO YOUR DISTORTION OF THE ORIGINAL "ORLANDO SENTINEL" QUOTATION. THIS WAS WRONG.

JUDGE SHEPARD, EVERY LAWYER KNOWS, OR OUGHT TO KNOW THAT THIS IS UNETHICAL BEHAVIOR. NO ETHICAL LAWYER IS PERMITTED TO INTENTIONALLY MODIFY QUOTED MATERIAL WITHOUT ACKNOWLEDGING THAT FACT WHEN OTHERS MIGHT RELY ON ITS ACCURACY.

AS A RESULT, YOU SHOWED OBVIOUS AND FLAGRANT INTENT TO SEE SIEVE AND THIS COURT HAS SO FOUND. THIS COURT ALSO HAS ACCEPTED THE JUDICIAL QUALIFICATION COMMISSION'S FINDINGS AS TO THREE ETHICAL VIOLATIONS YOU COMMITTED THROUGH YOUR MISCONDUCT.

FIRST, THEY FOUND YOU VIOLATED CANNON 7-A OF THE JUDICIAL CONDUCT IN TWO-WAYS.

FIRST, FAILING TO ACT TO ACT IN YOUR CAMPAIGN IN A MANNER

CONSISTENT WITH THE INTEGRITY OF THE JUDICIARY AND SECOND BY KNOWINGLY MISREPRESENTING FACTS ABOUT YOURSELF OR YOUR OPPONENT IN THE CAMPAIGN.

THE PANEL ALSO FOUND THAT YOU VIOLATED A SEPARATE PROVISION OF THE RULES REGULATING THE FLORIDA BAR, SPECIFICALLY, RULE 4-8.2 SUB B, WHICH PROHIBITS ALL LAWYERS FROM VIOLATING CANNON 7 OF THE CODE OF JUDICIAL CONDUCT AT ANYTIME WHEN THEY ARE RUNNING FOR JUDICIAL OFFICE.

THE FACT THAT YOUR MISCONDUCT OCCURRED DURING A CAMPAIGN FOR OFFICE DOES NOT SHIELD YOU FROM DISCIPLINE.

THE UNITED STATES SUPREME COURT HAS HELD THAT STATES LIKE FLORIDA CAN REGULATE JUDICIAL ELECTIONS FAR MORE STRICTLY THAN OTHER KINDS OF ELECTIONS.

THE FIRST AMENDMENT DOES NOT CREATE A FREE PASS FOR JUDICIAL CANDIDATES TO DISTORT FACTS OR MISREPRESENT THEMSELVES OR THEIR OPPONENTS IN THEIR CAMPAIGNS.

FURTHERMORE, PUNISHMENT FOR THESE VIOLATIONS CAN EXTEND UP TO AND CAN INCLUDE REMOVAL FROM OFFICE.

I MUST TELL YOU, JUDGE SHEPARD, THIS COURT IN ITS OPINION WAS DEEPLY TROUBLED BY YOUR CLAIMS. YOU ARGUED THAT YOUR HIGHLY SELECTED QUOTATION FROM A 20-YEAR-OLD NEWSPAPER ENDORSEMENT WAS SOMEHOW NOT MEANT TO BE MISLEADING OR DECEPTIVE.

WE CAN SEE NO REASONABLE INTERPRETATION OF THE FACTS THAT LEND EVEN MINIMAL SUPPORT TO THIS VIEW.

ACCORDINGLY, WE ARE HOLDING YOU SUSPENDED WITHOUT PAY FOR 90 DAYS.

WE ORDER YOU TO PAY THE COST OF THESE PROCEEDINGS.

WE ARE COMMANDED YOU TO APPEAR  
TODAY IN OPEN COURT FOR THIS  
PUBLIC REPRIMAND.

BEFORE WE RELEASE YOU, JUDGE  
SHEPARD, THERE IS SOMETHING ELSE  
I WANT YOU TO TAKE TO HEART.

WE STRONGLY ENCOURAGE YOU TO  
REVIEW THE PRIOR DISCIPLINARY  
CASES THIS COURT FROM TIME TO  
TIME HAS ADDRESSED.

BY THIS ACTION TODAY, WE  
ADMONISH YOU TO CORRECT WHATEVER  
CAUSED YOU TO COMMIT THIS VERY  
SERIOUS ETHICAL BREACH BUT WE  
ALSO ADVISE YOU TO REMEMBER WHAT  
OUR PRIOR CASES CONSISTENTLY  
HOLD.

A SECOND ETHICAL BREACH BY A  
JUDGE WILL BE VIEWED FAR, FAR  
MORE HARSHLY.

YOUR PUBLIC REPRIMAND IS  
CONCLUDED AND YOU MAY LEAVE.