

COURT OF THE JUDICIARY CASE NO. 45

IN THE MATTER OF MARVIN WAYNE WIGGINS
Circuit Judge of the Fourth Judicial Circuit

FINAL JUDGMENT

On January 15, 2016, the Alabama Judicial Inquiry Commission ("the Commission") filed a complaint with the Alabama Court of the Judiciary charging Judge Marvin Wayne Wiggins with violating the Canons of Judicial Ethics in his capacity as a circuit judge in the Fourth Judicial Circuit. That same day, the Commission, with the consent of Judge Wiggins, filed a motion to expedite the determination of the complaint, requesting that this matter be set for a hearing on January 21, 2016. This Court granted the motion to expedite.

Pursuant to Rule 10, Rules of Procedure of the Judicial Inquiry Commission, the Commission and Judge Wiggins have jointly moved to resolve the charges of the complaint following a public hearing in accordance with Art. VI, § 157, Ala. Const. 1901 (Off. Recomp.). Further, Judge Wiggins has expressly waived (1) his right under Rule 5, Rules of Procedure for the Alabama Court of the Judiciary, to file an answer or other responsive pleading to the complaint; (2) his right under Rule 8, Rules of Procedure for the Alabama Court

of the Judiciary, to 30 days' notice of the date and time for a hearing of the complaint; and (3) his right of appeal under Art. VI, § 157, Ala. Const. 1901 (Off. Recomp.).

The complaint alleges, in relevant part, the following:

"1. Marvin Wayne Wiggins is a Circuit Judge for the Fourth Judicial Circuit of Alabama. The Fourth Judicial Circuit is composed of Bibb, Dallas, Hale, Perry, and Wilcox Counties. Judge Wiggins is one of three circuit judges in the Fourth Judicial Circuit. Judge Wiggins has served in this position since January 19, 1999, following his election in 1998.

"2. The present Complaint is based upon Judge Wiggins's violations of the Alabama Canons of Judicial Ethics by his conduct on September 17, 2015, during a 'pay-due' docket conducted in Perry County.

"3. More specifically, Judge Wiggins, while sitting on the bench and clothed in his judicial robe, violated the Alabama Canons of Judicial Ethics by threatening to incarcerate defendants who had 'no money' to pay their court-ordered financial assessments unless they 'donated' blood.

". . . .

"4. On September 17, 2015, a substantial number of criminal defendants appeared at the Perry County Courthouse in Marion, Alabama, for a previously scheduled 'pay-due' docket held by Judge Wiggins in an effort to recover the court-ordered costs, fees, fines, and restitution which had previously been imposed on criminal defendants.

"5. Notice of the hearing was sent to each criminal defendant on the September 17, 2015 docket. It did not include any warning of incarceration or statement that the defendant/recipient was entitled to or would need an attorney. Rather, it stated,

'ATTYS ARE NOT REQUIRED TO BE PRESENT AT THE PAYDUE DOCKETS.'

"6. During the 'pay-due' docket hearing on September 17, 2015, Judge Wiggins, while on the bench and wearing his judicial robe, addressed those in the courtroom and publicly stated either the following exact words or words substantially identical thereto:

"'For your consideration, there's a blood drive outside and if you do not have any money and you don't want to go to jail, as an option to pay it, you can give blood today. If you do not have any money, go out there and give blood and bring in a receipt indicating that you gave blood. Consider that as a discount rather than putting you in jail, if you do not have any money. So, if you do not have any money and you don't want to go to jail, consider giving blood today and bring your receipt back or the sheriff has enough handcuffs for those who do not have money.'

"This statement was audio recorded by one of the defendants.

"7. A LifeSouth mobile blood bank was located outside the Perry County Courthouse on September 17, 2015.

"8. Approximately 54 individuals registered to donate blood that day. Forty-seven individuals actually donated. All but six of the 47 blood donations were made by defendants on Judge Wiggins's docket.

"9. Judge Wiggins's conduct regarding the incarceration of criminal defendants and his conduct in threatening to incarcerate those defendants who did not have 'any money' unless they gave blood were so coercive as to be reprehensible and inexcusable."

According to the joint motion filed with this Court, Judge Wiggins agrees that the complaint accurately states the facts upon which this proceeding is based and that the Commission could prove by clear and convincing evidence all the facts alleged in the complaint.

Judge Wiggins and the Commission stipulate further that upon trial of this matter, Judge Wiggins would offer evidence indicating the following:

- a. Judge Wiggins did not organize or plan the blood drive held outside the Perry County Courthouse on September 17, 2015;
- b. Judge Wiggins did not intend to send any defendant on the 'pay-due' docket to jail for failure to pay on September 17, 2015;
- c. Judge Wiggins did not incarcerate any defendant for failure to pay on September 17, 2015; and
- d. Judge Wiggins recognizes and agrees that the comments he made on September 17, 2015, were inappropriate and could lead a reasonable person to believe he or she would be ordered to jail for failure to pay court-assessed fines and costs if he or she did not donate blood.

Additionally, the Commission and Judge Wiggins stipulate that upon trial of this matter, the Commission would offer evidence indicating the following:

- a. In July 2009, the Court of the Judiciary publicly reprimanded Judge Wiggins and suspended him three months without pay for violating the Alabama Canons of Judicial Ethics

by failing to recuse himself from a proceeding arising out of a voter fraud investigation in which his close relatives were the subject of investigation. The Court of the Judiciary found Judge Wiggins guilty of violating Canons 1, 2, 2A, 2C, 3C(1), 3C(1)(a), and 3C(d)(ii) of the Canons of Judicial Ethics. In the Matter of Marvin W. Wiggins, Court of the Judiciary Case No. 37, Public Reprimand entered July 30, 2009.

- b. Although Judge Wiggins's conduct on September 17, 2015, was an isolated incident, it affected a courtroom of defendants who were not represented by counsel;
- c. Judge Wiggins, the presiding judge of the Fourth Judicial Circuit and a circuit judge since 1999, should have been familiar with the high standards established for judicial conduct.
- d. The actual or potential for harm to the court system, to the defendants present, and to the public's perception of the fairness of the judicial system was significant.

Judge Wiggins has further admitted that, as alleged in the complaint, he violated Canons 1, 2, 2A, and 2B, and he has consented to the sanctions recommended by the Commission in the joint motion filed with this Court.

Accordingly, in compliance with the joint motion filed by the Commission and Judge Wiggins, this Court, in a non-unanimous decision, orders the following:

- (1) Judge Wiggins shall be publicly censured for his actions and for his violations of the Canons as stated above; and

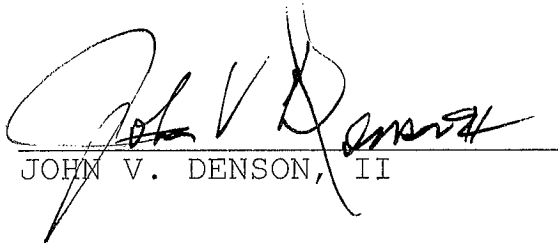
(2) Judge Wiggins is taxed with the costs of this proceeding.

This Court regards Judge Wiggins's conduct under these circumstances as violations of the Canons of Judicial Ethics. This Court, in arriving at the decision to issue a public censure of Judge Wiggins rather than a more serious sanction, considered that Judge Wiggins, when confronted with his misconduct, admitted the same and its wrongfulness and has before this Court acknowledged such misconduct.

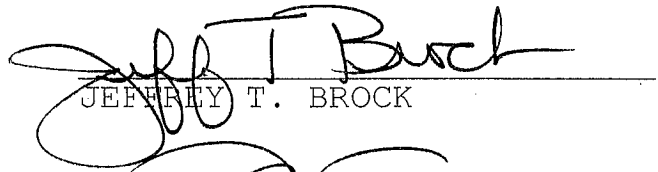
DONE this 21st day of January, 2016.



J. MICHAEL JOINER
CHIEF JUDGE



JOHN V. DENSON, II



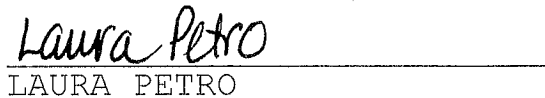
JEFFREY T. BROCK



L. GWALTNEY MCCOLLUM, JR.



JAMES W. WOODROFFE, JR.



LAURA PETRO



S. DAGNAL ROWE, SR.



LUCINDA SAMFORD CANNON



DARYL O. PERKINS