

BEFORE THE ALABAMA COURT OF THE JUDICIARY

ALABAMA COURT OF THE JUDICIARY
Nathan P. Wilson
Secretary

In re *
*
STATE OF ALABAMA JUDICIAL INQUIRY COMMISSION *
*
*
v. *
*
THE HONORABLE TRACIE A. TODD *
CIRCUIT JUDGE, BIRMINGHAM DIVISION, *
CRIMINAL DIVISION, JEFFERSON COUNTY, ALABAMA *

Case 61

**MOTION TO MODIFY FINAL JUDGMENT BY
AMENDING TERM OF SUSPENSION**

Comes now Judge Tracie A. Todd, by and through counsel and respectfully moves this Honorable Court to modify the final judgment in this matter by amending Judge Todd’s suspension from 120 days to 90 days.

In support of this Motion, Judge Todd provides the following, through counsel, on information and belief:

On October 18, 2022, this Court entered its Final Judgment in this matter, finding that Judge Todd violated Canon 1. “Based on Judge Todd’s violation of Canon 1 as alleged in Charge 1 of the complaint, Judge Todd is hereby suspended, without pay, for a period of 120 days.”

Judge Todd appreciates the hard work and deep consideration of all members of the Court during the trial and in determining the judgment. She fully respects and accepts the Court’s judgment. She does not intend to appeal the judgment, letting the deadline pass last week for the filing of a notice of appeal.

Judge Todd takes the finding that she the Commission's charge was proven and that she violated the Canon very seriously. She listened very attentively to, and took in, the evidence at the trial and the questions asked of her by members of the Court at trial. She recognizes errors that she made and the need to respond to errors. During closing argument, counsel raised the value of Judge Todd's participating in ethics CLE seminars, and Judge Todd has used her time on suspension to do just that. Since the setting of the trial date, Judge Todd had participated in 8 hours of judicial CLE with an emphasis of courses pertaining to ethics and ensuring public confidence in the judiciary.

On November 15, 2022, Judge Todd attended Mindfulness for Judges in Trying Times, presented by the National Judicial College. This webinar was 90 minutes, earning 1.5 hours of CLE credit.

On November 9, 2022, Judge Todd attended three on-demand CLEs presented by the American Bar Association: Hot Issues in Ethics, Ethics and the Government Lawyer, and A Lawyer's Duty to Supervise: Ethical Obligations and Practice Guidance. Each seminar was 1 Ethics CLE credit hour for a total of 3 hours earned that day.

On November 1, 2022, Judge Todd earned 1.5 ethics CLE hours for attending Staying Healthy on the Bench: A Mental Health and Wellness Program for Judges, also hosted by the American Bar Association.

On August 23 and 24, 2022, Judge Todd earned 2 Ethics CLE credits by taking the ABA Ethics CLE courses Ethical Standards of Law Office Technology and Annual Highlights from the ABA Center for Professional Responsibility.

By counsel's computation, a 120-day suspension will end in the middle of a court week, on Wednesday, February 15, 2023. If the suspension is amended to 90 days, the suspension will end on Monday, January 16, 2023, the state holiday of MLK Day. Judge Todd would then return to work on the first court day of the week – Tuesday, January 17, 2023.

Judge Todd is actively preparing for her return to service. For example, she has hired a new Judicial Assistant. She plans to hit the ground running upon her return to the courthouse, her office, and the hearing of cases from the very first day.

With regard to the suspension, Judge Todd respectfully moves this Court to amend the suspension from 120 days to 90 days. An amendment of the suspension by 30 days will not change or undermine the determination of the Canon violation. An amendment will allow Judge Todd to assist her fellow judges in the very busy Jefferson County Circuit Court Criminal Division,¹ to fulfill her judicial obligations to the community that elected her to service, and to demonstrate her responsiveness to correction of past errors and adherence to this Court's Final Judgment.

¹ The Jefferson County Circuit Court Criminal Division appears to have the highest caseload by far of any Circuit Court in the state, and the absence of one elected member has cascading effect on the workload of each of the other judges. The transfer of cases to Judge Todd one month earlier in time will benefit each of the other judges in her Division, as well as advance judicial efficiency and the effective, timely administration of justice.

Additional delay in her return to the bench imposes undue costs on the administration of justice that exceed the punitive value of a last month of suspension, particularly given Judge Todd's mitigation actions.

For these reasons, Judge Todd respectfully moves that this Court GRANT this Motion and AMEND her suspension to a term of 90 days from the Court's October 18, 2022 Final Judgment.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that we have on this 23rd day of November, 2022 electronically filed the foregoing with the Court of the Judiciary, and that I have further served a copy by sending the same via email, and properly addressed as follows:

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