

IN THE SUPREME COURT OF FLORIDA  
CASE NO: SC2023-1478

INQUIRY CONCERNING A JUDGE NO. 2023-539 RE:  
HON. KENNETH L. HOSFORD

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**THE FLORIDA PUBLIC DEFENDER ASSOCIATION'S  
MOTION FOR LEAVE TO APPEAR AS AMICUS**

Pursuant to Florida Rule of Appellate Procedure 9.370(a), the Florida Public Defender Association, Inc., (FPDA), moves this Court for leave to appear as amicus curiae and submit an amicus brief. FPDA stands with the Florida Association of Criminal Defense Lawyers (FACDL) to express deep concern with the stipulated allegations in this case and disapproval of the stipulated resolution reached between the Judicial Qualifications Commission (JQC) and Judge Hosford.

The FPDA consists of 19 elected public defenders, hundreds of assistant public defenders, and support staff. FPDA members are appointed counsel for thousands of indigent defendants faced with government prosecution. This critical role gives FPDA particular interest in ensuring all clients receive due process and equal

protection under the law from an independent judiciary. To that end, FPDA seeks to assist the Court with reaching the appropriate result in this case.

The FPDA urges the Court to consider whether the stipulated resolution adequately addresses the magnitude of the undisputed misconduct in this case. Judge Hosford: (1) purposefully engaged in a lengthy ex-parte conversation with a prosecutor after dismissing the public defender from the Zoom hearing, (2) undertook independent investigation to benefit the State, (3) discussed appellate litigation by the public defender regarding a motion to disqualify him in a pending case, (4) made numerous highly concerning comments about immigrants in direct violation of Judicial Canon 3, and (5) repeatedly referenced how he was in a “battle” with the public defender’s office who was “coming prepared” to challenge his sentencing policies.

FPDA’s goal is to ensure all clients appear before a neutral and detached magistrate. Given that goal, the FPDA has grave concerns about the stipulated resolution because the undisputed misconduct occurred in a county with only one judge. Simply put, there is no alternative judge in Liberty County ready to preside over cases if

defense attorneys file a motion to disqualify Judge Hosford. Furthermore, the transcript indicates a clear preference for and bias towards law enforcement and prosecutors which creates a well-founded fear that defense attorneys and their clients will not receive a fair and impartial opportunity in court.

FPDA, if permitted to file an amicus brief, will address the substance of the Judge's comments in greater detail, and fully set forth its position on why indigent clients and their counsel would fear they could not receive fair treatment in Judge Hosford's courtroom. If given the opportunity to present an amicus brief to this Court, the FPDA is prepared to assist the Court by giving its critical perspective.

The FPDA suggests to the Court that it strongly consider whether public trust and confidence in the judiciary can be maintained with the current recommended disposition. This Court's role is vital to ensuring an independent and unbiased judiciary through the disciplinary process. FPDA seeks to brief the Court so that it has all the information it needs to fully consider what sanctions are appropriate to ensure integrity in Florida's judicial system.

Undersigned counsel reached out to counsel for both the JQC (Alexander John Williams, Esq.) and Judge Hosford (Scott Tozian, Esq.) on November 29, 2023 and has not received a response. If leave to file an amicus brief is granted, FPDA requests 15 days in order to do so, which will give FPDA time to draft the brief and circulate it among the organization for approval before filing.

Respectfully submitted,

Carlos J. Martinez Digitally signed by Carlos J. Martinez  
Date: 2023.11.30 15:08:42 -05'00

CARLOS J. MARTINEZ

President,

Florida Public Defender Association, Inc.

Public Defender

Eleventh Judicial Circuit of Florida

1320 N.W. 14th Street

Miami, Florida 33125

(305)545-1961

Florida Bar No. 870846

[cmartinez@pdmiami.com](mailto:cmartinez@pdmiami.com)

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was efiled with the Florida Supreme Court, and a copy served via email to counsel for the Judicial Qualifications Commission, Alexander John Williams, at [awilliams@floridajqc.com](mailto:awilliams@floridajqc.com), and on counsel for Judge Kenneth L. Hosford, Scott Tozian, at [stozian@smithtozian.com](mailto:stozian@smithtozian.com), on November 30 2023.

Respectfully submitted,

Carlos J. Martin Digitally signed by Carlos J. Martinez  
Date: 2023.11.30 15:08:58 -05'

**CARLOS J. MARTINEZ**

President,

Florida Public Defender Association, Inc.

Public Defender

Eleventh Judicial Circuit of Florida

1320 N.W. 14th Street

Miami, Florida 33125

(305)545-1961

Florida Bar No. 870846

[cmartinez@pdmiami.com](mailto:cmartinez@pdmiami.com)