

**IN THE SUPREME COURT OF THE  
STATE OF FLORIDA**

INQUIRY CONCERNING A JUDGE,  
THE HON. KENNETH L. HOSFORD  
JQC NO. 2023-539

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SC23- \_\_\_\_\_

**FINDINGS AND RECOMMENDATION OF DISCIPLINE**

**Procedural History**

In August of 2023, the Florida Judicial Qualifications Commission (the “JQC”) served a Notice of Investigation on Liberty County Judge Kenneth L. Hosford (“Respondent” or “Judge Hosford”), pursuant to Rule 6(b) of the Florida Judicial Qualification Commission Rules (“FJQC Rules”). On September 14, 2023, Judge Hosford appeared before the Investigative Panel of the Commission with counsel, and provided testimony under oath, in response to the Notice of Investigation. During that hearing, Judge Hosford admitted to the conduct alleged in the Notice of Formal Charges being filed concurrently with these Findings and Recommendation. At the conclusion of the hearing, the Investigative Panel voted to find probable cause and proceed with the institution of formal charges, pursuant to FJQC Rule 6(f). These Findings and Recommendations make specific references to the transcript attached to the Notice of Formal Charges as JQC Exhibit A. (References to JQC Exhibit A are indicated as T. page/ line). JQC Exhibit B is a video of the transcribed meeting.

## **The Misconduct**

On the morning of June 15, 2023, immediately following a court hearing being conducted by Zoom, Judge Hosford dismissed an Assistant Public Defender from the Zoom meeting and instructed the Assistant State Attorney to remain on the Zoom call. Judge Hosford told the Assistant Public Defender that he was not going to speak with the prosecutor about “a particular—any pending case,” but that he wanted to “find out, you know, about who’s going to be doing my court, what the turnover is and that sort of thing.” (T. 1/ lines 6-11). Based on the discussion<sup>1</sup> that actually occurs, it is quite clear that this explanation to the Public Defender is, at best, misleading.

Over the course of the next approximately 27 minutes, Judge Hosford addresses his concerns over the prosecutor’s decision to decline to file charges in a theft case where Judge Hosford had, just the day before, personally approved an arrest warrant for the accused.<sup>2</sup> During the Zoom meeting, while addressing his displeasure with the way the prosecutor had declined to prosecute the case, Judge Hosford also admits to having provided investigative advice to the detective

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<sup>1</sup> “Soliloquy” is perhaps a more accurate description of the call, since the conversation is almost completely one-sided. The prosecutor barely speaks and gives mostly *pro forma* responses.

<sup>2</sup> In State v. Reese Forehand (Liberty County Case No. 2023CF72), Judge Hosford approved a warrant for the arrest of a person suspected in the theft of laundry detergent and dryer sheets valued at \$40.

investigating the crime, including suggesting to the detective that he might get a search warrant to obtain more evidence of the crime. (T. 5/ lines 4-6).

Judge Hosford also suggests to the prosecutor that he should have the detective “rework it and bring it back to me and I will issue it with supplemental.” (T. 8/ lines 10-12). To his credit, the prosecutor did not follow that suggestion, and Judge Hosford has since recused himself from this case specifically, and all criminal cases, as will be discussed below.<sup>3</sup>

During the June 15 conversation, Judge Hosford also made other comments clearly evincing a bias in favor of law enforcement. Among those statements, Judge Hosford told the prosecutor that his job is “to back up your sheriff, to back up your officer. That’s your job. And to back up your Judge.” (T. 3/ lines 17-19). Judge Hosford continues, “And, yes, there were times that as a Judge I’d probably erred on the side of supporting them on a case that the community was upset about. It’s a small community you know, sometimes the characters are involved in crime.” He adds, “We’re still bound by the rules of evidence.” (T. 3/ lines 20-25). The Commission is, frankly, at a loss to understand these stunningly inappropriate comments.

First, the Commission firmly rejects the suggestion that it is the prosecutor’s job to “back up” law enforcement, or to “back up your judge.” Eighty-eight years

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<sup>3</sup> The defendant was subsequently charged with two other crimes unrelated to the matter discussed during the June 15 call.

ago, Justice Sutherland referred to prosecutors as “...the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done...” *Berger v. United States*, 295 U.S. 78, 88, 55 S.Ct. 629, 79 L.Ed. 1314 (1935). The Florida Supreme Court has also endorsed this view of a prosecutor as a minister of justice. *See The Florida Bar v. Cox*, 794 So. 2d 1278, 1285-86 (Fla. 2001).

Next, the Commission notes that Canon 2B affirmatively prohibits a judge from allowing family, social, political or other relationships to influence the judge’s judicial conduct or judgment. Here, Judge Hosford seems to admit that he erred on the side of law enforcement in approving the Forehand warrant, when he stated, “And from my perspective, obviously, you know, I saw the thinness, but I also suggested to him that he consider, you know, a search warrant and a supplemental statement...”. (T. 7/ line 16-19).

Additionally, throughout the June 15 monologue, Judge Hosford discusses issues he is having with the Office of the Public Defender, mostly relating to a “battle” he is having over that Office’s decision to try to get him disqualified from several cases. (T. 9-10/ lines 9-25 and 1-10). Here, it appears that Judge Hosford is continuing to foment about the motions to disqualify him in pending cases, and

discussing the Public Defender's attempts to appeal his decision to decline disqualification.

These comments are not an exhaustive list of the questionable and inappropriate statements made on that call, this Findings and Recommendation notes them particularly because they are potentially the most serious and are representative, overall, of the issues that arise in the call.

While Judge Hosford admits that he made the statements on the video, he insists that those statements do not represent how he actually conducts himself. To that end, the Commission is not aware of any other inappropriate statements or conversations like occurred on the June 15, 2023 Zoom call. However, the fact of the matter is that the judge did make those statements, and those statements create the appearance of impropriety.

Taken individually, and as a whole, Judge Hosford's statements throughout the June 15 call were incompatible with his responsibility to maintain and promote the integrity, independence, and impartiality of the judiciary.

The Commission finds, and Judge Hosford agrees, that the allegations contained in the Notice of Formal Charges are supported by clear and convincing evidence.

### **Mitigation**

Judge Hosford has been the Liberty County judge since 1997. He has no prior disciplinary record with the Commission. He was admitted to the Florida Bar in 1983, and has an unblemished record as a licensed attorney.

Further, Judge Hosford admitted to his misconduct and has cooperated with the Commission in all respects during this inquiry. The Commission also credits his decision to self-report the June 15 conversation to the Commission. He deeply regrets that his conduct could have eroded the public's perception of the impartiality, integrity, and independence of the judicial branch. He hopes to rectify this, in part, by taking responsibility for his misconduct, and accepting the sanction described below.

### **Recommendation as to Discipline**

The Commission finds, and Judge Hosford agrees, that a severe sanction is required to begin to repair the damage done by his words. To that end, the parties have stipulated to the following: That Judge Hosford should be publicly reprimanded and suspended without pay for 30 days. In addition, after his suspension, Judge Hosford will completely recuse himself, for a period of three months, from all criminal matters, and recuse himself from treatment hearings at Florida State Hospital in Chattahoochee. After that period, any motions filed pursuant to Rule 2.330 Fla. R. Gen. Prac. & Jud. Admin. will be assessed on a case-by-case basis.

The Commission also notes that, in addition to the three-month recusal period which will start after his suspension, Judge Hosford voluntarily entered an order on October 23, 2023, immediately recusing from all criminal matters and treatment hearings while this judicial discipline matter is pending.

Recognizing the potential hardship that his inability to preside over criminal matters might create for the Circuit, Judge Hosford will pay a \$2,000 fine intended to ameliorate the cost to the State of Florida for having to arrange coverage of his, approximately, one-day-a-month criminal docket.

Judge Hosford will also provide letters of apology to the Assistant Public Defender and Assistant State Attorney involved in the June 15 Zoom call.

Finally, in order to avoid the possibility of such *ex-parte* conversations reoccurring, Judge Hosford is placing signage outside his chambers noting that he is not permitted to have *ex-parte* communications with any person about any case, and will notify the Sheriff and other law enforcement agencies, in writing, that he is not permitted to discuss pending or impending cases. Judge Hosford will establish a procedure to review proposed warrants electronically, without any contact with the requesting law enforcement officers- except where an emergency exists. Judge Hosford will also complete six additional Continuing Judicial Education credits on ethics topics.

Dated this 25th day of October, 2023.

**THE FLORIDA JUDICIAL  
QUALIFICATIONS  
COMMISSION**

By: /s/ Michelle Morley  
Hon. Michelle Morley  
Vice-Chair of the FJQC  
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