



IN THE COURT OF THE JUDICIARY OF ALABAMA
NUMBER 38

IN THE MATTER OF:
DAN C. KING, III
CIRCUIT JUDGE OF THE TENTH JUDICIAL CIRCUIT OF ALABAMA

ON A COMPLAINT BY THE ALABAMA JUDICIAL INQUIRY
COMMISSION

PRE-TRIAL BRIEF OF THE JUDICIAL INQUIRY COMMISSION

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STATEMENT OF THE ISSUES

1. The Respondent, while a Circuit Judge of the Tenth Judicial Circuit of Alabama, engaged in conduct which violated Canons 1, 2, 2A, 2B, 2C, 3A(1), 3C(1), 3A(6) of the Alabama Canons of Judicial Ethics, which calls for the Court to consider appropriate sanctions.
2. Judge King's assertion that the actions he took were the "humanitarian thing to do," does not provide legal authority for a Circuit Judge to ignore the Statutes of the State of Alabama and set aside a felony conviction.
3. Any mitigation that is suggested by the assertion that the actions of Judge King were strictly "humanitarian" is grossly outweighed by the Respondent's conduct in attempting to conceal his acts and/or to obtain "after the fact" approval of his acts by the victim.

INTRODUCTION

COUNT ONE

Public confidence in the judicial system of the State of Alabama requires that a judge in that system be held to the highest standards of conduct. The conduct of Judge Dan C. King, III, as set out in the charges of the Judicial Inquiry Commission, is a serious and egregious violation of those standards.

Judge King intervened in a circuit court criminal case wherein he had previously represented the defendant as a private attorney at the time of the defendant's plea of guilty. Judge King, at the request of the defendant's mother, contacted a Department of Corrections clerk and requested that the Department set aside the defendant's rape conviction; enlisted the assistance of and the approval of an Assistant District Attorney to set aside the rape conviction of the defendant using a letter on his official stationary with the State Seal and his judicial title; once given an oral approval of the Assistant District Attorney, set aside a felony conviction of the defendant for rape in the second degree without any pleadings being filed and without notification to the victim of the offense that he was setting aside the conviction and then nollle processing the case. The avowed purpose in

setting aside the conviction was to allow the defendant to avoid the consequences of Alabama's Community Notification Act, Code of Alabama, 1975, §15-20-20, et seq., which requires convicted sex offenders upon release from jail to register their place of residence and strictly limits the available locations of that residence.

Judge King then had the Clerk of the Circuit Court's Office certify that entry and provided the defendant and his mother with certified copies of the Order. Judge King instructed the defendant to carry one of the certified copies with him in case he was questioned by law enforcement officers and to provide a certified copy to the sheriff's office to show that he no longer had the necessity to register under the Alabama Community Notification Act. The defendant provided a copy of the Order to the Sheriff of Jefferson County's deputy who was responsible for registration of sex offenders.

When Judge King was questioned about the Order by Judge Petelos, the presiding judge of the Bessemer Division of the Circuit Court, Judge King acknowledged that it was his signature on the docket entry setting aside the conviction of the defendant. Judge Petelos pointed out to Judge King that: Judge King had represented the

defendant as a private attorney in that particular case; that this was just the type of case the Alabama Community Notification Act was designed for; and, that "humanitarian reasons" did not provide any legal authority to set aside a conviction. Judge King advised Judge Petelos that he would set aside his previous Order immediately and, subsequently, set aside the Order.

After Judge King set aside the Order, he failed to advise the defendant or his mother that he had done so and that the defendant was now required to register under Alabama's Community Notification Act. Judge King did request that the defendant's mother attempt to contact the victim in the rape case and have the victim call Judge King and speak with him about setting aside the conviction. Judge King also requested that the defendant's mother and the defendant should contact the Assistant District Attorney in the case.

COUNT TWO

Judge Dan C. King, III, issued a written recusal order in a case assigned to him and in that order alleged that a sitting Judge in the Tenth Circuit had "succumbed to political pressure" and when that Judge had entered an order in a pending, unrelated case.

Judge King further stated in that same order that "...justice and fairness often require a judge to standup (sic) against High Court decisions that violate fundamental fairness..." inferring that there are occasion when trial judges should be unwilling to enforce the law as written.

STATEMENT OF THE FACTS

The complaint filed with this Honorable Court contains an extensive recitation of the facts upon which the complaint is based and that complaint states as follows:

**BEFORE THE COURT OF THE JUDICIARY
OF
ALABAMA**

In the Matter of DAN C. KING	*	
	*	
III, Circuit Judge of the	*	
	*	
Tenth Judicial Circuit	*	Court of the
	*	Judiciary
of Alabama	*	Case No. 38

COMPLAINT

The Alabama Judicial Inquiry Commission brings this complaint against Judge Dan C. King III, Circuit Judge of the Tenth Judicial Circuit of Alabama. The facts and charges, upon which this complaint is based, averred separately and severally, are as follows:

COUNT ONE

Facts

1. Dan C. King III (hereinafter "Judge King," except in allegations of fact occurring prior to his assuming the bench, in which instance, "Mr. King") took office as a circuit judge of the Tenth Judicial Circuit of Alabama on July 14, 1997.

2. On May 21, 1991, Mr. Ronnie Ashford ("Mr. Ashford") was indicted for second-degree and first-degree rape for the February 16; 1991 rape of a 12-year-old female J. H. ("the victim"). (CC-1991-744; GJ-91-637; see

Exhibit 1.) The arrest affidavit states that Mr. Ashford's 14-year-old brother pulled the victim, a fellow middle-school student, into the Ashfords' residence; the juvenile, Mr. Ashford, and their maternal 20-year-old uncle Mr. Joe Warren Seals, who also lived there, tied the victim to a bed in a back bedroom; and Mr. Ashford and the juvenile held her down while Mr. Seals forcibly raped her.

(See Exhibit 2.)

3. While awaiting trial on the first-and-second-degree rape indictment, CC-1991-744, Mr. Ashford was also indicted for the following offenses: first-degree robbery (CC-1993-300); murder (CC-1994-1051); and second-degree rape of a minor (CC-1995-820; consensual sex with 14-year-old female).

4. Mr. King was retained and represented Mr. Ashford in the two-count rape prosecution, CC-1991-744. He filed pleadings as Mr. Ashford's attorney in that case. (See Exhibits 3, 4, and 5.) He also represented Mr. Ashford at the October 30, 1995 hearing during which Mr. Ashford

entered a guilty plea to second-degree rape (CC-1991-744) and first-degree robbery (CC-1993-300). (See Exhibit 6.)

5. Pursuant to his guilty pleas, Mr. Ashford was sentenced on the second-degree rape conviction, CC-1991-744 ("rape conviction") to 15 years' imprisonment, to run concurrent with a 15-year sentence on the robbery conviction, CC-1993-300.

6. Mr. King met Ms. Linda Ashford, Mr. Ashford's mother ("Ms. Ashford"), while Mr. King was Mr. Ashford's attorney for the second-degree rape charge, CC-1991-744. They became reacquainted when, Ms. Ashford, as a nursing assistant at Children's Hospital, cared for Mr. King's five-year-old child during the child's hospitalization for a week in 1998.

7. As a convicted sex offender, Mr. Ashford had to comply with the requirements for release from prison, as set out in the Community Notification Act, §§15-20-20 to -38, Code of Alabama (1975) ("the Act"). (See Exhibit 7.)

8. Near the end of his sentences, i.e., over the period from April to August 2009, Mr. Ashford submitted four addresses - including Ms. Ashford's address and her mother's

address-to Officer Sherry Seals, Easterling Correctional Facility classification specialist, as his proposed post release residence in attempting to comply with the Act. All were rejected because they did, not comply with the Act.

The

fourth address submitted by Mr. Ashford for his post-release

residence was rejected on August 13, 2009.

9. Prior to Mr. Ashford's release from prison, Ms. Ashford stated to Judge King that she had health problems, including lymphoma, and asked Judge King whether there was any way Mr. Ashford, after his release from prison, could care for her at her residence, which is not in compliance with the Act. Judge King told her that he would help her.

10. During a conversation between Judge King and Ms. Ashford before Mr. Ashford's release from prison and specifically concerning Mr. Ashford's post-release residence, Ms. Ashford gave Judge King, at his request, the name of the prison classification officer, i.e., Officer Seals, and her contact information.

11. On or about August 27, 2009, Judge King contacted Officer Seals and requested that Mr. Ashford's rape conviction be "set aside" so Mr. Ashford could reside with

Ms. Ashford and her mother. Judge King explained to Officer Seals that both women were ill with cancer and reside near a school. Officer Seals told him that she did not have that authority.

12. Sometime before November 20, 2009, Judge King personally delivered an unsigned photocopy of the following letter to Chief Assistant District Attorney Bill Veitch ("Prosecutor Veitch"), dated September 1, 2009, and addressed to "Assistant D.A. Bill Vietch [sic]":

Dear Bill:

I write in re: to Ronnie Ashford whom we discussed Friday, August 28, 2009. I am attempting to aid him to remove a rape 2nd charge that he pled to approximately 12 to 13 years ago. This was part of a plea deal to some other cases in which I believe he got 15 years. His mother, Linda Ashford, is very sick with breast cancer and needs him to come home to take care of her.

Linda lives within a school district and so does her mother. As a result, it is necessary to remove the statutory rape charge. This will allow him to live in that area and assist her. If you are willing to do this, I will get the court file and do the necessary order on it.

This is the humanitarian thing to do. Thank you for your help.

Dan C. King III

(See Exhibit 8.)

13. Judge King's letter was on his letterhead stationary, i.e., with the State seal and his judicial title.

14. When Judge King delivered the letter to Prosecutor Veitch, Judge King asked him whether he would have any problem with Judge King's setting aside Mr. Ashford's rape conviction, CC-1991-744.

15. Prosecutor Veitch immediately gave his approval.

16. Judge King did not disclose to Prosecutor Veitch that he (Judge King) had served as Mr. Ashford's attorney when Mr. Ashford pled guilty to and was convicted of rape, CC-1991-744, i.e., the same rape conviction Judge King was working to set aside.

17. Ms. Ashford went to see Judge King at the courthouse after Mr. Ashford was released from prison. Mr. Ashford had been placed in the custody of the Jefferson County sheriff pursuant to an arrest warrant for failure to provide an acceptable post-release residence.

18. On November 12, 2009, during a meeting with Judge King, Ms. Ashford asked Judge King if he could get Mr. Ashford released from the Jefferson County jail. Mr.

Ashford was in the Bessemer District Court Judge Fancher's courtroom waiting for a hearing on the State's motion to nol-pros his failure-to-notify violation.

19. Judge King assured Ms. Ashford he would talk to Judge Fancher about Mr. Ashford, and he instructed her that, when she returned to Judge Fancher's courtroom, she was to give Judge Fancher a message to call him.

20. On November 13, 2009, during a visit with Judge King, Mrs. Ashford asked if Mr. Ashford had to register as a convicted sex offender. Judge King stated that he was going to talk to the prosecutor about setting aside Mr. Ashford's rape conviction, CC-1991-744.

21. During a meeting with Judge King in his chambers on November 20, 2009, and pursuant to Ms. Ashford's plea for his help regarding Mr. Ashford's having to register as a convicted sex offender, Judge King wrote the following order in CC-1991-744:

Motion to set aside conviction and nolle prosequere [sic] case made orally by the Defendant. The State of Alabama represented by the Bessemer District Attorney Bill Vietch [sic] does not oppose the motion. The Court sets

aside the conviction in CC 91-744 and nolle prosses the case. Any court costs is [sic] set aside or waived.

Dan C. King III, Judge

(See Exhibit 9.)

22. After signing the order in CC-1991-744, Judge King took the order to the clerk's office, had it inserted into the record, and obtained certified copies of that order.

23. Judge King did not hold a hearing before issuing his November 20, 2009 order in CC-1991-744.

24. Judge King's November 20, 2009 order in CC-1991-744 was not precipitated by any written motion and, in his testimony before the Judicial Inquiry Commission, Judge King stated that he dismissed Mr. Ashford's rape conviction and indictment in CC-1991-744 without any motion having been filed. (R. 76.)

25. Judge King further stated before the Judicial Inquiry Commission that he dismissed Mr. Ashford's rape conviction and indictment in CC-1991-744 without any legally cognizable ground having been presented and that he did not know of any legal ground for the dismissal. (R. 76.)

26. Judge King stated in his testimony before the Judicial Inquiry Commission that he sometimes disregards the mandatory period of limitations for a post-conviction petition filed pursuant to Rule 32, Ala. R. Crim. P., see Rule 32.3(c), if the prosecutor agrees to such and that he had done so in his order of November 20, 2009, in CC-1991-744. (R. 31.)

27. On November 20, 2009, Judge King provided Ms. Ashford with a certified copy of the order he entered in CC- 1991-744 and directed her to provide it to Detective Deputy Kim Grant, Sex Offender Unit of the Jefferson County Sheriff's Office, Bessemer Division. Judge King provided Mr. Ashford with a certified copy of the order and instructed him to keep his certified copy in his vehicle so he would have it if he was questioned by law enforcement officers.

28. On November 23, 2009, Ms. Ashford gave her certified copy of the order of November 20, 2009, in CC-1991-744, to Detective Grant who, in turn, faxed it that same day to the Autauga County sheriff's office. Detective Grant subsequently notified Jefferson County Deputy

Detective Greg Sanders that Mr. Ashford no longer had to register as a convicted sex offender because Judge King had set aside Mr. Ashford's rape conviction in CC-1991-744 and that Mr. "Ashford would no longer have to register under the Act.

29. On November 20, 2009, Judge King also told Mr. Ashford that he did not have to register under the Act as long as he had the November 20, 2009 order.

30. Senior Judge Teresa Petelos met with Judge King on December 4, 2009, concerning his November 20, 2009 order in CC-1991-744. Judge King told Judge Petelos that Mr. Ashford was "a known client of his" who had served his sentences; Mr. Ashford needed to live with and take care of his mother and/or grandmother because they were sick, but he could not do so because of the Act; and he (Judge King) had talked to the prosecutor who had told him he did not care if Judge King made "an entry."

31. Judge Petelos advised Judge King that Mr. Ashford's rape-conviction case is exactly the type of case to which the Legislature intended the Community Notification Act to apply because the victim was a young child. Judge

Petelos also explained to Judge King that he could not issue such an order because Mr. Ashford had already served his sentences, the case was a closed case, and Mr. Ashford was Judge King's former client. Judge King then denied that he had represented Mr. Ashford in that particular rape case, CC-1991-744.

32. Judge Petelos showed Judge King his signature on the executed plea-agreement form supporting Mr. Ashford's rape conviction in CC-1991-744, and Judge King responded that he would change his November 20, 2009 order.

33. On December 4, 2009, Judge King issued the following order in CC-1991-744: "The order of 11/20/09 is set aside and held for naught." (See Exhibit 10.)

34. Judge King never notified Ms. Ashford or Mr. Ashford of his December 4, 2009 ruling.

35. Ms. Ashford went to the courthouse, after Judge King's December 4, 2009 order, to get duplicates of the November 20, 2009 order. She saw Judge King briefly, but he did not mention that he had set aside the November 20, 2009 order on December 4, 2009.

36. In a subsequent visit with Judge King at the courthouse, Ms. Ashford expressed her inability to understand why he had advised that Mr. Ashford was "clear and everything looked good," but he was now instructing him to register. Judge King responded that she could do something to help Mr. Ashford: locate the victim and convince her that it was urgent that she contact Judge King.

37. On December 9, 2009, pursuant to Judge King's suggestion, Ms. Ashford visited the victim at the victim's residence. Ms. Ashford introduced herself as "Ms. Gray" and claimed that she worked with Judge King. She stated that Judge King had sent her to tell the victim that Judge King wanted to talk to the victim about Mr. Ashford's rape conviction because Judge King was trying to keep Mr. Ashford off the convicted-sex-offender list.

38. "Ms., Gray" also instructed the victim to call her before going to see Judge King, and she wrote down her name and telephone number. In addition, she insisted that the victim not discuss the matter with anyone.

39. After her visit with the victim on December 9, 2009, Ms. Ashford called Judge King on the telephone and told him she had talked to the victim.

40. When the victim called Judge King on the telephone on December 10, 2009, and told him about her visit with "Ms. Gray," Judge King told her that Mr. Ashford's case had been brought to him; that he was trying to get Mr. Ashford's rape conviction "dropped" so Mr. Ashford would not be a convicted sex offender because Mr. Ashford had so many other convictions; that "it was up to [her] to do that"; and that a prosecutor (unnamed) was going to come to her residence to talk to her about Mr. Ashford's rape conviction.

41. In furtherance of satisfying Judge King's request that she convince the victim to talk with him, Ms. Ashford left five voice messages on the victim's cellular telephone.

42. In furtherance of satisfying Judge King's request that she convince the victim to talk with him, Ms. Ashford left a note at the victim's residence on December 11, 2009, stating in part, "I need you to give me a call! as soon as you can. This is very important so they want [sic] send a

warrent [sic] out, need to contact meYou need to see the judge when you get this messages [sic)."

43. When the victim called Judge King on December 11, 2009, she complained that a "Ms. Gray" had repeatedly contacted her about going to see him when, in fact, she (the victim) had already talked to him and that "Ms. Gray" had threatened her with arrest if she did not talk to him. Judge King replied that he did not know a "Ms. Gray," but he would question Ms. Ashford about the matter when she came to his office and that if Ms. Ashford had sent "Ms. Gray" to the victim's house, he would tell Ms. Ashford to stop.

44. When the victim asked Judge King, during their December 11, 2009 conversation, whether a warrant was going to be issued for her or whether she had to come to court, he told her that a warrant would not be issued and that "it was no court matter."

45. In the December 11, 2009 conversation between Judge King and the victim, he again told her that a prosecutor was coming to see her about keeping Mr. Ashford off the convicted-sex-offender list because Mr. Ashford had many more convictions.

46. During a visit with Judge King in his office after December 11, 2009, he informed Ms. Ashford that the victim had called him.

47. During that December 11, 2009 conversation, Judge King answered affirmatively Ms. Ashford's question whether the victim's talking with him meant that everything was going to work out for Mr. Ashford. He also told her he was trying to get the victim to come to his office and affirm, in writing, that Mr. Ashford had never had any contact with her so that Mr. Ashford would be "cleared." He instructed her to wait for him to "get everything together."

48. During that December 11, 2009 conversation, Judge King advised Ms. Ashford to go see Prosecutor Veitch.

49. "Ms. Gray" subsequently called the victim and left a sixth voice message, more specifically, thanking her for calling Judge King and "doing what [she] need[ed] to do."

50. When Ms. Ashford met with Prosecutor Veitch, he said he knew about Mr. Ashford's rape conviction and the Ashfords' meetings with Judge King. He advised Ms. Ashford to tell the victim they were trying to "clear" Mr. Ashford's

rape conviction, and he also told her to try to get the victim to meet with him.

51. When Mr. Ashford was arrested pursuant to three December 17, 2009 warrants - for giving false information during the verification process, a Class C felony, § 15-20-24(d); residing within 2,000 feet of a school or daycare, a Class C felony, § 15-20-26(h); and failing to register his employment, a Class C felony, § 15-20-25.2(f) - he gave the Autauga County sheriff's office the certified copy of Judge King's November 20, 2009 order and explained that Judge King and the prosecutor had taken care of the matter.

CHARGES

Charge One

52. Judge King, a circuit judge of the Tenth Judicial Circuit, while serving in that capacity, failed to uphold the integrity and independence of the judiciary, as required by **Canon 1** of the Alabama Canons of Judicial Ethics, in that he engaged in the conduct alleged in paragraphs 9 through 51, separately and severally, relating to the matters described in paragraphs 2 through 8 of this complaint.

Charge Two

53. Judge King, a circuit judge of the Tenth Judicial Circuit, while serving in that capacity, failed to participate in establishing, maintaining, and enforcing high standards of conduct so that the integrity and independence of the judiciary may be preserved, as required by **Canon 1** of the Alabama Canons of Judicial Ethics, in that he engaged in the conduct alleged in paragraphs 9 through 51, separately and severally, relating to the matters described in paragraphs 2 through 8 of this complaint.

Charge Three

54. Judge King, a circuit judge of the Tenth Judicial Circuit, while serving in that capacity, failed to observe high standards of conduct so that the integrity and independence of the judiciary may be preserved, as required by **Canon 1** of the Alabama Canons of Judicial Ethics, in that he engaged in the conduct alleged in paragraphs 9 through 51, separately and severally, relating to the matters described in paragraphs 2 through 8 of this complaint.

Charge Four

55. Judge King, a circuit judge of the Tenth Judicial Circuit, while serving in that capacity, failed to avoid impropriety and the appearance of impropriety in all his activities, as required by **Canon 2** of the Alabama Canons of Judicial Ethics, in that he engaged in the conduct alleged in paragraphs 9 through 51, separately and severally, relating to the matters described in paragraphs 2 through 8 of this complaint.

Charge Five

56. Judge King, a circuit judge of the Tenth Judicial Circuit, while serving in that capacity, failed to respect and comply with the law, as required by **Canon 2A** of the Alabama Canons of Judicial Ethics, in that, separately and severally, he engaged in the conduct alleged in paragraphs 9 through 51, in the matters described in paragraphs 2 through 8 of this complaint, more specifically as follows:

- a. He willfully agreed with Ms. Ashford to extricate Mr. Ashford from the mandatory provisions of the Act and had numerous conversations with her in

furtherance of that objective, as set out in paragraphs 9, 10, 17 through 21, 27, 36, 39, and 46 through 48.

b. He requested Prosecutor Veitch to approve his setting aside Mr. Ashford's rape conviction so Mr. Ashford could avoid the mandatory provisions of the Act, as set out in paragraphs 12 through 16.

c. He, in bad faith, set aside Mr. Ashford's rape conviction and nol-prossed the charges without any legal ground supporting such actions, as set out in paragraphs 21 through 25.

d. He, in bad faith, set aside Mr. Ashford's rape conviction and nol-prossed the charges without conducting a hearing, thereby denying the victim's right to be present in such a hearing, as set out in paragraphs 21, 23, 24, and 44, in violation of § 15-14-53 ("The victim of a criminal offense shall be entitled to be present in any court exercising any jurisdiction over such offense and therein to be seated at the counsel table of any prosecutor prosecuting such offense or any other, attorney representing the government or other persons in whose name such

prosecution is brought."). See also § 15-14-54 ("A victim of a criminal offense shall not be excluded from court or counsel table during the trial or hearing or any portion thereof conducted by any court which in any way pertains to such offense. ."); § 15-14-51(a) ("The Legislature hereby finds and determines that it is essential to the fair and impartial administration of justice that a victim of a criminal offense be afforded a reasonable opportunity to attend any trial or hearing or any portion thereof conducted by any court which in any way pertains to such offense."); § 15-23-67 ("The victim has the right to be present throughout all criminal proceedings pursuant to Section 15-14-50 et seq.").

e. He, in bad faith, set aside Mr. Ashford's rape conviction and nol-prossed the charges without the initiation of post-conviction proceedings by a verified petition, using the form prescribed by Rule 32 and setting forth specific statement of grounds upon which relief is sought, as set out in paragraphs 21 and 24, in violation of Rule 32.6(a) and (b), Ala.R.Crim.P.

Charge Six

57. Judge King, a circuit judge of the Tenth Judicial Circuit, while serving in that capacity, failed to conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary, as required by **Canon 2A** of the Alabama Canons of Judicial Ethics, in that he engaged in the conduct alleged in paragraphs 9 through 51, separately and severally, relating to the matters described in paragraphs 2 through 8 of this complaint, more specifically as follows:

a. He willfully agreed with Ms. Ashford to extricate Mr. Ashford from the mandatory provisions of the Act and had numerous conversations with her in furtherance of that objective, as set out in paragraphs 9, 10, 17 through 21, 27, 36, 39, and 46 through 48.

b. He requested Prosecutor Veitch to approve his setting aside Mr. Ashford's rape conviction so Mr. Ashford could avoid the mandatory provisions of the Act, as set out in paragraphs 12 through 16.

c. He, in bad faith, set aside Mr. Ashford's rape conviction and nol-prossed the charges without any

legal ground supporting such actions, as set out in paragraphs 21 and 25.

d. He, in bad faith, set aside Mr. Ashford's rape conviction and nol-prossed the charges without conducting a hearing, thereby denying the victim's right to be present in such a hearing, as set out in paragraphs 21, 23, 24, and 44, in violation of § 15-14-53 ("The victim of a criminal offense shall be entitled to be present in any court exercising any jurisdiction over such offense and therein to be seated at the counsel table of any prosecutor prosecuting such offense or any other attorney representing the government or other persons in whose name such prosecution is brought."). See also § 15-14-54 ("A victim of a criminal offense shall not be excluded from court or counsel table during the trial or hearing or any portion thereof conducted by any court which in any way pertains to such offense...."); §15-14-51(a) ("The Legislature hereby finds and determines that it is essential to the fair and impartial administration of justice that a victim of a criminal offense be

afforded a reasonable opportunity to attend any trial or hearing or any portion thereof conducted by any court which in any way pertains to such offense."); § 15-23-67 ("The victim has the right to be present throughout all criminal proceedings pursuant to Section 15-14-50 et seq.").

e. He, in bad faith, set aside Mr. Ashford's rape conviction and nol-prossed the charges without the initiation of post-conviction proceedings by a verified petition, using the form prescribed by Rule 32 and setting forth specific statement of grounds upon which relief is sought, as set out in paragraphs 21 and 24, in violation of Rule 32.6(a) and (b), Ala.R.Crim.P.

Charge Seven

58. Judge King, a circuit judge of the Tenth Judicial Circuit, while serving in that capacity, failed to avoid conduct prejudicial to the administration of justice that brings the judicial office into disrepute, as required by **Canon 2B** of the Alabama Canons of Judicial Ethics, in that he engaged in the conduct alleged in paragraphs 9 through

51, separately and severally, relating to the matters described in paragraphs 2 through 8 of this complaint.

Charge Eight

59. Judge King, a circuit judge of the Tenth Judicial Circuit, while serving in that capacity, allowed his family and other relationships to influence his judicial conduct or judgment, as prohibited by **Canon 2C** of the Alabama Canons of Judicial Ethics, in that, separately and severally, he engaged in the conduct alleged in paragraphs 9 through 51, described in paragraphs 2 through 8 of this complaint, pursuant to (a) his relationship with Ms. Ashford that was based on her having cared for his child and her being the mother of his former client who had retained him and (b) his former relationship with Mr. Ashford as his retained counsel.

Charge Nine

60. Judge King, a circuit judge of the Tenth Judicial Circuit, while serving in that capacity, *did lend the prestige of his office to advance the private interests of*

others, as prohibited by **Canon 2C** of the Alabama Canons of Judicial Ethics, in that, separately and severally, he engaged in the conduct alleged in paragraphs 9 through 51, in the matters described in paragraphs 2 through 8 of this complaint, more specifically as follows:

a. He willfully agreed with Ms. Ashford to extricate Mr. Ashford from the mandatory provisions of the Act and had numerous conversations with her in furtherance of that objective, as set out in paragraphs 9, 10, 17 through 21, 27, 36, 39, and 46 through 48.

b. He requested Officer Seals to "set aside" Mr. Ashford's rape conviction, as set out in paragraph 11.

c. He requested Prosecutor Veitch to approve his setting aside Mr. Ashford's rape conviction, as set out in paragraphs 14 through 16.

d. In soliciting Prosecutor Veitch's approval to set aside Mr. Ashford's rape conviction, he used his letterhead stationary, as set out in paragraph 13 .

e. He told Ms. Ashford that he would talk to Judge Fancher about Judge Fancher's releasing Mr. Ashford from the county jail.

f. He issued the November 20, 2009 order, in bad faith, to eliminate Mr. Ashford's duties under the Act so Mr. Ashford could reside with his mother at a residence that fails to comply with the Act, as set out in paragraphs 7, 8, 21, 27, and 29.

g. He, in bad faith, set aside Mr. Ashford's rape conviction and nol-prossed the charges without any legal ground supporting such actions, as set out in paragraphs 21 and 25.

h. In setting aside Mr. Ashford's rape conviction in bad faith, he disregarded the attendant procedural requirements that are prescribed for the victim's benefit and, also, the rights afforded the victim, as set out in paragraphs 21, 23, 44, and 56(d).

i. In setting aside Mr. Ashford's rape conviction in bad faith, he disregarded the attendant mandatory procedural requirements, as set out in paragraphs 21, 24 , 26, and 56(e).

j. In setting aside Mr. Ashford's rape conviction in bad faith, he disregarded the mandatory

disqualification requirements, 'as set out in paragraphs 21 and 32.

k. He willfully directed the Ashfords regarding their dissemination of his November 20, 2009 order in furtherance of eliminating Mr. Ashford's mandatory duty to register as a convicted sex offender, as set out in paragraph 27.

Charge Ten

61. Judge King, a circuit judge of the Tenth Judicial Circuit, while serving in that capacity, conveyed the impression to others that they are in a special position to influence him, as prohibited by **Canon 2C** of the Alabama Canons of Judicial Ethics, in that, separately and severally, he engaged in the conduct alleged in paragraphs 9 through 51, in the matters described in paragraphs 2 through 8 of this complaint, more specifically as follows:

a. He willfully agreed with Ms. Ashford to extricate Mr. Ashford from the mandatory provisions of the Act, as set out in paragraph 9.

b. He had numerous conversations with Ms. Ashford, including numerous visits to his office, in furtherance of their objective of extricating Mr. Ashford from the mandatory provisions of the Act, as set out in paragraphs 10, 17, 20, 21, 27, 29, 36, 39, and 46 through 48.

c. He requested that Ms. Ashford give him the contact information for Officer Seals, as set out in paragraph 10.

d. At Ms. Ashford's request, he contacted Officer Seals and told Ms. Ashford that he had done so, as set out in paragraphs 11.

e. In response to Ms. Ashford's question whether Mr. Ashford would have to comply with the Act, he stated that he would talk to the prosecutor about setting aside Mr. Ashford's rape conviction, as set out in paragraph 20.

f. In response to the Ashfords' plea for his help regarding Mr. Ashford's mandatory duty to comply with the Act, he issued the November 20, 2009 order in bad faith, as set out in paragraph 21.

g. He willfully directed the Ashfords regarding their dissemination of his November 20, 2009 order in furtherance of eliminating Mr. Ashford's mandatory duty to register as a convicted sex offender, as set out in paragraph 27.

h. He told Mr. Ashford he would not have to register under the Act as long as he had the November 20, 2009 order, as set out in paragraph 29.

Charge Eleven

62. Judge King, a circuit judge of the Tenth Judicial Circuit, while serving in that capacity and in the performance of his judicial duties, failed to be faithful to the law, as required by **Canon 3A(1)** of the Alabama Canons of Judicial Ethics, in that, separately and severally, he engaged in the conduct alleged in paragraph 56, in the matters described in paragraphs 2 through 8.

Charge Twelve

63. Judge King, a circuit judge of the Tenth Judicial Circuit, while serving in that capacity and in the

performance of his judicial duties, failed to disqualify himself in a proceeding in which his disqualification is required by law, as required by **Canon 3C(1)** of the Alabama Canons of Judicial Ethics, in that, separately and severally, he willfully failed to disqualify from ruling to set aside Mr. Ashford's rape conviction even though he was Mr. Ashford's counsel when Mr. Ashford received that conviction, in violation of § 12-1-12, Canon3C(1) (a) and Canon 3C(1) (b), as set out in paragraphs 4 and 21, in the matters described in paragraphs 2 through 8 of this complaint.

Charge Thirteen

64. Judge King, a circuit judge of the Tenth Judicial Circuit, while serving in that capacity and in the performance of his judicial duties, failed to disqualify himself in a proceeding in which his impartiality might reasonably be questioned, as required by **Canon 3C(1)** of the Alabama Canons of Judicial Ethics, in that, separately and severally, he willfully engaged in the conduct alleged in paragraphs 9 through 26, which presented a reasonable

question of his impartiality in his ruling to set aside Mr. Ashford's rape conviction.

COUNT TWO

Facts

65. The case *Anchor Club Inc. v. Bob Riley, as Governor of the State of Alabama, et al.*, CV-2010-264, a "Bingo" case filed on April 13, 2010, was assigned to Judge King. On April 15, 2010, he issued a lengthy recusal order, in which he made the following comments:

It has become apparent that the "Bingo" issue has become so politically charged that such pressures may cause public officials to adopt a "politically correct" response and put to the backburner fundamental legal principles. I recused myself from all pending "Bingo" cases, so as to avoid the slightest suggestion of impropriety as it is currently faced by the Alabama Legislature. I am now asked to reconsider this belief that "Bingo" issues can, in the current political climate, be addressed without being influenced by the politics of the issues, thus abandoning the principles that matter most. The recent ruling this week by my colleague has vividly brought home the temptations that Judges, being human, are confronted with and why, as Judges, we must listen to God's guidance and avoid the very appearance of allowing "political" considerations, thus abandoning a clear requirement to enter just decisions that apply our understanding of the law and a God-given sense of fairness. My long time friend and colleague has

apparently succumbed to the political pressure "Bingo" brings and this week entered an Order that contradicts previous Orders he has entered. Although I concur with the belief that justice and fairness often require a Judge to standup [sic] against High Court decisions that violate fundamental fairness, political or public pressure should never become the foundation of a Just decision.

This is not a condemnation of my colleague, but a reaffirmation that my decision to place temptation behind me was correct. I now refuse to ignore that voice that speaks the truth and justice and hereby affirm by decision to recuse myself from this "Bingo" case.

(See Exhibit 11.)

CHARGES

Charge Fourteen

66. Judge King, a circuit judge of the Tenth Judicial Circuit, while serving in that capacity, failed to uphold the integrity and independence of the judiciary, as required by **Canon 1** of the Alabama Canons of Judicial Ethics, in that, separately and severally, he made certain gratuitous comments, as set forth in paragraph 65, in the matter described in paragraph 65, more specifically as follows:

a. He willfully stated that a fellow judge had disregarded the law and all sense of fairness and

justice and succumbed to public, political pressure in ruling a certain way in a high-profile, unrelated, pending case, as set forth in paragraph 65.

b. By willfully stating "justice and fairness often require a Judge to standup [sic] against High Court decisions that violate fundamental fairness," he indicated that he and fellow judges are frequently confronted with higher-court decisions that violate fundamental fairness and that, in those frequent instances, they should be unwilling to enforce the law as written.

Charge Fifteen

67. Judge King, a circuit judge of the Tenth Judicial Circuit, while serving in that capacity, failed to conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary, as required by **Canon 2A** of the Alabama Canons of Judicial Ethics, in that, separately and severally, he made certain gratuitous comments, as set forth in paragraph 65,

in the matter described in paragraph 65, more specifically as follows:

a. He willfully stated that a fellow judge had disregarded the law and any sense of fairness and justice and succumbed to public, political pressure in ruling a certain way in a high-profile, unrelated, pending case, as set forth in paragraph 65.

b. By willfully stating "justice and fairness often require a Judge to standup[sic] against High Court decisions that violate fundamental fairness," he indicated that he and fellow judges are frequently confronted with higher-court decisions that violate fundamental fairness and that, in those frequent instances, they should be unwilling to enforce the law as written.

Charge Sixteen

68. Judge King, a circuit judge of the Tenth Judicial Circuit, while serving in that capacity, failed to abstain from public comment about a pending or impending proceedings in any court, as required by **Canon 3A(6)** of the Alabama

Canons of Judicial Ethics, in that, separately and severally, he made certain gratuitous comments, as set forth in paragraph 65, in the matter described in paragraph 65, more specifically as follows:

a. He willfully stated that a fellow judge had disregarded the law and any sense of fairness and justice and succumbed to public, political pressure in ruling a certain way in a high-profile, unrelated, pending case, as set forth in paragraph 65.

b. By willfully stating "justice and fairness often require a Judge to standup [sic] against High Court decisions that violate fundamental fairness," he indicated that he and fellow judges are frequently confronted with higher-court decisions that violate fundamental fairness and that, in those frequent instances, they should be unwilling to enforce the law as written.

DONE this 17th day of June, 2010.

ALABAMA JUDICIAL INQUIRY COMMISSION

/s/ Norman E. Waldrop, Jr.

Norman E. Waldrop, Jr.

Chairman

BY ORDER OF THE COMMISSION

APPLICABLE CANNONS

The complaint filed with this Honorable Court by the Commission details in counts one and two the applicable Canons violated by Judge King in this case. The Commission incorporates said complaint by reference.

ARGUMENT

The Respondent, while a Circuit Judge of the Tenth Judicial Circuit of Alabama, engaged in conduct which violated Canons 1, 2, 2A, 2B, 2C, 3A(1), 3C(1), 3A(6) of the Alabama Canons of Judicial Ethics, which which calls for the Court to consider appropriate sanctions.

In its complaint filed with this Court against the Respondent, Judge Dan C. King, III, (hereinafter, Judge King), the Alabama Judicial Inquiry Commission (hereinafter, the Commission), listed sixteen charges in two counts. Each count in the complaint refers to separate factual situations where in Judge King's conduct violated the Alabama Canons of Judicial Ethics. The Commission submits that the facts contained in any of the two counts would be sufficient to require this Court to remove Judge King from the bench.

Under the facts of Count one, Judge King, while an attorney in private practice, represented Ronnie Ashford on an indictment for second-degree and first degree rape (CC-1991-744) While a private attorney, Judge King filed pleadings as Mr. Ashford's attorney in the two count rape prosecution, CC-1991-744, and represented Mr. Ashford at

the October 30, 1995, hearing during which Mr. Ashford entered a guilty plea to the second degree rape charge. Pursuant to the plea, Mr. Ashford was sentenced to serve fifteen (15) years, concurrent with a sentence on a robbery conviction entered at the same plea.

During the time Judge King represented Mr. Ashford on the rape charge, Judge King became acquainted with Ashford's mother, Ms. Linda Ashford. Sometime after the entry of the plea by Ashford, the Judge and Ms. Ashford became reacquainted when Judge King's minor child was admitted to Children's Hospital and Ms. Ashford, as a nursing assistant at the hospital, cared for the child.

As a convicted sex offender, Ronnie Ashford was required to comply with the Alabama Community Notifications Act, Code of Alabama, 1975, §15-20-20 et seq. (hereinafter, Act), prior to his release from prison. Near the end of his sentence, sometime during the period April to August, 2009, Ashford submitted several addresses to Officer Sherry Seals, Easterling Correctional Facility, as his proposed release residence. All of the addresses were rejected because they did not comply with the Act. Ms. Linda

Ashford then contacted Judge King and requested his assistance. Ms. Ashford stated that she had health problems and needed Ronnie Ashford to live with her to care for her. Ms. Ashford's residence was not in compliance with the Act. Judge King told her he would help her. Ms. Ashford provided Judge King with the name of the prison classification officer, Sherry Seals, and her contact information. In late August, 2009, Judge King called Officer Seals and requested that Ronnie Ashford's conviction for rape be set aside. Judge King explained that Ms. Ashford and her mother, were both ill but resided near a school and the Act prohibited Ronnie Ashford from living near a school. Officer Seals advised that she did not have authority to "set aside" a conviction. Sometime before November 20, 2009, Judge King spoke with Assistant District Attorney Bill Veitch seeking his (Veitch's) assistance on a case. The oral communication was general in nature and no specific case or action was discussed. Subsequently, Judge King hand delivered to Veitch, a photo copied, unsigned letter on Judge King's stationery which included the State seal and his judicial

title. The letter, dated September 1, 2009, stated:

Dear Bill:

I write in re: to Ronnie Ashford whom we discussed Friday, August 28, 2009. I am attempting to aid him to remove a rape 2nd charge that he pled to approximately 12 to 13 years ago. This was part of a plea deal to some other cases in which I believe he got 15 years. His mother, Linda Ashford, is very sick with breast cancer and needs him to come home to take care of her.

Linda lives within a school district and so does her mother. As a result, it is necessary to remove the statutory rape charge. This will allow him to live in that area and assist her. If you are willing to do this, I will get the court file and do the necessary order on it.

This is the humanitarian thing to do. Thank you for your help.

Dan C. King III

At the time Judge King delivered the letter to Veitch, Judge King asked if he would have any problem with setting aside the rape conviction (CC-1991-744) and Veitch gave his approval. At that time Veitch was not aware that Judge King had served as Ashford's attorney in the rape case. At the time of his release from prison, Ashford was placed

in the custody of the Jefferson County Sheriff pursuant to an arrest warrant for failure to provide an acceptable post-release residence address as required by the Act. Ms Ashford went to see Judge King at the court house in Bessemer. On November 12, 2009, during a meeting with Judge King, Ms. Ashford asked if Judge King could get Ronnie Ashford released from the Jefferson County jail. Ronnie Ashford was appearing in Judge Francher's courtroom that morning on the failure-to-notify violation under the Act. Judge King requested that Ms. Ashford have Judge Francher call him. Judge Francher did not call Judge King.

On November 13, 2009, during a visit with Judge King, Judge King stated that he was going to talk with the prosecutor about setting aside the rape conviction in order to remove the requirement that Ronnie Ashford register under the Act. During a meeting in Judge King's chambers on November 20, 2009, with both Ronnie Ashford and Ms. Ashford present, Judge King entered an Order in case CC-1991-744:

Motion to set aside conviction and nolle prosequere [sic] case made orally by the Defendant. The State of Alabama represented by the Bessemer District Attorney Bill Vietch [sic] does not oppose the motion. The Court sets aside the conviction in CC

91-744 and nolle prosses the case. Any court costs is [sic] set aside or waived.

Dan C. King III, Judge

After signing the order Judge King took the order to the clerk's office and had it inserted into the record and then had the clerk prepare several certified copies of the order. Judge King admitted to the Commission that there was no written or oral motion to support the order and that he did not know of any legal ground that would support the dismissal order. Judge King further advised the Commission that he sometimes disregards the mandatory period of limitations for a post-conviction petition filed pursuant to Rule 32, Ala.R.Cr.P., if the prosecutor agrees and that he had done so in the order of November 20, 2009, in case CC-1991-744.

On November 20, 2009, Judge King provided Ms. Ashford with certified copies of the order and directed that she provide it to Detective Deputy Kim Grant, Jefferson County Sheriff's Office sex offender unit. Judge King provide a second copy to Ronnie Ashford and advised him that he no longer had to register under the Act and that he should keep a copy of the order in his vehicle so he would have it

if questioned by law enforcement officers.

On November 23, 2009, Ms. Ashford provided the certified copy of the order to Detective Kim Grant. Detective Grant faxed the order to her supervisor advising that Ronnie Ashford no longer had to comply with the Act since Judge King had set aside the conviction in CC-1991-744. The Jefferson County Sheriff's Office, through victims assistance officer Wanda Miller, advised Judge Teresa Petelos the presiding judge of the Bessemer Division, of the order and questioned how it was issued.

On December 4, 2009, Judge Petelos reviewed the court file in CC-1991-744, with Judge King. Judge King advised that Ronnie Ashford needed to live with his mother, Linda Ashford because she and her mother, Ronnie Ashford's grandmother, were both sick and that he could not do so under the Act. Judge King stated that he had spoken with the prosecutor who did not care if the Judge made an entry in the case. Judge Petelos advised Judge King that Ashford had served his sentence and the case was closed and that Judge King could not issue such an order. That Judge King had represented Ashford in the case, which Judge King denied, until Judge Petelos showed him the signed pleadings

in the case with Judge King's signature on them. Judge King responded that he would change the order of November 20, 2009, and did so that same day.

Ms. Ashford went to the Bessemer Courthouse after December 4, 2009, to get additional copies of the November 20, 2009, order. She saw Judge King but he did not mention that the November 20, 2009, order had been set aside. In a later meeting, Judge King noted that Ronnie Ashford now was required to register under the Act, but Mr. Ashford was "clear and everything looked good." When Ms. Ashford questioned why Ronnie Ashford had to register if everything was clear, Judge King requested that Ms. Ashford locate the victim and convince her that it was urgent that the victim contact Judge King.

On December 9, 2009, Ms. Ashford met with the victim at the victim's residence. Ms. Ashford introduced herself as "Ms. Gray" and stated that Judge King had sent her to tell the victim that Judge King wanted to talk with her about the rape conviction because Judge King was attempting to keep Ronnie Ashford from having to register under the Act.

"Ms. Gray" instructed the victim to call her before going to see Judge King and provided the victim with her name and

phone number.

On December 10, 2009, the victim called Judge King and advised him of the visit from "Ms. Gray". Judge King advised the victim that he was trying to get Ronnie Ashford's rape conviction set aside and that it was up to the victim to do that and that a prosecutor was going to come to her residence to speak with her about the rape conviction.

Ms. Ashford, using the "Ms. Gray" name, left several messages with the victim to remind her to call Judge King and went to the victim's residence a second time and left a written message for the victim to call her.

On December 11, 2009, Ms. Ashford left a phone message with the victim stating that it was very important that the victim call her and the Judge so a warrant would not be issued for the victim. When the victim spoke with Judge King and asked if a warrant would be issued for her, Judge King responded that a warrant would not be issued and that this was "no court matter."

On that same day, Judge King advised Ms. Ashford that he had spoken with the victim and was trying to get her to come to his office and affirm in writing that Ronnie

Ashford had never had any contact with her so that he could be cleared. Judge King advised Ms. Ashford to go see Assistant District Attorney Veitch.

When Ms. Ashford met with Veitch, he advised that he was aware that Ms. Ashford had met with Judge King and he was aware of the rape conviction of Ronnie Ashford. Veitch advised Ms. Ashford that she should advise the victim that they were trying to clear Ronnie Ashford's rape conviction and she should try to get the victim to meet with him.

On December 17, 2009, Ronnie Ashford was arrested pursuant to warrants related to his failure to register under the Act. Ronnie Ashford provided the certified copy of Judge King's November 20, 2009, order setting aside his rape conviction and stated that he no longer had to register under the Act.

COUNT TWO

On April 15, 2010, Judge King issued a rescual order in what is commonly referred to as a "Bingo" case that had been assigned to his docket (CV-2010-264). In that order Judge King made the following statement:

It has become apparent that the "Bingo" issue has become so politically charged that such pressures may cause public officials to adopt a

"politically correct" response and put to the backburner fundamental legal principles. I recused myself from all pending "Bingo" cases, so as to avoid the slightest suggestion of impropriety as it is currently faced by the Alabama Legislature. I am now asked to reconsider this belief that "Bingo" issues can, in the current political climate, be addressed without being influenced by the politics of the issues, thus abandoning the principles that matter most. The recent ruling this week by my colleague has vividly brought home the temptations that Judges, being human, are confronted with and why, as Judges, we must listen to God's guidance and avoid the very appearance of allowing "political" considerations, thus abandoning a clear requirement to enter just decisions that apply our understanding of the law and a God-given sense of fairness. *My long time friend and colleague has apparently succumbed to the political pressure "Bingo" brings and this week entered an Order that contradicts previous Orders he has entered.* Although I concur with the belief that justice and fairness often require a Judge to standup [sic] against High Court decisions that violate fundamental fairness, political or public pressure should never become the foundation of a Just decision. This is not a condemnation of my colleague, but a reaffirmation that my decision to place temptation

behind me was correct. I now refuse to ignore that voice that speaks the truth and justice and hereby affirm by decision to recuse myself from this "Bingo" case.

The gratuitous statements of Judge King, *referring to a matter pending before a fellow judge*, infers that a fellow judge has disregarded the law and any sense of fairness and justice and succumbed to public and/or political pressure in his rulings. Judge King, by his written order, infers that he and his fellow judges are frequently confronted with higher-court decisions that violate fundamental fairness *and that he and his fellow judges should be unwilling to enforce the law as written.*

Judge King's assertion that the actions he took were the "humanitarian thing to do," does not provide legal authority for a Circuit Judge to ignore the Statutes of the State of Alabama and set aside a felony conviction.

On December 4, 2009, during his conversation with Judge Petelos about his order of November 20, 2009, in Ronnie Ashford's case (CC-1991-744), Judge King stated that Ashford needed to live with his mother and take care of her and his grandmother who were both ill, but that he could not do so because of the Act. Judge King reiterated the "humanitarian" reasons for setting aside the rape conviction of Ronnie Ashford and that he had the approval of the prosecutor to do so. When Judge Petelos pointed out that Judge King had represented Ashford prior to and at his plea of guilty, Judge King denied that he had done so until shown the pleadings he had signed. Judge Petelos further noted that "humanitarian" or not, the rape conviction of Ronnie Ashford was just the type of case envisioned by the Community Notification Act and what Judge King had done was clearly in abrogation of that Act. Judge Petelos further pointed out that the sentence had

been served and that the case was closed. Judge King acknowledged this and stated that he would change his order. Judge King, during his testimony before the Commission stated that he had entered the order of November 20, 2009, solely on "humanitarian" grounds and acknowledged to the Commission that *at the time he entered the order he knew of no legal grounds to authorize the order*, and, further, at the time he testified to the Commission *he knew of no legal grounds that would authorize the order*. Judge King stated that he sometimes disregards the mandatory period of limitations for a post-conviction petitions filed pursuant to Code of Alabama, 1975, Rule 32, ARCrP, if the prosecutor agrees, but that *he knew of no legal grounds that would qualify in case CC-1991-744, to set aside the conviction even if the time limits were disregarded*. Further, Judge King vehemently denied that he had represented Ronnie Ashford prior to and at the time of his plea even when confronted with the pleadings signed by Judge King that were entered in Ashford's behalf before and at the time of his plea.

Any mitigation that is suggested by the assertion that the actions of Judge King were strictly "humanitarian" is grossly outweighed by the Respondent's conduct in attempting to conceal his acts and/or to obtain "after the fact" approval of his acts by the victim.

On December 4, 2009, after the conversation with Judge Petelos and his acknowledgment to her that he had no legal authority to set aside Ronnie Ashford's conviction in CC-1991-744, Judge King entered an order essentially setting aside his "set aside order" of November 20, 2009.

Subsequently, *Judge King continued in his attempt to find a way to have the case set aside and instructed Ms. Ashford to contact the victim and have the victim contact him about the case. Judge King had Ms. Ashford contact the prosecutor, Bill Veitch, and seek his assistance in having the case set aside. Judge King spoke with the victim about her coming to his office and making a written statement that she did not oppose Judge King setting aside the conviction after he had entered his order of December 4, 2009.*

All of these activities were undertaken *after Judge Petelos had pointed out the fact that Judge King had represented*

Ronnie Ashford prior to and at the time of his plea of guilty and after Judge King acknowledged that he knew of no legal ground that would support setting aside the conviction. Judge King denied representing Ronnie Ashford and again denied representing him in his testimony before the Commission even after he was presented the pleadings entered into the file and signed by Judge King.

Whatever loyalty Judge King might have felt he owed Ms. Linda Ashford for her care of his child in the child's time of need, the people of this State have a right to have the integrity of our judicial system protected from and not be influenced by such private loyalties. The impartiality of the judiciary is a right of the citizens, not a private right of judges. *In re Elloie*, 921 So.2d 882 (La. 2006); *In re: Marvin W. Wiggins*, COJ No.37 (July 30, 2009).

Judge King's public comment on a case pending before a fellow judge and that judge's rulings in that case clearly call for action by this Court. *In re: Charles M. Nice, Jr.*, COJ No. 21.

CONCLUSION

The conduct of Judge King in violating the Alabama Canons of Judicial Ethics does serious damage to the trust and confidence the citizens of this State should have in their judicial officers. The defense that what Judge King was attempting to do for Ronnie Ashford was the "humanitarian" thing to do provides no legal authority for setting aside a rape conviction; provides no legal excuse for a judge to enter an order in a case where he represented a party prior to taking the bench; and, provides no legal authority to ignore the express statutory authority of the State of Alabama.

Judge King's public comment on a case pending before another judge's further places that judge in an untenable situation. Every judge has a right to make the necessary decisions on cases before him without another judge publicly announcing what that decision should be. If that judge enters a ruling adverse to or different from that previously publicly announced, public confidence in our judicial system is destroyed.

The Alabama Judicial Inquiry Commission urges this Honorable Court to consider all the facts and to order sanctions as the Court may deem proper.



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CERTIFICATE OF SERVICE

I hereby certify that on this the 16th day of September, 2010, I served a copy of the foregoing pleading through the AlaCourt electronic filing system which will serve a copy on:

Hon. Larry W. Morris
Attorney for Dan C. King, III
Post Office Box 1660
Alexander City, Alabama 36011



THOMAS E. HARRISON