



IN THE ALABAMA COURT OF THE JUDICIARY

IN THE MATTER OF:)
MARVIN W. WIGGINS,) Court of the
Circuit Judge,) Judiciary
4th Judicial Circuit) Case No. 51
)

COMPLAINT

1. Honorable Marvin Wiggins is Presiding Circuit Judge for the Fourth Judicial Circuit of Alabama. That circuit is composed of Bibb, Dallas, Hale, Perry, and Wilcox Counties. Judge Wiggins has served as a circuit judge since January 19, 1999.

2. The present Complaint is based upon the following conduct of Judge Wiggins, in violation of the Alabama Canons of Judicial Ethics:

a. On November 21, 2017, Judge Wiggins initiated and/or considered ex parte communications with each represented party—communications not authorized by law, concerning a pending proceeding, outside the presence of the opposing party and counsel; he initiated ex parte communications with each counsel separately—communications not authorized by law, concerning a pending proceeding; he abused his judicial authority and interfered with a litigant's attorney-client

relationship; and he failed to maintain the decorum and temperance befitting his office.

b. On January 10, 2019, Judge Wiggins failed to avoid an appearance of impropriety by perpetuating the appearance that his multiple improper ex parte communications on November 21, 2017, were not an anomaly, i.e., he had two telephone conversations with an attorney concerning a pending case on his docket—approximately an hour after the Commission sent him an email concerning that case.

c. In his voluntary, written responses to and voluntary testimony before the Commission, Judge Wiggins made significant misrepresentations.

November 21, 2017: Multiple Ex Parte Communications,
Abuse of Judicial Authority, and
Interference with Attorney-Client Relationship

3. From June 8, 2017, until his recusal on February 2, 2018, Judge Wiggins presided over Delcambre v. Billingsley, 27-DR-2013-900084.01. Mr. Terry L. Delcambre, Jr. ("the father") filed a petition to modify custody of his minor child with Ms. Lakesha Billingsley ("the mother"). He requested primary custody of the child, with reasonable visitation awarded to the mother.

4. The father was represented by Attorney Tina Moon, and the mother was represented by Attorney Danny Crenshaw.

5. At the time of the conduct charged in this Complaint, the father was residing in Pensacola, Florida, and the mother was residing in Marion, Alabama.

6. The custody and visitation history between the parents had been primarily dictated by the mother's whims and occasionally by agreement between the parties.¹

7. Prior to the father's filing his petition, the mother had filed a motion to modify custody and/or visitation on March 13, 2017. 27-DR-2013-9000084.00. Her case was also assigned to Judge Wiggins.

¹ For example, the mother moved without informing the father of the child's whereabouts and without allowing the father to exercise his visitation. In addition, after allowing the child to reside with the father in Florida for a period, the mother used a void order issued by a Florida judge to remove the child from school on January 23, 2017 and take him back to Alabama. Thereafter, in 27-CS-2013-900137.01, a district judge issued an order stating that "the child has a birth defect (congenital short femur) & the allegation was that the mother had plans to have one of the child's legs amputated if she has custody, which is not medically necessary or recommended." The district judge gave temporary custody of the child to the father. At a hearing on February 9, 2017, the parents agreed on certain terms of visitation, but those terms were not incorporated in any order.

8. At a hearing on October 24, 2017, Judge Wiggins dismissed the mother's-petition .00 case, pursuant to an agreement between the parties.

9. At that same hearing, Judge Wiggins encouraged the parents to work out an agreement regarding custody and visitation until discovery could be completed in the father's-petition .01 case. He stated he would enter an order specifying the terms of custody and visitation. However, he never did.

10. On November 20, 2017, Judge Wiggins set a final hearing for December 12, 2017.

11. The following day (Tuesday before Thanksgiving), November 21, 2017, multiple calls were exchanged between Judge Wiggins and/or his office and the parties and attorneys. The most pertinent ones are:

TIME UTC	TIME CST	FROM	TO	DURATION
16:40	10:40 am	Mother via 334-201-0122	Wiggins office	0:20
16:43	10:43 am	Mother via 334-201-0122	Wiggins office	2:39
17:22	11:22 am	Mother via 334-201-0122	Wiggins office	0:04
18:26	12:26 pm	Mother via 334-201-0122	Wiggins office	0:26

19:06	1:06 pm	Wiggins office	Mother	13:36
19:09	1:09 pm	Wiggins office	Father & Wife	7:06
19:45	1:45 pm	Wiggins cell	Atty Crenshaw cell	3:13
19:49	1:49 pm	Wiggins office	Atty Moon office	3:00
20:17	2:17 pm	Atty Moon cell	Wiggins cell	2:12
23:32	5:32 pm	Mother	Wiggins office	0:03

12. Prior to the calls noted in Paragraph 11, also on the morning of November 21, 2017, someone using Ms. Billingsley's cellular telephone called Judge Wiggins's office seven times, from 8:02 a.m. to 9:16 a.m. (with the longest call, 13 seconds) and then called the office of her attorney, Mr. Crenshaw, four times, from 8:03 a.m. to 8:58 a.m. (with the longest, 21 seconds).

13. When the mother called Judge Wiggins's office at 10:43 a.m., the conversation lasted 2:39 minutes. During this call, the mother first spoke with Judge Wiggins's judicial assistant. The assistant told Judge Wiggins the mother claimed it was an emergency. She transferred the call to Judge Wiggins.

14. During this conversation, Judge Wiggins told the mother, "I don't know what's going on. Let me call the lawyers."

15. According to telephone records, Judge Wiggins did not attempt to contact the attorneys. See Paragraph 11, supra.

16. Instead, approximately two hours after their initial conversation at 10:43 a.m. Judge Wiggins called the mother back at 1:06 p.m., also on November 21, 2017. During the first few minutes of the call, which lasted 13:36 minutes, the mother provided Judge Wiggins, at his request, the father's telephone number.

17. At 1:09 p.m., again on November 21, 2017—during his call to the mother, Judge Wiggins called the father and his wife, Ms. Levette Delcambre ("the wife"). Prior to this call, Judge Wiggins had not looked at the case file. (See Telephone Conversation Transcript, attached.)

18. The ex parte conversation between Judge Wiggins, the father, and the wife lasted 7:06 minutes and was recorded by the wife. Id.

19. In the conversation, Judge Wiggins made numerous references, italicized in the excerpts below, to additional ex parte communications that he had had or intended to have with the attorneys and the parties.

20. At the beginning of that ex parte conversation,
the following exchange occurred:

Judge Wiggins: I am trying to reach Terry
Delcambre [the father]. This is
Judge Wiggins.

The Father: This is Terry Delcambre.

. . . .

Judge Wiggins: How are you doing, Mr. Delcambre?

The Father: I'm doing good. How are you doing,
Mr. Wiggins?

Judge Wiggins: I'm fine. *I keep getting calls from
Ms. Billingsley [the mother] about
the exchange of the visitation.*

The Father: Well, she wasn't there Sunday to
pick up the kid.

Judge Wiggins: Can I put you on hold while I get
ya'll on conference call?

The Father: (Inaudible.)

The Wife: No. No. No. We -- we don't need to
talk to her.

We already don't really need to
talk --

Judge Wiggins: Ma'am --

The Wife: -- to Judge Wiggins, Terry.

Judge Wiggins: I'm the judge.

The Wife: You have a lawyer.

Judge Wiggins: I'm the judge.

The Wife: But Terry has a lawyer.

Judge Wiggins: I'm the judge.

The Wife: He has a lawyer, Mr. Wiggins.

Judge Wiggins: Ma'am, I'm -- look. I'm the judge, and if he needs -- I need to talk to him. He needs to bring the child home today.

The Wife: Okay. We understand, Judge Wiggins. But he has a lawyer, and we met -- he met with her, and she didn't pull up. She didn't come.

Judge Wiggins: Mr. Delcambre, are you going to listen to her, or are you going to listen to the judge? Which one are you going to listen to?

The Wife: Okay.

The Father: I am listening. Go ahead.

Judge Wiggins: I'm sorry?

The Father: I'm listening.

Judge Wiggins: Okay. I just want to understand who you're listening to.

The Father: I'm listening to you.

Judge Wiggins: All right. Thank you, sir.

(Transcript of Telephone Conversation at 2-4) (emphasis added) .

21. Judge Wiggins then asked, "Now, what's been the problem?" (Id. at 4.) Thereafter, the father made numerous factual allegations regarding the mother's inability or refusal to abide by Judge Wiggins's order (presumably the order he stated, at the October 24, 2017 hearing, he would issue); her failure to pick up the child the previous Sunday, two days earlier, at the Greenville police department, the designated exchange location; and her failure to pick up the child the previous day at the Escambia County police department.²

22. Judge Wiggins responded that the mother was "*just calling me giving me a different side.*" (Id. at 6.)

23. Mr. Delcambre also explained to Judge Wiggins that the Greenville police department cannot document the mother's failure to show or her late arrival without the order Judge Wiggins had said he would provide. Judge Wiggins responded, "I don't have a case -- I can call Ms. Moon and get a case number so I can see what the problems are." (Id. at 8.)

24. Then, the following ex parte exchange occurred:

² The pickup location was the Escambia County sheriff's office, not the police department.

The Father: Okay. I don't know what to do today because I'm at work and my wife is handling the kid right now but I --

Judge Wiggins: You don't -- you don't have to do anything until I -- *if I call you back -- or talk to the lawyer and call you back*, you don't have to do anything. If she missed the visitation, that's her fault. *Let me call her back -*

The Father: Yeah.

Judge Wiggins: *Let me call her back and find out from them on their side what happened because she called the office this morning.*

. . . .

The Father: We need that paperwork so the police can do a real police report because we don't have none.

Judge Wiggins: Okay. Yes, sir. I'm going to call -- I've got to get a case number. I don't have a case number where I am.

The Father: Uh-huh.

Judge Wiggins: I've got to go to the computer and get a case number, and I'll call everybody back and make sure everybody has the documents they need.

The Wife: (Inaudible.)

The Father: [The mother] didn't come here to pick up the kid on Sunday

like she was supposed to. So we took him back home, and she was supposed to meet us at 9:00 at the Escambia County police department. And now she's just now texting and doing her stuff today.

Judge Wiggins: (Inaudible.)

The Wife: And she's threatening to come to our house, and she's threatening me.

Judge Wiggins: Like if she missed the pickup point, that's her fault. *So let me talk to them and talk with their lawyer, and I will call you back or I'll get you and the lawyer on the line.*

The Wife: Judge Wiggins, can you let her know that we'll be there Sunday at 7:30?

. . . .

The Wife: [She can] come to Escambia County, or she can call and maybe I will come to Greenville and meet her. It'll be this Sunday at 7:30.

Judge Wiggins: When you say "Escambia County," is that a city or is that just -

The Wife: Escambia County in Pensacola, Florida. Uh-huh.

Judge Wiggins: Oh, Pensacola. Okay.

The Wife: Uh-huh.

The Father: That's the sheriff's department down here.

Judge Wiggins: Okay. All right. *I will let them know. I'll (inaudible) call you back.* Thanks.

(Id. at 9-13) (emphasis added).

25. After this conversation with the father and the wife, Judge Wiggins continued his ex parte conversation with the mother for approximately three and one-half minutes. That conversation ended at about 1:20 p.m.

26. Twenty-five minutes later and three hours from the mother's initial call, Judge Wiggins then made his first call of the day to the attorneys. At 1:45 p.m. on November 21, 2017, a call was made from Judge Wiggins's cellular telephone to the cellular telephone of the mother's attorney, Attorney Crenshaw. That call lasted 3:13 minutes.

27. Immediately thereafter, at 1:49 p.m. on November 21, 2017, a three-minute call was made from Judge Wiggins's office number to the office of the father's attorney, Attorney Moon. Attorney Moon was out of the office.

28. Attorney Moon returned Judge Wiggins's call at 2:17 p.m. on November 21, 2017. The call lasted 2:13 minutes. Judge Wiggins told Attorney Moon the mother had

been calling him; he had talked to Attorney Moon's client, the father; and he had told "them" that if the mother came to retrieve the child, the father was to give her the child.³ He also told Attorney Moon she needed to make sure that, if the mother came to pick up the child in Florida, her client was to give the child to the mother.⁴

29. On November 29, 2017, the father filed a motion to recuse, averring that Judge Wiggins had initiated ex parte communications with both the mother and the father; the substance of the ex parte communications concerned issues pending before the Court; and Judge Wiggins's impartiality could reasonably be questioned.

30. Judge Wiggins held a hearing on the father's motion to recuse almost two months later, on January 23, 2018.

³ The recording shows that Judge Wiggins did not tell the father to give the child to the mother if she came.

⁴ The mother did not retrieve the child until November 26, 2017, at the parties' usual time and place of exchange. The father did not see the child again until April 2, 2018, after he had filed for and was granted a motion for immediate custody and a pickup order.

31. During that hearing, Ms. Moon argued that Judge Wiggins's ex parte conversations with the mother affected the father's exercise of his right to visitation:

"I don't know the nature, of course, of your communication or conversation with [the mother]. But I can tell, Your Honor, that whatever was said between you and her, she has utilized that and my client has not seen the child since November, when the ex parte communication occurred [S]he is basing her refusal on the entire premise of what your conversation was with her."

(Transcript of Recording of January 23, 2018 Hearing at 2-3.)

32. Judge Wiggins granted the father's motion to recuse on February 2, 2018, and the case was reassigned to another judge.

Appearance of Impropriety
Re: Ex Parte Communications on January 10, 2019

33. In October 2018, Judge Wiggins began working with a mentor on judicial ethics. (Wiggins September 27, 2018 Letter.) That month, he also attended the four-day National Judicial College's course "Ethics, Fairness, and Security in Your Courtroom and Community."

34. Late in its investigation, the Commission learned that Judge Wiggins—although recused from the

custody/visitation case (27-DR-2013-900084.01) since February 2, 2018—was assigned the case of the father's petition for divorce from the mother on November 19, 2018, and had not disqualified himself despite the father's filing the pleading "Verified Ex Parte Motion for Immediate Custody" with his divorce petition on November 19, 2018.⁵ (27-DR-2018-900101.)

35. As of January 10, 2019, Judge Wiggins had not entered a notice of disqualification in the divorce case (27-DR-2018-900101)—which included the motion for immediate custody of the child also at issue in the custody/visitation case (27-DR-2013-900084.01)—despite the plain, compelling reasons for doing so.

36. When the Commission discovered Judge Wiggins was presiding in the divorce action (27-DR-2018-900101), the Commission inquired via email from its executive director, Ms. Jenny Garrett, to him at 11:59 a.m. on January 10, 2019, about his presiding in the case.

⁵ During the custody/visitation case (27-DR-2013-900084.01), the mother produced a 2008 Georgia marriage certificate, which was recorded in the appropriate court on April 17, 2018—despite years of pleadings never indicating the parties were married.

37. At 1:16 p.m., also on January 10, 2019, Judge Wiggins used his cellular telephone to call the cellular telephone of Attorney Tacara Lee Sabir. The call lasted about two and one-half minutes.

38. Attorney Sabir had been representing the mother in the custody/visitation case (27-DR-2013-900084.01), since April 3, 2018. She was not yet representing the mother in the divorce case assigned to Judge Wiggins. (27-DR-2018-900101.)

39. Judge Wiggins called Attorney Sabir "to understand what had occurred" because he was "not certain about what he had been informed of by Ms. Garrett, or about how there might be a case assigned to him involving these parties without his having any knowledge of the case." (Wiggins April 15, 2019 Response.)

40. After Attorney Sabir's two unsuccessful calls to Judge Wiggins's cellular telephone at 2:05 p.m., Judge Wiggins used his cellular telephone to return Attorney Sabir's cellular calls at 3:01 p.m. That call lasted 3:19 minutes.

41. Within 45 minutes of this last call, Attorney Sabir filed, in the divorce case assigned to Judge Wiggins

(27-DR-2018-900101), a notice of appearance on the mother's behalf at 3:43 p.m. and a half-page answer at 3:45 p.m.⁶

42. Approximately an hour after her last cellular communication with Judge Wiggins, Attorney Sabir filed a motion to consolidate the two cases: at 4:06 p.m. in the divorce case assigned to Judge Wiggins (27-DR-2018-900101) and at 4:07 p.m. in the custody/visitation case that had been assigned to another judge after Judge Wiggins's recusal (27-DR-2013-900084.01)

43. The following day, January 11, 2019, after his ex parte conversations with Attorney Sabir, Judge Wiggins issued the following order in the divorce case: "This

⁶ That answer consisted of the following: "The Complaint fails to state a cause of action upon which relief can be granted."; "Defendant denies each and every material allegation as contained in the petition and demands strict proof thereof."; and "Defendant reserves the right to amend her answer"

Attorney Moon, in her January 16, 2019 pleading, characterized the mother's answer as "seemingly absurd or self-contradictory," and stated, "It would now appear the [mother] is now denying the marriage exists with her own Answer to the Petition for Divorce."

Attorney Sabir filed an amended answer and counterclaim on January 22, 2019.

cause, having come before the Court by random assignment, the Court upon its own motion, enters its Order of Recusal based upon Canon 3(c)(1) of the Canons of Judicial Ethics." (27-DR-2018-900101.)

Judge Wiggins's Significant Misrepresentations
In his Judicial Capacity:
To the Commission, from the Bench, and to Attorney Moon

44. Judge Wiggins made significant misrepresentations to the Commission regarding his insistence he called the attorneys before he had ex parte conversations with the mother again and the father on November 21, 2018 (see Paragraph 45); his statement that he told the father he had tried to contact his attorney (see Paragraph 46); his defense that the ex parte conversations were precipitated by an emergency (see Paragraph 47); and his November 21, 2017 conversation with Attorney Moon (see Paragraph 48). In addition, Judge Wiggins made significant misrepresentations in the January 23, 2018 hearing on the father's motion to recuse. (See Paragraph 49.) Finally, he made a significant misrepresentation to Attorney Moon in their November 21, 2018 conversation. (See Paragraph 50.)

45. Contrary to the telephone records, see Paragraph 11, Judge Wiggins was repeatedly adamant to the Commission

that he had attempted to call the attorneys representing the mother and the father prior to his ex parte call to the mother, his ex parte call to the father, and his subsequent continuation of his ex parte call to the mother. He did not equivocate until his April 25, 2019 written response to the Commission, after having received the subpoenaed telephone records on March 27, 2019. In that response, Judge Wiggins stated his memory was faulty regarding his having called the attorneys before calling the father.

a. In his February 21, 2018 response to the Commission, submitted three months after the ex parte conversations, Judge Wiggins stated

i. "I tried to call Attorney Moon and Attorney Crenshaw but was unsuccessful."

ii. After the first conversation with the mother, "I immediately tried to contact the attorneys involved"

b. In his April 19, 2018 testimony to the Commission, five months after the ex parte conversations, Judge Wiggins testified:

i. Regarding his first ex parte conversation with the mother, i.e., the one at 10:43 a.m., "I said, 'Well, Ms. Billingsley, I don't know what's going on. Let me call the lawyers.'" He continued his testimony, "I tried to reach the

lawyers immediately. I could not reach the lawyers." (Transcript of Wiggins Testimony at 5.)⁷

ii. When he called the mother back, he told her he could not reach the lawyers. (Id. at 5, 6.)

iii. He told the father, "I was going to call the lawyers back" (Id. at 7) (emphasis added).

iv. "I called Mr. Crenshaw [the mother's attorney] back. I could not reach him again." (Id. at 9) (emphasis added).

v. "I hung up from [the mother], called the lawyers, couldn't get the lawyers, then re-called her back." (Id. at 13.)

vi. "Yes," to the question, "[T]he call was from you to [the mother], but it was a callback from trying to get the lawyers on the phone?" (Id. at 14.)

vii. After he hung up with the mother in the 10:43 a.m., he called Attorney Moon, but "couldn't get her, and then I tried to call Mr. Crenshaw and could not get him. Then I called [the mother] back." (Id. at 16-17.)⁸

⁷ No such calls are reflected in the telephone records. See Paragraph 11. Rather, the records show that Judge Wiggins did not make any call to the attorneys for three hours after the mother's initial call at 10:43 a.m.

⁸ No such calls are reflected in the telephone records. See Paragraph 11.

viii. When he called the mother back, "I just informed her that I tried to call the lawyers. I could not reach the lawyers and was still trying to calm her down" (Id. at 17.)

ix. Between his initial call to Attorney Moon and her return call, he called the father and then the mother. (Id. at 20.)

x. As to the sequence of the calls, "[The mother] called me. I called Ms. Moon. I called Mr. Crenshaw. I called [the mother] back and got [the father's] number. I called [the father]. Then I called [the mother] back. And after I finished with [the mother], then Ms. Moon eventually called me back." (Id. at 20-21.)⁹

xi. "My first step was to contact the lawyers. And when I wasn't successful with the lawyers, I knew I had to do something to protect the parties and the child." (Id. at 29.)

xii. He told Attorney Moon, "I called [the father] because I needed to talk to him after I couldn't reach you and the other lawyer and I needed to assess what was going on." (Id. at 31.)

xiii. But for the circumstances, he "probably would have even waited hours for the lawyers to call me back in an ordinary case." (Id. at 34.)

xiv. Only one or two minutes elapsed between his unsuccessful call to Attorney Moon and his telephone call to the father. (Id. at 37.)

⁹ Telephone records show Judge Wiggins did not call the attorneys until soon after his multiple ex parte conversations with both parties.

46. Contrary to the recorded telephone conversation, Judge Wiggins significantly misrepresented, in his February 21, 2018 response to the Commission, that he told the father he had tried to contact the father's attorney.

47. Contrary to Judge Wiggins's contemporaneous conduct and the telephone records showing a span of over two hours from the mother's initial call to Judge Wiggins's office (at 10:43 a.m.) until his call to the mother (at 1:06 p.m.), Judge Wiggins relied on the significant misrepresentation that the circumstances presented an "emergency" requiring that the ex parte calls be made.¹⁰

a. Judge Wiggins testified that, in both calls with the mother, she was irate and screaming about being en route to the father's location, about what she was going to do, and how upset she was because the

¹⁰ Rule 2.9(A)(1), Model Code of Judicial Conduct, which Alabama has not adopted, permits a judge to engage in ex parte communications where circumstances require, for emergency purposes, which does not address substantive matters. That emergency exception is usually in the context of public-safety concerns. See Annotated Model Code of Judicial Conduct 206-08(3d ed. 2016). The two limitations for application of this exception are: (1) the judge must reasonably believe that no party will gain a procedural or tactical advantage; and (2) the judge must promptly notify all other parties of the substance of the ex parte communication and allow an opportunity to respond. Id.

father had not given the child to her. (Id. at 4-5, 17-18.) Regarding the 1:06 p.m. call, Judge Wiggins testified, "I tried my best to calm her down, but she was insisting on what she was about to do and where she was headed." (Id. at 5.) He also testified:

[The mother] was mainly saying she was about to go get the child and she didn't care what it took to get her child from [the father] and what she was going to do if she had to take her child from [the father]. . . . [S]o I thought she was threatening to do some bodily harm to [the father] if she had to."

(Id. at 11.)

b. Despite the mother's alleged threats and uncontrollable, irate demeanor, as described by Judge Wiggins, and despite his professed knowledge of the mother's prior history for volatility, Judge Wiggins did not take any action to protect against any altercation—including any of the following:

i. Alert law enforcement of a potentially dangerous situation.

ii. Immediately call the father after the 10:43 a.m. conversation with the mother; instead, Judge Wiggins waited over two hours, despite—according

to his account--the mother had declared she was on her way to the father's location and about to "engage him."

iii. Alert the father of any potential danger when he called the father at 1:09 p.m. In fact, Judge Wiggins did not even hint at a problem, even after the father's wife told Judge Wiggins that the mother "is threatening to come to our house, and she's threatening me." (Transcript of Telephone Conversation, R. 11.)

iv. Alert Attorney Moon or law enforcement, even after the mother was still irate at the conclusion of her final conversation with Judge Wiggins and "didn't pay [him] any attention" when he tried to calm her and told her the father said she could come get the child. (Transcript of Wiggins Testimony at 5, 19.)

c. Yet, despite the two-hour lapse between calls with the mother and then with the father, despite the three-hour lapse between the mother's initial call and the calls to the attorneys, and despite failure to take any proactive measure, Judge Wiggins testified:

i. The entire sequence of calls was about fifteen minutes (id. at 21), and only one or two minutes elapsed between his unsuccessful call to Attorney Moon and his telephone call to the father. (Id. at 37.)

ii. "I did what I thought was proper in a need to protect safety. I didn't know who else to call so - I knew that [the father] was calm and mild-mannered and, if I could talk to him, I could probably get an assessment of what was going on and probably alert him as to what was happening." (Id. at 5-6.)

iii. "I knew I had an irate person on the phone who was headed - I don't know how far she was from [the father]. I needed to talk to him to get an assessment of what was going on." (Id. at 4-5.)

iv. "I needed to find out what was going on because I did not want [the mother] down there starting something that I couldn't control." (Id. at 7.)

v. "And that's what I was faced with [i.e., the mother's threats to the father and his mother, which resulted in a 2013 protection-from-abuse order against her] -- only out of the need to protect and stop what I perceived was a dangerous situation from [the mother]." (Id. at 9-10.)

vi. "I just wanted to make sure I assessed where they were; that if I needed to call law enforcement -- I needed to call somebody, I knew enough facts that I needed; and then I disconnected from [the final conversation with the mother]." (Id. at 19.)

vii.

I didn't know where . . . [the mother] was or where [the father] was, and I wanted to assess what I needed to do.

We've had two cases in our circuit where we have either not reacted quick enough or where we have not reacted appropriately, and both parties have been killed.

. . . .

I didn't want that on my watch. I wanted to make sure I could assess this situation because [the mother] is explosive. And if she cannot have her way, there's no telling what she would do. And the threats were enough serious to me that I wanted to really assess where they were to see what I needed to do.

If I called the cops, I didn't know where to dispatch them. I didn't know where she was going or where he was.

(Id. at 25-26.)

viii. "I knew I had to do something to protect the parties and the child. I didn't want another encounter on my watch." (Id. at 29.)

ix. "Other than this encounter with [the mother], this conversation, and [the mother] and [the father], I would not have called him. I would have probably waited to get the lawyers on the phone, probably would have even waited hours for the lawyers to call me back in an ordinary case. . . . But [the mother] was headed to wherever [the father] was; and I needed to protect

him, protect the child, and make sure nothing else occurred in the situation. And I reached out to try to do what I could to make sure I could make the right decision." (Id. at 34-35.)

d. In his February 21, 2018 voluntary response to the Commission submitted three months after the ex parte conversations, Judge Wiggins stated:

i. "I spoke back with [the mother] to stop her from creating an altercation"

ii. "The sole and only reason I communicated with the parties was to prevent what I believed was a potentially dangerous physical altercation between the parties. [The mother] sounded uncontrollable and was making unbelievable comments about obtaining her child. She had made comments as if she was near the location of [the father] and was about to engage him. I immediately tried to contact the attorneys involved and did what I could to prevent harm and maintain a sense of reasonableness."

e. Judge Wiggins, through his counsel, in his April 25, 2019 voluntary response, stated that "he considered the situation as to the parties a desperate one, and he very much feared a violent encounter between the parties"; he was "facing an emergency, potentially violent situation," having "been contacted by a highly volatile individual speaking in threatening

tones"; he "knew only that [the mother] was headed right then for a confrontation with [the father], and . . . did not know how close he was to a possibly, life threatening calamity." Yet, Judge Wiggins revealed none of this to law enforcement, Attorney Moon, the father, or the wife.

48. Contrary to Attorney Moon's recollection and the telephone records, Judge Wiggins made the following significant misrepresentations, to the Commission regarding his November 21, 2017 conversation with Attorney Moon.

a. In his February 21, 2018 response, Judge Wiggins stated that he had explained to Attorney Moon he had tried calling the attorneys before his ex parte conversation with her client, but was unable to reach anyone.

b. In his April 19, 2018 testimony to the Commission, five months after the ex parte conversations, Judge Wiggins testified:

i. "I informed Ms. Moon out of the dire need to protect and preserve safety, I called her client to assess what was going on after I could not reach her." (Transcript of Wiggins Testimony at 8.)

ii. He told Attorney Moon, "I called [the father] because I needed to talk to him after I couldn't reach you and the other lawyer and I needed to assess what was going on." (Id. at 31.)

49. Judge Wiggins made the following significant misrepresentations in the January 23, 2018 hearing on the father's motion to recuse filed in the custody/visitation case. (27-DR-2013-900084.01.)

a. He had told Attorney Moon, in his ex parte conversation with her, that it was his understanding that the mother was on her way to pick up the child. (Transcript of Recording of January 23, 2018 Hearing at 4; contrary to Attorney Moon's recollection.)

b. He had told the father in his ex parte conversation with him that he had tried to call the attorneys and he could not get them. (Transcript of Recording of Hearing at 4; contrary to Transcript of Telephone Conversation.)

c. "I tried to get both lawyers on the phone." (Transcript of Recording of January 23, 2018 Hearing at 4; contrary to Telephone Records.)

d. "I told them I didn't want any confrontations between them going down there because she said she was

on her way to pick up the child." (Transcript of Recording of January 23, 2018 Hearing at 4-5; contrary to Transcript of Telephone Conversation.)

50. Contrary to the recorded telephone conversation and Attorney Moon's recollection, Judge Wiggins made the significant misrepresentation to Attorney Moon that he had told "them" that, if the mother came to retrieve the child, the father was to give her the child.

CHARGES

November 21, 2017: Multiple Ex Parte Communications,
Abuse of Judicial Authority, and
Interference with Attorney-Client Relationship

COUNT I

51. By initiating and/or considering each ex parte communication listed in each Charge below, jointly and severally, concerning issues pending in a current proceeding in his court, outside the presence of the opposing party and each party's counsel, Judge Wiggins violated the following provisions of the Alabama Canons of Judicial Ethics:

Canon 1: A judge should uphold the integrity and independence of the judiciary.

 A judge should participate in establishing, maintaining, and enforcing,

and should himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved.

Canon 2: A judge should avoid impropriety and the appearance of impropriety in all his activities.

Canon 2A: A judge should respect and comply with the law

A judge . . . should conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Canon 2B: A judge . . . should avoid conduct prejudicial to the administration of justice which brings the judicial office into disrepute.

Canon 2C: A judge . . . should [not] convey or permit others to convey the impression that they are in a special position to influence him.

Canon 3A(4): A judge should accord to every person who is legally interested in a proceeding, or his lawyer, full right to be heard according to law

A judge should . . . , except as authorized by law, neither initiate nor consider ex parte communications concerning a pending . . . proceeding.

Charge 1

52. Judge Wiggins's consideration of the communications in the first telephone call Ms. Lakesha

Billingsley (the mother) made to him via transfer by his judicial assistant at 10:43 a.m. on November 21, 2017.

Charge 2

53. Judge Wiggins's initiation of the 1:06 p.m. telephone call, on November 21, 2017, to Ms. Billingsley and his consideration of communications in that telephone call.

Charge 3

54. Judge Wiggins's initiation of the 1:09 p.m. telephone call, on November 21, 2017, to Mr. Terry L. Delcambre (the father) and consideration of the communications by Mr. Delcambre and Ms. Levette Delcambre (the wife) in that telephone call.

Charge 4

55. Judge Wiggins's resumption of his telephone call to Ms. Billingsley, on November 21, 2017, and consideration of her communications in that telephone call.

Charge 5

56. Judge Wiggins's initiation of the telephone call to Ms. Tina Moon, Mr. Delcambre's attorney, on November 21, 2017, and consideration of her communications in that telephone call.

Charge 6

57. Judge Wiggins's initiation of the telephone call to Mr. Danny Crenshaw, Ms. Billingsley's attorney, on November 21, 2017 and consideration of her communications in that telephone call.

COUNT II

Charge 7

58. By invoking his judicial authority in his ex parte conversation with Mr. Delcambre, on November 21, 2017, to demand that Mr. Delcambre communicate with him about issues pending in a current proceeding in his court, outside the presence of Mr. Delcambre's attorney, after repeated protests, thereby interfering with Mr. Delcambre's attorney-client relationship, Judge Wiggins violated the following provisions of the Alabama Canons of Judicial Ethics:

Canon 1: A judge should uphold the integrity and independence of the judiciary.

A judge should participate in establishing, maintaining, and enforcing, and should himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved.

Canon 2: A judge should avoid impropriety and the appearance of impropriety in all his activities.

Canon 2A: A judge should respect and comply with the law
A judge . . . should conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Canon 2B: A judge should at all times maintain the decorum and temperance befitting his office

A judge . . . should avoid conduct prejudicial to the administration of justice which brings the judicial office into disrepute.

Canon 3A(3): A judge should be patient, dignified, and courteous to litigants

Canon 3A(4): A judge should accord to every person, who is legally interested in a proceeding, or his lawyer, full right to be heard according to law

Appearance of Impropriety

Re: Ex Parte Communications on January 10, 2019

COUNT III

Charge 8

59. By creating the appearance that he was engaging in ex parte communications unauthorized by law on January 10, 2019, i.e., by initiating two telephone calls with Attorney Tacara Lee Sabir concerning a pending case on his docket,

within a little over an hour after the Commission sent him an email concerning that case, Judge Wiggins violated the following provisions of the Alabama Canons of Judicial Ethics:

- Canon 1: A judge should uphold the integrity and independence of the judiciary.
- A judge should participate in establishing, maintaining, and enforcing, and should himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved.
- Canon 2: A judge should avoid impropriety and the appearance of impropriety in all his activities.
- Canon 2A: A judge should respect and comply with the law
- A judge . . . should conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
- Canon 2B: A judge . . . should avoid conduct prejudicial to the administration of justice which brings the judicial office into disrepute.

Judge Wiggins's Significant Misrepresentations
In his Judicial Capacity

COUNT IV

60. By making significant misrepresentations while in his judicial capacity to the Commission, on the bench, and

to Attorney Tina Moon, regarding the general areas listed in each Charge below, jointly and severally, Judge Wiggins violated the following provisions of the Alabama Canons of Judicial Ethics:

- Canon 1: A judge should uphold the integrity and independence of the judiciary.
- A judge should participate in establishing, maintaining, and enforcing, and should himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved.
- Canon 2: A judge should avoid impropriety and the appearance of impropriety in all his activities.
- Canon 2A: A judge should respect and comply with the law
- A judge . . . should conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
- Canon 2B: A judge . . . should avoid conduct prejudicial to the administration of justice which brings the judicial office into disrepute.

Charge 9

61. As set forth in Paragraph 45(a) and (b), by significantly misrepresenting in his February 21, 2018 written responses to the Commission and in his sworn

testimony that, prior to his ex parte conversations with Ms. Billingsley and Mr. Delcambre on November 21, 2017, Judge Wiggins had attempted to call their respective attorneys.

Charge 10

62. As set forth in Paragraph 46, by significantly misrepresenting in his February 21, 2018 written response to the Commission that he told the father he had tried to contact his attorney.

Charge 11

63. As set forth in Paragraph 47(c) through (e), by significantly misrepresenting in his sworn testimony and his February 21, 2018 and his April 25, 2019 written responses to the Commission that his ex parte conversations were precipitated by an emergency.

Charge 12

64. As set forth in Paragraph 48(a) and (b), by significantly misrepresenting in his February 21, 2018 written response to the Commission and in his sworn testimony that he told Attorney Moon he had attempted to call her before talking to her client and that his ex parte call to her client was to protect and preserve safety.

Charge 13

65. By making the significant misrepresentations set forth in Paragraph 49(a) through (d), in the hearing on January 23, 2018.

Done this 17th day of May, 2019.

THE JUDICIAL INQUIRY COMMISSION

A handwritten signature in black ink, appearing to read "Billy C. Bedsole", written over a horizontal line.

Billy C. Bedsole
Chairman

BY ORDER OF THE COMMISSION

IN RE: Judge Wiggins/Delcambre Recorded
Phone Conversation

Tape recording transcribed by Jordan
Groves on September 17, 2018.

APPEARANCES VIA RECORDING

Judge Wiggins

Mrs. Delcambre

Mr. Delcambre

1 JUDGE WIGGINS: How are you doing?

2 MRS. DELCAMBRE: Hold on, sir. Hello?

3 Hello? Hello?

4 JUDGE WIGGINS: Yes. How are you doing?

5 MRS. DELCAMBRE: Fine. How are you?

6 JUDGE WIGGINS: I'm fine. I'm trying to
7 reach Terry Delcambre. This is Judge
8 Wiggins.

9 MR. DELCAMBRE: This is Terry Delcambre.

10 MRS. DELCAMBRE: Judge Wiggins?

11 JUDGE WIGGINS: Yes, ma'am.

12 MRS. DELCAMBRE: He's on the line.

13 JUDGE WIGGINS: How are you doing,
14 Mr. Delcambre?

15 MR. DELCAMBRE: I'm doing good. How are
16 you doing, Mr. Wiggins?

17 JUDGE WIGGINS: I'm fine. I keep
18 getting calls from Ms. Billingsley about the
19 exchange of the visitation.

20 MR. DELCAMBRE: Well, she wasn't there
21 Sunday to pick up the kid.

22 JUDGE WIGGINS: Can I put you on hold
23 while I get y'all on conference call?

1 MR. DELCAMBRE: (Inaudible.)

2 MRS. DELCAMBRE: No. No. No. We -- we
3 don't need to talk to her.

4 We already don't really need to
5 talk --

6 JUDGE WIGGINS: Ma'am --

7 MRS. DELCAMBRE: -- to Judge Wiggins,
8 Terry.

9 JUDGE WIGGINS: I'm the judge.

10 MRS. DELCAMBRE: You have a lawyer.

11 JUDGE WIGGINS: I'm the judge.

12 MRS. DELCAMBRE: But Terry has a lawyer.

13 JUDGE WIGGINS: I'm the judge.

14 MRS. DELCAMBRE: He has a lawyer,
15 Mr. Wiggins.

16 JUDGE WIGGINS: Ma'am, I'm -- look. I'm
17 the judge, and if he needs -- I need to talk
18 to him. He needs to bring the child home
19 today.

20 MRS. DELCAMBRE: Okay. We understand,
21 Judge Wiggins. But he has a lawyer, and we
22 met -- he met with her, and she didn't pull
23 up. She didn't come.

1 JUDGE WIGGINS: Mr. Delcambre, are you
2 going to listen to her, or are you going to
3 listen to the judge? Which one are you
4 going to listen to?

5 MRS. DELCAMBRE: Okay.

6 MR. DELCAMBRE: I'm listening. Go
7 ahead.

8 JUDGE WIGGINS: I'm sorry?

9 MR. DELCAMBRE: I'm listening.

10 JUDGE WIGGINS: Okay. I just want to
11 understand who you're listening to.

12 MR. DELCAMBRE: I'm listening to you.

13 JUDGE WIGGINS: All right. Thank you,
14 sir. Now, what's been the problem?

15 MR. DELCAMBRE: She's not there to pick
16 up -- drop the kid off. She don't do by the
17 order you passed.

18 JUDGE WIGGINS: Okay.

19 MRS. DELCAMBRE: You know, the times
20 that you said for us to be there and drop
21 off?

22 JUDGE WIGGINS: Yes, sir.

23 MR. DELCAMBRE: She's already made us

1 stay there at the police department until
2 10:15 at night waiting to get [REDACTED]. We
3 went to drop him off this Sunday, she was
4 not there. You know, she's always telling
5 us she's en route and stuff; but, you know,
6 I have to get up and go to work Monday
7 morning.

8 JUDGE WIGGINS: Okay.

9 MR. DELCAMBRE: So we left at 8:00.

10 JUDGE WIGGINS: We agreed on a certain
11 spot and time where you-all were supposed to
12 have met.

13 MR. DELCAMBRE: And she does not --
14 she's not abiding by what you said.

15 JUDGE WIGGINS: Okay. Did you --

16 MR. DELCAMBRE: We have a police -- we
17 can't get the Greenville police to fill out
18 a real police report because we haven't got
19 the orders that you filled out for us to
20 know our pickup orders. I haven't got no
21 pickup orders.

22 JUDGE WIGGINS: (Inaudible) got nothing
23 from your lawyer?

1 MR. DELCAMBRE: I haven't (inaudible).

2 JUDGE WIGGINS: You haven't got nothing
3 from your lawyer?

4 MR. DELCAMBRE: Ms. Moon -- yeah, they
5 told me they haven't got nothing. We
6 haven't got a court date or nothing.

7 JUDGE WIGGINS: Okay. Just make sure
8 whenever you go, make sure you write down
9 the date and time of whoever is there so you
10 have a record of her not showing up. I
11 mean, she just calling me giving me a
12 different side. And I just want to make
13 sure you-all keep records (inaudible).

14 MR. DELCAMBRE: We have -- we send it
15 over to Tina Moon. We take, you know, the
16 pictures with the police report putting his
17 name and badge and stuff on it.

18 JUDGE WIGGINS: Okay. Good. Okay.

19 MR. DELCAMBRE: And they got all that.
20 Ms. Tina Moon gets all that. We send it to
21 her just as soon as the police do all that.
22 And -- but she's not there and we left. And
23 she was supposed to pick him up yesterday at

1 the Escambia County police department, and
2 she's just calling today.

3 JUDGE WIGGINS: Okay. She was not there
4 yesterday either?

5 MR. DELCAMBRE: No, sir.

6 JUDGE WIGGINS: Okay. I just want to
7 make sure you're documenting, and that's
8 what I told her -- to make sure she
9 documents if she's there. And if she's not
10 there, you document it. So when it comes to
11 court, both of y'all have something to
12 submit to the Court because it's hard just
13 listening to both sides and we just need
14 some documents when y'all do that.

15 MR. DELCAMBRE: Oh, yeah. We have -- we
16 have -- we keeping track with all ours. We
17 get the police to write his badge number and
18 stuff like that down, because we don't have
19 the order that you filled out from our
20 lawyer. They haven't given us nothing.
21 They're saying they haven't got it or it's
22 not been -- I don't know how you say it in
23 lawyer terms -- processed or however they

1 got the paperwork.

2 JUDGE WIGGINS: I don't have a case -- I
3 can call Ms. Moon and get a case number so I
4 can see what the problems are.

5 MR. DELCAMBRE: Yeah. We don't get
6 no -- I -- that's the only thing with
7 Greenville Police Department, is we don't
8 have no paperwork showing nobody that -- you
9 know, that I'm supposed to be getting the
10 kid and these are the times and -- I mean,
11 they won't -- they won't fill out no real
12 police report. They'll just write their
13 badge number down and stuff like that
14 because they said that's all they can do
15 without a judge -- judge's paperwork.

16 JUDGE WIGGINS: Well, I'll call Ms. Moon
17 and get you a copy (inaudible) everything
18 signed. (Inaudible) --

19 MR. DELCAMBRE: Well, do you know when
20 you're going to have us back in court?

21 JUDGE WIGGINS: I'm not back in court
22 until December the 18th. That would have to
23 be the next court date, unless you-all get

1 together and you're willing to come to court
2 in a different county. But I'm not back in
3 Selma until December 18.

4 MR. DELCAMBRE: Do you know when you
5 might have our court date ready?

6 JUDGE WIGGINS: That's -- that's the
7 date, the December 18. That's the next time
8 I'm in Selma.

9 MR. DELCAMBRE: Oh, December the 18th?

10 JUDGE WIGGINS: Unless the lawyers get
11 together and agree to come to a different
12 county where I am. But Selma is the 18th.

13 MR. DELCAMBRE: Oh, so you -- you're
14 saying for us -- that our court date for
15 Selma is December the 18th?

16 JUDGE WIGGINS: Yes, sir.

17 MR. DELCAMBRE: Okay. I don't know what
18 to do today because I'm at work and my wife
19 is handling the kid right now but I --

20 JUDGE WIGGINS: You don't -- you don't
21 have to do anything until I -- if I call you
22 back -- or talk to the lawyer and call you
23 back, you don't have to do anything. If she

1 missed the visitation, that's her fault.

2 Let me call her back --

3 MR. DELCAMBRE: Yeah.

4 JUDGE WIGGINS: Let me call her back and
5 find out from them on their side what
6 happened because she called the office this
7 morning.

8 MR. DELCAMBRE: But that piece of paper,
9 you know, we can show the police department
10 that she's supposed to be here at this
11 time --

12 JUDGE WIGGINS: Yes, sir.

13 MR. DELCAMBRE: We need that paperwork
14 so the police can do a real police report
15 because we don't have none.

16 JUDGE WIGGINS: Okay. Yes, sir. I'm
17 going to call -- I've got to get a case
18 number. I don't have a case number where I
19 am.

20 MR. DELCAMBRE: Uh-huh.

21 JUDGE WIGGINS: I've got to go to the
22 computer and get a case number, and I'll
23 call everybody back and make sure everybody

1 has the documents they need.

2 MRS. DELCAMBRE: (Inaudible.)

3 MR. DELCAMBRE: That's what the --

4 that's what the Greenville Police Department
5 need for us to -- so they can fill out the
6 police report. And then, you know, like I
7 said, she didn't drop him off until 10:30,
8 or damn near, one night, and then she didn't
9 come here to pick up the kid Sunday like she
10 was supposed to. So we took him back home,
11 and she was supposed to meet us at 9:00 at
12 the Escambia County police department. And
13 now she's just now texting and doing her
14 stuff today.

15 JUDGE WIGGINS: (Inaudible.)

16 MRS. DELCAMBRE: And she's threatening
17 to come to our house, and she's threatening
18 me.

19 JUDGE WIGGINS: Like if she missed the
20 pickup point, that's her fault. So let me
21 talk to them and talk with their lawyer, and
22 I will call you back or I'll get you and
23 your lawyer on the line.

1 MRS. DELCAMBRE: Judge Wiggins, can you
2 let her know we'll be there Sunday at 7:30?

3 JUDGE WIGGINS: This Sunday at 7:30?

4 MRS. DELCAMBRE: Yes, sir.

5 JUDGE WIGGINS: What's the place? It's
6 the Escambia police department?

7 MRS. DELCAMBRE: It's -- no. It will
8 be -- yes. She needs to come to Escambia
9 County because we've already been to
10 Greenville. So she can --

11 JUDGE WIGGINS: (Inaudible.)

12 MRS. DELCAMBRE: -- come to Escambia
13 County, or she can call and maybe I will
14 come to Greenville and meet her. It'll be
15 this Sunday at 7:30.

16 JUDGE WIGGINS: When you say "Escambia
17 County," is that a city or is that just --

18 MRS. DELCAMBRE: Escambia County in
19 Pensacola, Florida. Uh-huh.

20 JUDGE WIGGINS: Oh, Pensacola. Okay.

21 MRS. DELCAMBRE: Uh-huh.

22 MR. DELCAMBRE: That's the sheriff's
23 department down here.

1 JUDGE WIGGINS: Okay. All right. I
2 will let them know. I'll (inaudible) call
3 you back. Thanks.

4 MRS. DELCAMBRE: All right. Thank you.

5 JUDGE WIGGINS: Okay. All right. Thank
6 you-all.

7 MRS. DELCAMBRE: All right. Thanks.

8 MR. DELCAMBRE: Thank you, Mr. Wiggins.

9 JUDGE WIGGINS: Yes, sir. Bye-bye.

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C E R T I F I C A T E

STATE OF ALABAMA:

COUNTY OF MONTGOMERY:

I hereby certify that the above recorded proceeding was transcribed by me using computer-aided transcription and that the above is a true and correct transcript of the recorded proceeding transcribed by me.

I further certify that I am neither of kin nor of counsel to any of the parties nor in anywise financially interested in the outcome of this case.

I further certify that I am duly licensed by the Alabama Board of Court Reporting as a Certified Court Reporter as evidenced by the ABCR number following my name found below.

So certified on this the 17th of September, 2018.

Jordan C. Groves

Jordan Groves, ABCR# 642

Expiration Date: 09/30/2018