



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

FINAL JUDGMENT AND CENSURE

On June 17, 2010, the Judicial Inquiry Commission ("JIC") filed a two-count complaint with the Alabama Court of the Judiciary charging Dan C. King, III, Circuit Judge of the Tenth Judicial Circuit, with violating the Canons of Judicial Ethics ("the Canons"). Count One charged Judge King with violating the Canons in entering an order setting aside the second-degree-rape conviction of Ronnie Ashford without legal justification and without a petition having been filed in the circuit court requesting that Ashford's conviction be set aside. Count Two charged Judge King with violating the Canons in entering an order of recusal in another case in which he made gratuitous comments regarding a fellow judge's actions in a case pending before that judge.

The Court of the Judiciary is a nine-member, constitutionally created judicial body that is only "convened to hear complaints filed by the Judicial Inquiry Commission," Art. VI, § 157(a), Ala. Const. 1901, pertaining to alleged violations by judges of the Canons as adopted by the Supreme

Court of Alabama.

Based on the testimony presented at the trial of this matter, as to Count One of the complaint, this Court hereby finds as follows:

1. Judge King took office as a circuit judge in the Bessemer division of the Tenth Judicial Circuit on July 14, 1997.

2. Before he became a circuit judge, Dan King was retained to represent Ashford in a prosecution for first-degree robbery in the Bessemer division of the Tenth Judicial Circuit. At the time King represented Ashford, Ashford was also awaiting prosecution on charges of first- and second-degree rape in the Bessemer division of the Tenth Judicial Circuit.

3. On October 30, 1995, Ashford agreed to plead guilty to the robbery charge and to the second-degree-rape charge. Pursuant to the plea agreement, Ashford would serve concurrent 15-year sentences in prison. King represented Ashford at the plea hearing.

4. Because he had pleaded guilty to second-degree rape, Ashford was required to comply with the Community Notification Act, §§ 15-20-20 et seq., Ala. Code 1975 ("the Act"), upon his release from prison. The Act was enacted in 1996, a year

after the second-degree-rape conviction here.

5. The Act required Ashford, as a convicted sex offender, to register with local law-enforcement officials. Among other restrictions, the Act prohibits a registered sex offender from residing within 2,000 feet of any school or child-care facility. § 15-20-26(a), Ala. Code 1975.

6. In an attempt to comply with the Act, Ashford submitted four addresses as places he could reside upon his release from prison, including those of his mother and his maternal grandmother. All four addresses were rejected because they did not comply with the residence requirements of the Act.

7. Judge King had met Ashford's mother, Linda Ashford, in 1998, when Judge King's son had been hospitalized for a week at Children's Hospital in Birmingham. Ms. Ashford was one of the nursing assistants who helped care for Judge King's son.

8. In August 2009, as the end of Ashford's term of imprisonment neared, Ms. Ashford spoke to Judge King about whether there was any way Ashford could care for her at her residence. Ms. Ashford told Judge King that she had health problems, including lymphoma, and that she needed Ashford's assistance; however, her house was near a school, and,

therefore, under the Act Ashford was prohibited from residing at Ms. Ashford's house.

9. Judge King contacted an official at the Alabama Department of Corrections and asked that Ashford's conviction for second-degree rape be set aside so that Ashford could live at his mother's house. The official told Judge King that she did not have the authority to set aside the conviction.

10. In a letter to Chief Assistant District Attorney Bill Veitch dated September 1, 2009, Judge King explained the Ashfords' situation, saying "it [was] necessary to remove the statutory rape charge" for which Ashford had been convicted so that Ashford could live with and assist Ms. Ashford, adding that "[this] is the humanitarian thing to do."

11. Judge King personally delivered an unsigned copy of the letter to Mr. Veitch sometime before November 20, 2009. Judge King asked Mr. Veitch whether he would have a problem with setting aside the conviction. Mr. Veitch told Judge King that the district attorney's office would not oppose setting aside the conviction.

12. On November 20, 2009, Judge King entered an order setting aside Ashford's 1995 conviction for second-degree rape. No written motion or petition had been filed seeking to have the conviction set aside, and no hearing was held before

Judge King entered the order setting aside Ashford's conviction.

13. The November 20, 2009, order was delivered to the circuit clerk's office. Certified copies of the order were given to Ashford and his mother. Ms. Ashford gave a certified copy of the order to a detective in the Jefferson County Sheriff's Office.

14. On December 4, 2009, another judge in the Bessemer division of the Tenth Judicial Circuit met with Judge King and questioned the propriety of the November 20, 2009, order. Judge King was shown his signature as counsel on the plea-agreement form submitted in the rape case at issue, and Judge King stated that he would set aside the November 20, 2009, order.

15. On December 4, 2009, Judge King entered an order setting aside the order he had entered on November 20, 2009.

Based upon these findings, as to Count One of the complaint, this Court finds that Judge King violated Canons 2.A., 2.C., 3.A.(1), and 3.C.(1). Canon 2 provides that a judge should avoid impropriety or the appearance of impropriety in all activities. Canon 3 provides that a judge should perform the duties of his office impartially and diligently.

As to Count Two of the complaint against Judge King, this court finds as follows:

16. On April 13, 2010, Judge King was assigned the case Anchor Club Inc. v. Bob Riley, as Governor of the State of Alabama, et al., CV-2010-264, in the Bessemer division of the Tenth Judicial Circuit. The case was what has become known as a "Bingo" case.

17. On April 15, 2010, Judge King issued an order recusing himself from the case 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 [sic] 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.

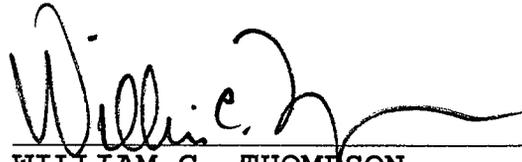
"This is not a condemnation of my colleague, but a reaffirmation that my decision to place temptation behind me was correct. I now refuse to ignore that voice that speaks the truth and justice and hereby affirm by [sic] decision to recuse myself from this 'Bingo' case."

As to Count Two of the complaint, this Court finds that Judge King violated Canon 2.A.

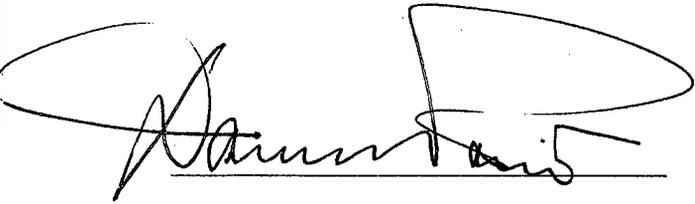
For these violations, this Court hereby publicly reprimands and censures Judge King. He is also suspended, without pay, from serving as a circuit judge for 60 days.

[SIGNATURES APPEAR ON FOLLOWING PAGE.]

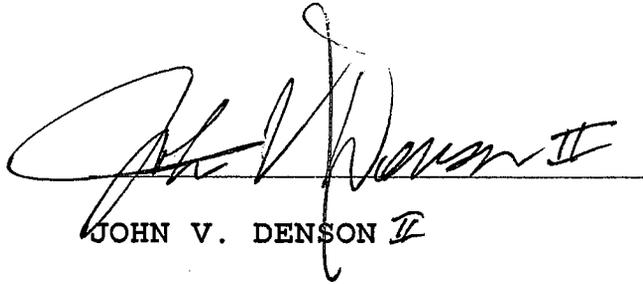
Done this 30th day of September, 2010.



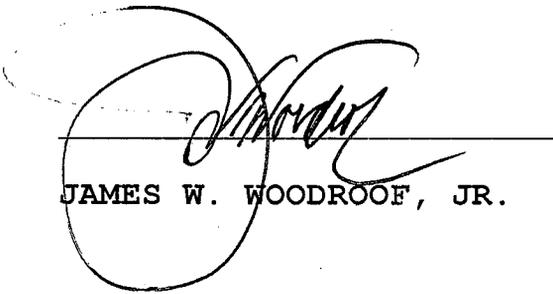
WILLIAM C. THOMPSON
CHIEF JUDGE



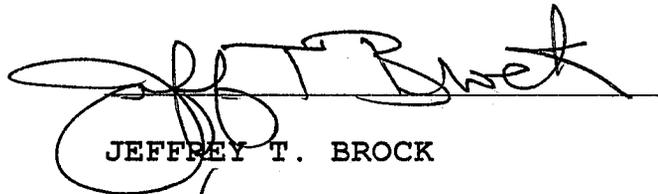
DAVID A. RAINS



JOHN V. DENSON II



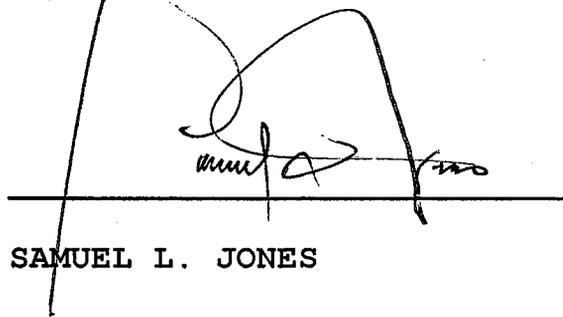
JAMES W. WOODROOF, JR.



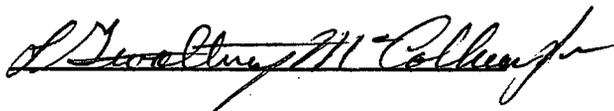
JEFFREY T. BROCK



WILLIAM D. MELTON



SAMUEL L. JONES



L. GWALTNEY MCCOLLUM, JR.



SANDRA R. KILLION