

**FILED**

**APR 19 2021**

**IN THE ALABAMA COURT OF THE JUDICIARY**

**COURT OF THE JUDICIARY**  
**Rebecca C. Oates**  
**Secretary**

**IN THE MATTER OF:**

**TRACIE TODD  
CIRCUIT JUDGE,  
BIRMINGHAM DIVISION  
CRIMINAL DIVISION  
JEFFERSON COUNTY, AL**

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**CASE NO. 58**

**THE JUDICIAL INQUIRY COMMISSION'S RESPONSE TO  
THE COURT'S APRIL 14, 2021 ORDER**

**COMES NOW**, the Judicial Inquiry Commission (“the Commission”) and hereby responds to this Court’s concern of whether the parties seek a hearing under Rule 8, R. P. Ala. Ct. Judiciary, or a hearing contemplated in Rule 16. R. P. Ala. Ct. Judiciary. The undersigned counsel apologizes to this Honorable Court for any confusion caused by her previous filing in this matter. The Commission responds as follows:

1. Art. VI § 157(a), Ala. Const.1901, mandates that “the court shall be convened to hear complaints filed by the . . . Commission” and shall have the authority to mete out certain sanctions “after notice and public hearing.”

2. Rule 9, R. P. Ala. Ct. Judiciary, defines “Nature of Hearings” (plural) as public, i.e., merely reiterating the Constitution’s requirement

of public hearing. Rule 9 does not further specify the nature of the hearing, e.g., differentiate between a trial of the charges filed against the judge and a hearing to consider a proposed resolution of the charges.

3. Rule 16, titled "Decisions, Orders, etc., of the Court," governs the decisions and orders of the Court. The first paragraph of Rule 16 is the only specific reference, in the Court's procedural rules, to the Court's *consideration* of a proposed resolution. That provision merely allows the Court, "after notice and a public hearing, [to] *consider* any proposed resolution . . . ." (Emphasis added.) It likewise does not provide for a different kind or nature of hearing.

4. Rule 8, "Date and Place of Hearing," merely defines the notice required by the Constitution and mentioned in Rule 16. It likewise does not provide for or differentiate the kind or nature of the hearing.

5. Even after a complaint is filed with this Court, the Commission is governed by Art. VI, § 156(b), Ala. Const. 1901, as expounded upon by Rule 5, Ala. R. P. Jud. Inq. Comm'n. That constitutional mandate requires, "*All proceedings* of the commission shall be confidential except the filing of a complaint with the Court of the Judiciary." (Emphasis added.)

6. Therefore, if the parties have submitted a resolution to the Court under seal, it has been the precedent of this Court and the Commission to avoid, if at all possible, any public reference to a proposed resolution by the parties until the hearing, set pursuant to Rule 8, for the Court to “hear” the complaint and consider that complaint in the context of the proposed resolution.

**WHEREFORE**, premises considered, the Commission respectfully requests this Honorable Court to set the Court’s hearing on the matters under submission as expeditiously as possible, pursuant to Rule 8, without requiring the Commission to designate the nature of the hearing.

**RESPECTFULLY** submitted this 19th day of April, 2021.

/s/ Rosa H. Davis  
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CERTIFICATE OF SERVICE

I hereby certify that I have, on this 19th day of April, 2021, electronically filed the foregoing with the Court of the Judiciary, and that I have further served a copy upon the following by placing same in the United States Mail, postage prepaid and properly addressed and/or via email as follows:

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