



IN THE ALABAMA COURT OF THE JUDICIARY

IN THE MATTER OF: *
*
MARVIN W. WIGGINS, * CASE NO. 54
CIRCUIT JUDGE *
FOURTH JUDICIAL CIRCUIT *

RESPONSE IN OPPOSITION TO JUDGE WIGGINS'S
MOTION TO STRIKE AND MOTION TO DISMISS

COMES NOW the Alabama Judicial Inquiry Commission ("Commission"), via the undersigned attorneys, William A. Gunter, V, Elizabeth C. Bern, and Rosa H. Davis, and files this response with this Honorable Court in opposition to Judge Wiggins's Motion to Strike and Motion to Dismiss. The Commission states as follows:

1. As to Judge Wiggins's Motion to Strike, Paragraphs 2, 2a, 2b, 2c, and 3 of the Complaint concerning previous judicial discipline are relevant and material to the disposition of the current Complaint. In re Deming, 736 P.2d 639, 659 (Wash. 1987).

2. Paragraphs 2, 2a, 2b, 2c, and 3 are not contrary to the Rules of Procedure, and furthermore are factually correct.

3. The information contained in Paragraphs 2, 2a, 2b, 2c, and 3 consists of matters that are public record and readily available on the Court's website.

4. For the foregoing reasons, Paragraphs 2, 2a, 2b, 2c, and 3 should not be stricken from the record.

5. As to Judge Wiggins's Motion to Dismiss, the Complaint in COJ Number 54 is based on the verified complaint for which COJ Number 51 was filed.

6. The Commission's jurisdiction was properly invoked with the filing of the verified complaint. Steensland v. Alabama Judicial Inquiry Comm'n, 87 So. 3d 535, 541-42 (Ala. 2012).

7. Without waiving the Commission's deliberative-process privilege, the Commission discloses it voted to expand its investigation of the ex parte communications asserted in the verified complaint upon which COJ Number 51 was based to a pattern and practice of ex parte communications, and notified Judge Wiggins via certified mail dated September 24, 2019, of the said expansion pursuant to Rule 6D. Jud. Inquiry Comm. Rule 6D.

8. Thus, the Complaint in COJ Number 54 was filed pursuant to a verified complaint in compliance with Rule 6,

and therefore, Judge Wiggins's motion to dismiss should be denied.

Wherefore, the Commission respectfully requests that this Honorable Court deny Judge Wiggins's motions to strike and dismiss.

Respectfully submitted this 30th day of December, 2019.

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CERTIFICATE OF SERVICE

I certify that, on this the 30th day of December, 2019, a copy of the foregoing has been filed electronically with the Court of the Judiciary and a copy of the same has been served on attorneys for the Respondent, through electronic mail and/or regular U.S. mail to:

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