

BEFORE THE ALABAMA COURT OF THE JUDICIARY

IN THE MATTER OF:

STATE OF ALABAMA JUDICIAL INQUIRY COMMISSION

V.

THE HONORABLE TRACIE A. TODD
CIRCUIT JUDGE, BIRMINGHAM DIVISION,
CRIMINAL DIVISION, JEFFERSON COUNTY, ALABAMA

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FILED

JAN - 7 2022

ALABAMA COURT OF THE JUDICIAL
Nathan P. Wilson
Secretary

Case # 58

**MOTION TO RECONSIDER DISCONTINUANCE OF HEALTHCARE
BENEFITS AND SENTENCE**

Comes now, Judge Tracie A. Todd, by and through counsel, and requests this Honorable Court to reconsider.

On or about December 3, 2021, the Court found Judge Todd guilty of violating the Alabama Canons of Judicial Ethics. At trial the evidence showed: 1. That there appeared to be a conflict in the role of a jury in death penalty sentencing as interpreted by the Alabama Supreme Court and U.S. Supreme Court; Judge Todd inadvertently overlooked an appellate court order to recuse that was issued while she was out of the country, but that she complied with when she became aware; that Judge Todd concurred with the language and sentiment of Supreme Court Justice Sonia Sotomayor in discussing political influences on Alabama judges in death penalty litigation; and that Judge Todd asked follow up questions relating to campaign contributions when an attorney first injected that political campaigns were considered in the trial strategy of a death penalty case.

The evidence further showed that the Jefferson County District Attorney's Office filed the ethics complaint against Judge Todd in retaliation when she requested that Deputy District

Attorney Carlos Gonzales not return to the courtroom. The evidence at trial showed that over a period of nearly a year, Mr. Gonzales was disruptive to the court proceedings. The disruptions included, but were not limited to: Sexually harassing staff, chronic unpreparedness causing cases to be dismissed or delayed, laying his head on counsel table during court hearings, yelling at Judge Todd, refusing to follow court directives and exhibiting frequent mood swings, etc... The Court's disposition of the allegations related to Mr. Gonzales remain unclear.

As a consequence of the Court's order suspending and reinstating Judge Todd simultaneously, Judge Todd's family health insurance through her employer will end January 1, 2022. She was placed by the Administrative Office of Courts in "Leave Without Pay" status. (See Exhibit A: Email from Judge Todd to AOC). Per the Court's order, Judge Todd is not on leave, and has been ordered to return to work. Under these circumstances, Judge Todd is working without pay and must assume \$1,500 a month for health insurance for her family, or in the alternative work at her and her family's risk with the added complications of a raging pandemic. Judge Todd requested an appeal to both AOC and the State Insurance Board.¹ Judge Todd as informed that no such appeals process is available. (See Exhibit B: Email from AOC to Judge Todd).²

We pray that the Court will enjoin the State Employee's Insurance Board and the Administrative Office of Courts from discontinuing Judge Todd's healthcare and all other benefits related to her employment. The Court noted that Judge Todd was on leave since April, 2021 with pay. Judge Todd did not request to be on leave, but by operation of law was required to forego her elected duties. Judge Todd has defended against two state agencies with personal funds. To punish Judge Todd for complying with State law in this regard would be unjustly punitive. We

¹ Asia Harrison from the State Employee Insurance Board represented that the request was communicated to the agency's legal department. The State Employee Insurance Board is copied on the emails.

further requests that the Court clarify its intentions for Judge Todd's suspension/reinstated status, or in the alternative reconsider the sentence. The Court's sentencing order has created a new category of employment that requires guidance for all parties involved. The concurrent status of suspension/reinstatement has created additional penalties for Judge Todd that we do not believe that this honorable Court intended.

Respectfully submitted by Counsel for Judge Todd:

/s/ William Pompey
Pompey & Pompey, P.C.
117 Broad Street
Camden, Alabama 36726
(334) 682-9032

We hereby certify that we have on this 7th day of January 2022 electronically filed the foregoing with the Court of the Judiciary, and that we have further served a copy by placing the same in the U.S. mail postage pre-paid, and properly addressed as follows:

Elizabeth Bern
Attorney for the Commission
elizabeth.bern@jic.alabama.gov

John Seldon
Attorney for the Commission
john.seldon@jic.alabama.gov

Respectfully Submitted,

/s/ William Pompey
Pompey & Pompey, P.C.
117 Broad Street
Camden, Alabama 36726
(334) 682-9032

Fwd: Insurance coverage

T Todd <tracie.a.todd@gmail.com>

Mon, Dec 20, 2021 at 2:51 PM

To: Emory Anthony <bgemorye@aol.com>, Monique Okoye <mokoye@msn.com>

----- Forwarded message -----

From: **Vonda Sanders** <vonda.sanders@alacourt.gov>

Date: Mon, Dec 20, 2021 at 2:46 PM

Subject: RE: Insurance coverage

To: T Todd <tracie.a.todd@gmail.com>

CC: Todd Russell <todd.russell@alacourt.gov>, Rich Hobson <rich.hobson@alacourt.gov>, w.pompey@mchsi.com <w.pompey@mchsi.com>, Richard Rice <rrice@rice-lawfirm.com>, Cindy Wooten <cindy.wooten@alacourt.gov>, seibenrollments@alseib.org <seibenrollments@alseib.org>, Jim Wilson <jim.wilson@alacourt.gov>

Dear Judge Todd, per the below, please see attached response. Thank you.



Vonda Sanders, Human Resources Director

Administrative Office of Courts

300 Dexter Avenue

Montgomery, AL 36104

Telephone (334) 954-5105

Fax (334) 954-3441

-----Original Message-----

From: T Todd <tracie.a.todd@gmail.com>

Sent: Friday, December 17, 2021 12:55 PM

To: Vonda Sanders <vonda.sanders@alacourt.gov>

Cc: Todd Russell <todd.russell@alacourt.gov>; Rich Hobson <rich.hobson@alacourt.gov>; w.pompey@mchsi.com; Richard Rice <rrice@rice-lawfirm.com>; Cindy Wooten <cindy.wooten@alacourt.gov>; seibenrollments@alseib.org

Subject: Insurance coverage

Dear Ms. Sanders,

I received a letter this week informing me that my family health benefits would end based on a termination of my employment. I received documents for COBRA coverage. The morning I called SEIB and spoke with Ms. Asia Harrison. Ms. Harrison informed me that my health insurance ends 1/1/2022 per a directive from your office. I then called your office and spoke with Ms. Wooten. Ms. Wooten, per your instructions, informed me that because I am suspended, my benefits are suspended. Both Ms. Harrison and Ms. Wooten explained that I received the wrong documents (COBRA) and should have received "leave without pay" forms.

I am writing to request reconsideration of your interpretation of the court's order. The Court directed that I am suspended without pay, but reinstated as of December 6, 2021. I have reported to work as directed. I am not, and have not been on leave. Neither category as provided, "terminated" nor "leave without pay" are applicable to my circumstances. Therefore, your interpretation of the order requires me to work without medical coverage at my own risk unless \$1,500 per month for 90 days is paid for family health benefits.

Please advise in writing the policy that your office is following in this regard, and any other benefits that you have interpreted this order to affect including, but not limited to retirement calculation, costs of living increases, disability benefits, social security benefits, etc...

I have copied my attorneys, and ask that you reply all. Thank you in advance for your assistance with this immediate situation.

Sincerely,

Tracie A. Todd

2 attachments



Honorable Tracie A. Todd.Response Letter.December 2021.doc.1.pdf

79K



SEHIP Handbook.2021.pdf

1180K



ADMINISTRATIVE OFFICE OF COURTS

300 Dexter Avenue
Montgomery, Alabama 36104-3741
(334) 954-5000

Tom Parker
Chief Justice

Rich Hobson
Administrative Director of Courts

December 20, 2021

Honorable Tracie A. Todd
710 8th Terrace, West
Birmingham, AL 35204

Dear Judge Todd:

Re: Benefits Status Due to Suspension

I am in receipt of your email dated December 17, 2021. In response to your email, per the order (page 5 of the Final Judgment), while you were reinstated to service effective December 6, 2021, the Court of the Alabama Judicial Inquiry Commission suspended you for 90 days without pay (without pay is retroactive as you were placed on suspension (leave) with pay from April 6, 2021 to December 5, 2021). This information was reported to the Alabama State Employees' Insurance Board (SEIB), as which takes place in each instance an official or employee is taken off the payroll for an extended period of time (except as it relates to Family Medical Leave). Cindy Wooten and I have confirmed that the letter SEIB sent to you was sent in error as you were not in a terminated status. However, SEIB has since corrected this matter.

Due to your pay as a judge being suspended for a period of 90 days (as a result of suspension), there are no means for the Administrative Office of Courts to send your monthly premiums to the SEIB; therefore, in order to continue coverage, it is the responsibility of the official/employee to submit such payments to the SEIB. (Please see attached the SEIB State Employees' Health Insurance Plan Handbook, page 18.)

As it relates to your other benefits (retirement and social security benefits), you may contact each entity so that they may communicate how the final judgment may affect such benefits. As a quick reference for the Retirement Systems of Alabama, the telephone number is 334-517-7000 and you may ask to speak to a Judicial Retirement Counselor.

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Benefits Status Due to Suspension

Should you have further questions, please do not hesitate to contact me at 1-866-954-9411, extension 5105 or e-mail: Yonda.Sanders@alacourt.gov.

Sincerely,



Vonda C. Sanders
UJS Human Resources Director

cc: Attorneys of Honorable Tracie A. Todd
State of Alabama Employees' Insurance Board Enrollment
Todd Russell, Esq., Legal Director, Administrative Office of Courts
James E. Wilson, Esq., Attorney, Administrative Office of Courts
Dr. Rich Hobson, Administrative Director of Courts, AOC
Cindy Wooten, Benefits Manager, Administrative Office of Courts

Attachment