AUG 2017

COURT OF THE JUDICIARY CASE NO. 50

IN THE MATTER OF:
ANITA KELLY
Circuit Judge, Fifteenth Judicial Circuit

ORDER

The respondent, Judge Anita Kelly, filed a motion in this Court on August 28, 2017. The motion references an August 28, 2017, "first request for production" that Judge Kelly submitted to the Judicial Inquiry Commission ("the Commission"), and the motion requests that this Court issue an order requiring the Commission to respond to that first request for production by 12:00 p.m. on August 31, 2017.

On August 29, the Commission filed a response to Judge Kelly's motion and objections to certain parts of her first request for production. Among other things, the Commission asserted:

> "Pursuant to Rule 6, Ala. R.P. Jud. Inq. Comm'n, the Commission has timely produced to [Judge Kelly] copies of all transcripts, documents, and/or recordings the Commission has obtained during the course of its investigation. From the date of the first investigation letter, May 9, 2016, [Judge Kelly] has received all materials collected by the Commission every 42 days, which as of the date of the filing of the complaint consisted of more than 13,366 pages of documents."

On August 30, 2017, this Court held a hearing by telephone conference with counsel for the Commission and counsel for Judge Kelly. Based on representations to the Court during that hearing, it appears that the parties have resolved most of the discovery issues. The only discovery issue currently in dispute relates to certain notes made by counsel for the Commission regarding phone calls to or conversations with witnesses or potential witnesses during its investigation.

During the conference call, the Commission agreed to provide to Judge Kelly, by 5 p.m. on Wednesday, September 6, 2017, a redacted copy of a "privacy log" regarding the phone calls or conversations at issue. Judge Kelly has agreed that by 5 p.m. on Monday, September 18, 2017, she will file any remaining or additional objections she has regarding her first request for production.

Judge Kelly also informed the Court that she would like to gain access to her State of Alabama email account for the limited purpose of obtaining copies of any emails in that account that may be relevant to her defense in this matter. The Court, with the consent of the parties, has spoken with the legal director of the Administrative Office of Courts

("AOC") and has been advised that AOC will work with Judge Kelly and, as necessary, with the Presiding Judge of the Fifteenth Judicial Circuit, Judge Johnny Hardwick, to arrange for a time for Judge Kelly, accompanied by her counsel, to access her State of Alabama email account for the limited purpose described above.

Accordingly, based on the foregoing, the Court **ORDERS** the following:

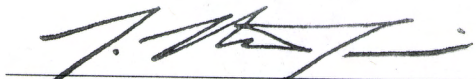
1. Judge Kelly's August 28, 2017, motion for an order shortening the time for the Commission to respond to her first request for production is **DENIED**;

2. The Commission shall provide to Judge Kelly, by 5 p.m. on Wednesday, September 6, 2017, a copy of the requested "privacy log" regarding the phone calls or conversations at issue; Judge Kelly is to file any remaining or additional objection she has regarding her first request for production by 5 p.m. on Monday, September 18, 2017;

3. Within 7 days of obtaining from her State of Alabama email account copies of any emails she deems relevant to her defense, Judge Kelly is to provide copies of those emails to the Commission; if Judge Kelly claims the content of any such email is privileged, she may provide a redacted copy of any such email along with a brief statement asserting the grounds on which she contends the redacted material is privileged; and

4. This matter is scheduled for a status conference by telephone conference call at 4:00 p.m. on Thursday, September 21, 2017. If this date or time is not convenient for the parties, they may contact the Court to work out an alternative time and date.

ORDERED this 31st day of August, 2017.



J. MICHAEL JOINER
CHIEF JUDGE
COURT OF THE JUDICIARY