

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A JUDGE,
THE HONORABLE BRONWYN C. MILLER

SC2025-1663

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**MOTION FOR RECONSIDERATION OF JQC'S ORDER DENYING
AMENDED OMNIBUS MOTION TO DISMISS**

COMES NOW Judge Bronwyn C. Miller and moves for reconsideration of the JQC's Order Denying Amended Omnibus Motion to Dismiss and in support thereof states the following:

**THE JQC HEARING PANEL IS VESTED WITH JURISDICTION TO
CONSIDER JUDGE MILLER'S CONSTITUTIONAL CLAIMS**

Article 5, section 12 of the Florida Constitution vests the Judicial Qualifications Commission with exclusive jurisdiction to "investigate and recommend the discipline of a justice or judge whose conduct, during term of office . . . warrants such discipline." Id. Consistently, the Florida Judicial Qualifications Commission Rules provide that "[t]he Hearing Panel shall . . . hear and determine formal charges from the Investigative Panel." FJQCR 7(a). The Chair of the Hearing Panel, in turn, has the authority to dispose of all pretrial motions, including dismissal motions. FJQCR 7(b).

In accord with these principles, neither the Florida Constitution nor the Florida Judicial Qualifications Commission Rules limits the Chair's ability to

adjudicate constitutional issues. Indeed, the Florida Supreme Court is only “vested with jurisdiction to consider” a discipline case “[u]pon recommendation of two-thirds of the [Hearing Panel’s] members.” Gerald Kogan and Robert Craig Waters, The Jurisdiction of the Florida Supreme Court, The Record, Journal of the Appellate Practice and Advocacy Section of The Florida Bar, Vol. VI, No. 1, Aug. 1997. Until that time, the Hearing Panel alone has jurisdiction to rule on legal claims.

To ensure preservation enabling future review, a judge must fully litigate any constitutional issues to conclusion before the Hearing Panel. In In re Decker, 212 So. 3d 291 (Fla. 2017), the Florida Supreme Court “decline[d] to rule on the constitutionality of ... the Code of Judicial Conduct that prohibit a candidate from publicly stating his or her affiliation with or support for a political party” because “[t]he constitutional claim was not fully litigated in the JQC proceeding.” Id. at 312 n. 5. The Decker court further noted that the State Attorney General was not furnished with notice, as required under section 86.091, Florida Statutes and simultaneously declined to rule on the judge’s constitutional claim pertaining to a violation of Canon 7C(3) for “stating his position as ‘pro-life’” because “[t]he JQC did not expressly rule on this portion of the charge.” Id. These rulings presuppose that the Hearing Panel has the authority to adjudicate constitutional claims.

Indeed, to find otherwise would create a Catch-22; a judge could not obtain a ruling from the Hearing Panel on the disputed constitutional issue, and the issue would thus evade further review due to a lack of preservation. See High Definition Mobile MRI, Inc. v. State Farm Mutual Auto. Ins. Co., 321 So. 3d 818, 824 (Fla. 4th DCA 2021) (“[A] party must obtain a ruling from the trial court in order to preserve an issue for appellate review.”) (internal quotation omitted).

Here, the proceedings remain before the Hearing Panel. There has been no recommendation of discipline by two-thirds of the Hearing Panel. Judge Miller has provided notice of the pending constitutional issues to Florida’s Attorney General. The Chair is therefore vested with exclusive jurisdiction to adjudicate the constitutional issues raised in the Amended Omnibus Motion.

THE JQC HAS CONCEDED THAT THE COMMUNICATIONS WERE A VALID EXERCISE OF JUDGE MILLER’S INSTRUCTION AND PETITIONING RIGHTS

Florida precedent compels the conclusion that by failing to address the instruction right and petitioning right, the JQC has “implicitly concede[d] th[ese] point[s].” Guzman v. City of Hialeah, No. 15-2 3985-CIV, 2016 WL 3763055, at *3 (S.D. Fla. July 14, 2016) (“A plaintiff who, in her responsive brief, fails to address her obligation to object to a point raised by the

defendant implicitly concedes that point.”); see also Les Violins, Inc. v. Alzamora, 541 So. 2d 1353, 1354 (Fla. 3d DCA 1989) (“We treat respondents' failure to respond as a concession of the correctness of petitioner's argument as applied to the facts of this case.”); Stukins v. State, 418 So. 3d 168, 174 (Fla. 4th DCA 2025) (holding that State conceded issue by failing to substantively address it in answer brief); Anderson v. Ewing, 768 So. 2d 1161, 1166 n. 1 (Fla. 4th DCA 2000) (“[Appellee] as much as conceded this issue by failing to address it at all in his answer brief.”). Federal appellate courts have similarly held that failure to respond to an argument raised in a motion to dismiss results in waiver. See Bonte v. U.S. Bank, N.A., 624 F.3d 461, 466 (7th Cir. 2010) (“Failure to respond to the argument—as the Bontes have done here—results in waiver”); Athridge v. Iglasias, 1997 WL 404854 (D.C. Cir. 1997) (“In addition, appellant conceded all challenges to the district court’s award of damages by failing to address the damages issue in his response to the motion for summary judgment). Because the JQC did not address these claims in their response or in the hearing on the Amended Omnibus Motion to Dismiss, it has conceded these two independent constitutional claims. Judge Miller is therefore entitled to dismissal on either of these two grounds.

WHEREFORE, Judge Miller respectfully moves for a limited reconsideration of the Order on the Amended Omnibus Motion as set forth herein and requests dismissal of the Notice.

CERTIFICATE OF SERVICE

HEREBY CERTIFY that a true and correct copy of the foregoing was filed this 1st day of May, 2026 via the Florida's eFiling Portal and a copy of same was served electronically by the Court's eService to Jon Bielby, Esq., Florida Judicial Qualifications Commission, P.O. Box 14106, Tallahassee, FL 32317, hjbielby@floridajqc.com; Gregory W. Coleman, Chair, Florida Judicial Qualifications Commission, gcoleman@lawclc.com; Alexander J. Williams, Esq., Florida Judicial Qualifications Commission, P.O. Box 14106, Tallahassee, FL 32317, awilliams@floridajqc.com; Hugh R. Brown, Assistant General Counsel, Judicial Qualifications Commission, P.O. Box 14106, Tallahassee, FL 32317, hbrown@floridajqc.com; Henry M. Coxe, III, Special Counsel, Brian T. Coughlin, Esq., Special Counsel, Florida Judicial Qualifications Commission, Bedell, Dittmar, DeVault, Pillans & Coxe, P.A., 101 East Adams Street, Jacksonville, FL 32202, hmc@bedellfirm.com, btc@bedellfirm.com; Stephanie Jablonsky, Esq., Jablonsky Legal LLC d/b/a Madison House Legal Group, 124 West Washington Ave., Suite 4, Washington, NJ 07882, Stephanie@MadisonHouseLegal.com; Lansing C.

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