

IN THE ALABAMA COURT OF THE JUDICIARY

IN THE MATTER OF:

JOHN RANDALL "RANDY" JINKS
PROBATE JUDGE
TALLADEGA COUNTY

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CASE NO. 57

FILED

APR 27 2021

COURT OF THE JUDICIARY
Rebecca C. Oates
Secretary

MOTION TO QUASH

Comes Judge Randy Jinks, Respondent herein, and moves the Court to quash a subpoena to testify issued to his attorney by the Judicial Inquiry Commission, on April 20, 2021 (a copy of which is attached hereto as Exhibit A), and shows unto the Court as follows:

1. A Complaint in this case was filed with the Judicial Inquiry Commission ("JIC") on or about September 8, 2020, and an investigation by the JIC was commenced thereafter.

2. Numerous persons were interviewed by JIC during the succeeding six months. On or about October 23, 2020, the JIC took the testimony of a District Judge in Shelby County and an assistant District Attorney in Shelby County by video connection. On the same day, it is believed that the JIC subpoenaed at least four Talladega County Probate Court employees, and Birmingham attorney Robert Echols, to appear in person at the JIC office to testify before the

Commission.

3. On or about November 12, 2020, my legal counsel filed a twenty-four (24) page response to the allegations. That response contained the names of numerous persons, including attorney Amanda Hardy.

4. On information and belief, the JIC has conducted numerous other interviews of court employees of the Talladega Probate Court and of other lawyers and compiled a voluminous file used for the purpose of filing a Complaint in this case. The Complaint, filed on March 3, 2021, is seventy-eight (78) pages in length and contains the names of numerous persons alleged to have some type of connection to the allegations set out in the Complaint.

5. The name Amanda Hardy is not mentioned in the 78 pages of the Complaint. Amanda Hardy has never been subpoenaed to testify, has never been called, received any type of written inquiry, and has never been informally interviewed by any person associated with the prosecution of JIC's Complaint filed against me. As of this filing, almost eight (8) months have elapsed since the inception of this matter and Ms. Hardy has yet to be contacted by anyone from the JIC except for

the “11th hour” phone call, occurring only after she filed a notice of appearance as my lawyer, alleging that she has suddenly been elevated to the status of “necessary witness”.

6. My first attorney, Mr. Bobby Segall, was released due to serious health problems. After interviewing and considering several alternatives to Mr. Segall, I decided to have Ms. Hardy represent me in this matter.

7. On or about April 9, 2021, approximately 48 hours after Ms. Hardy filed a notice of appearance, Elizabeth Bern (attorney for the Commission) called Ms. Hardy and informed her that the Commission was of the opinion that her representation of me is in violation of Rule 3.7 of the Rules of Professional Conduct. Ms. Bern informed Ms. Hardy that she will likely be a necessary witness in the case against me, and therefore she has conflict of interest and could not serve as counsel in this matter. Because Ms. Hardy informed Ms. Berns that she had not had an opportunity to review the voluminous documents in this case, Ms. Berns offered to and did send, via email, Ms. Hardy the following: Rule 3.7; a text message exchange between Ms. Hardy and me (dated 8/24/20) and obtained by the JIC at least five (5) months ago; the 24

page response of Judge Jinks (dated 11/12/20).

8. Ms. Hardy was informed that she should withdraw promptly or a motion to disqualify would be filed by the JIC. Later that afternoon, the JIC filed a fifty-eight (58) page Motion titled “Judicial Inquiry Commission’s Objection to Judge Jinks’s Motion for Extension of Time”. The JIC opposed my motion for extension of time to respond to the Complaint due to having new counsel and demanded that my counsel withdraw or face a motion to be disqualified (all in the same day).

9. My motion for extension of time was granted, and the answer to the seventy-eight (78) page complaint is due to be filed tomorrow (4/28/21), the same date the JIC has set Ms. Hardy’s deposition. (Ms. Hardy has been immersed in putting together a formal response to the Complaint and that response will be filed tomorrow).

10. I am opposed to Ms. Hardy withdrawing and strongly desire that she continue as my counsel in this matter. The effect of withdrawal of my counsel would be prejudicial and result in substantial hardship and her removal would effect fairness and integrity of these judicial proceedings.

11. Ms. Hardy cannot provide any testimony which would be adverse to me. Further, with regard to any testimony which the JIC could elicit from her can be easily be obtained by other means. Her testimony is not necessary.

12. Counsel for the JIC should not be allowed to veto my choice of counsel and interfere with my right to continued representation by counsel of my choice.

WHEREFORE, the undersigned Respondent requests that the deposition subpoena issued on April 20, 2021, to Amanda Hardy, to testify in this case be quashed; and that a hearing on this matter be scheduled and heard by the Presiding Judge, taking into account such briefs and verified factual assertions which might be put before this Court with regard to issues raised herein.

JOHN RANDALL JINKS

/s/ Randy Jinks

Randy Jinks

828 Ledbetter Flat Road

Talladega, AL 35160

Telephone: (256)493-7588

Email: randyjinks56@icloud.com

OF COUNSEL:
AMANDA HARDY LAW, LLC
Amanda Hardy (HAR388)
Attorney for Respondent Judge
1620 Tara Drive
Columbiana, Alabama 35051
Telephone (256) 794-1131
Email: amandahardylaw@gmail.com

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been served on: the Judicial Inquiry Commission by delivering a copy via electronic mail to: jic@jic.alabama.gov, on this April 27, 2021, with a copy to the Court of the Judiciary: coj@alappeals.gov.

/s/ Randy Jinks
Randy Jinks

EXHIBIT A

IN THE ALABAMA COURT OF THE JUDICIARY

IN THE MATTER OF:

JOHN RANDALL "RANDY" JINKS
PROBATE JUDGE
TALLADEGA COUNTY

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CASE NO. 57

SUBPOENA TO TESTIFY AT A DEPOSITION

TO: Amanda Hardy
1620 Tara Drive
Chelsea, Alabama 35051
amandahardylaw@gmail.com

FILED

APR 20 2021

COURT OF THE JUDICIARY
Rebecca C. Oates
Secretary

You are hereby commanded to appear at the time, date, and place via zoom set forth below to testify at a deposition to be taken in this action:

DATE: April 28, 2021

TIME: 11:00 a.m.

PLACE: Judicial Inquiry Commission
Alabama Center for Commerce
401 Adams Avenue, Suite 720
Montgomery, AL 36104
(334) 242-4089

VIA Zoom (Zoom Invitation will be emailed)

NOTE: As deponent is opposing counsel, the Commission's attorney will only depose you concerning your independent, firsthand knowledge of facts concerning non-privileged information, which you gained before your representation of Judge Jinks commenced.

This deposition will be before a duly authorized court reporter or notary public. The deposition will continue day-to-day thereafter until

completed. This deposition will be taken pursuant to Rule 32, *Alabama Rules of Civil Procedure* and may be used for discovery or for use as trial testimony at trial.

If you fail to appear at the time and place you have been ordered to appear, you will be liable to punishment for contempt of court as provided by law.

NOTICE

Rule 45 Ala. R. Civ. P., Paragraphs (c) & (d)

(c) Protection of persons subject to subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court from which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney fee.

(2) (A) A person commanded to produce and permit inspection, copying, testing, or sampling of designated electronically stored information, books, papers, documents, or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing, or trial.

(B) Subject to subdivision (d)(2) of this rule, a person commanded to produce and permit inspection, copying, testing, or sampling at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to producing any of or all the designated materials or to

inspection of the premises or to producing electronically stored information in the form or forms requested. "Serve" as used herein means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect, copy, test, or sample the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production, inspection, copying, testing, or sampling. Such an order to compel shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection, copying, testing, or sampling commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed, or regularly transacts business in person, or requires a nonresident of this state who is not a party or an officer of a party to travel to a place within this state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the

state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in responding to subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the

usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial-preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(3) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.

(4) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(5) A person responding to a subpoena need not provide discovery of electronically stored information from sources the person identifies to the requesting party as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(B). The court may specify conditions regarding the production of the discovery.

(6) If information is produced in discovery that is subject to a claim of privilege or of protection as trial-preparation material, the person or party making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. Any party or the producing person may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.

DATED: 4/20/2021


ELIZABETH BERN
Attorney for the Commission


REBECCA C. OATES
Secretary, Court of the Judiciary

Alabama Judicial Inquiry Commission
PO Box 303400
Montgomery, AL 36130-3400
(334) 242-4089
elizabeth.bern@jic.alabama.gov

RETURN OF SERVICE

Received this subpoena at _____ AM/PM on
_____, 2021, I served this subpoena on the
within named person, to wit: _____, by
delivering a copy of the subpoena.

PROCESS SERVER