

SUPREME COURT OF FLORIDA
CASE NO. SC 01-358

INQUIRY CONCERNING A JUDGE
NO. 00-03, RE:
JUDGE ROSA RODRIGUEZ

JUDGE RODRIGUEZ' MITIGATION STATEMENT

I. PROFESSIONAL RECORD AS A LAWYER AND CIRCUIT JUDGE

As Judicial Qualifications Commission has correctly found, I have “an exemplary record personally, professionally and on the bench.” Findings and Recommendations of Discipline at 4. I have *never* been accused of professional misconduct by anyone before this incident; indeed, I have always enjoyed the highest reputation among my peers. I graduated in 1982 with a B.A. degree from the University of South Florida, and in 1985 from Yale Law School with a J.D. degree. I was admitted to the Florida Bar in 1985.

My professional experience as a lawyer is as follows:

(1) Carlton, Field, Ward, Emmanuel, Smith & Cutler [Tampa, Florida] [1985-87] [associate in firm handling commercial and general litigation in state and federal courts];

(2) Smith, Helms, Mullis & Moore [Tampa, Florida] [1987-89] [associate in firm handling commercial litigation in state court];

(3) Jenner & Block [Miami, Florida] [1990-91] [associate in firm handling commercial and general litigation in state and federal courts];

(4) Public Defender for the 11th Judicial Circuit of Florida [Miami, Florida] [1991-95] [Assistant Public Defender handling a variety of juvenile and felony cases in the state court];

(5) Zarco & Pardo [Miami, Florida] [1995-98] [associate in firm handling commercial litigation, franchise litigation and criminal defense matters].

I have served on the Board of Directors of Legal Services of Greater Miami [1996], and on the Board of Directors of the Dade County Trial Lawyers Association [1997-98].

I was elected to the Circuit Court in Miami-Dade County in November 1998. I sat continuously as a Circuit Judge from January 1999 to May 2000. From May 2000 to February 2001, I voluntarily stepped down from the bench at the request of the Judicial Qualifications Commission while the charges against me were investigated. When the case was ostensibly settled in February 2001, the Commission graciously allowed me to return to the bench where I have served ever since. I presently sit in the Family Division of the Circuit Court in Miami. I am the most current in my docket in that division. I am well-prepared in my cases. And I have a reputation in the legal profession as an able judge with a good judicial temperament.

II. NEGLIGENT ACTIONS

As the Judicial Qualifications Commission has also correctly found, I have “submitted evidence suggesting that [my] actions [in this case] were committed negligently rather than as part of a pervasive scheme to evade the election laws.” Findings and Recommendations of Discipline at 4. *This is extremely important to emphasize because I wish to assure the Court that I had no intent whatever to violate, evade or skirt the Florida election laws during my campaign. Nor was I engaged in any conspiracy to do so. To the contrary, I thought I was in full compliance with these laws. Moreover, the misdemeanor charges against me for violating the Florida election laws have been dismissed.*

This evidence of negligence is analyzed at pages 8 [first complete paragraph] through 15 of the Response that I filed to the Amended Notice of Investigation in this cause. I refer the Court to that analysis and adopt it by reference as a part of this statement. *It is offered not to excuse my conduct, but to mitigate the punishment to be imposed, to show that I did not intentionally violate the Florida*

election laws or the Judicial Canons of Ethics.

In particular, it was my understanding [along with a great many circuit judges throughout the state] that a judicial candidate could accept a *personal* loan from a third party --- including a lending institution, a friend or a relative --- [as opposed to a loan to the campaign account] in excess of \$500 made for the purpose of influencing the election. The judicial candidate could thereafter treat these funds as his or her own, contribute these proceeds to the campaign account as the candidate's own money [which contribution has no monetary limit] --- and report it as a contribution made by the candidate. This understanding is premised on:

- (1). My own analysis of the Florida election statutes [see pp. 8-10 of Response].
- (2). The Florida Division of Election opinions that approve this conduct [see pages 10-12 of Response].
- (3). The common understanding and practice of Circuit Judges in Florida that have long engaged in such conduct [see pages 12-14 of Response].
- (4). Alan Sundberg's legal opinion [see pages 14-15 of Response].

I now realize that this understanding is incorrect. Accordingly, I agree that when I

- (1) accepted a \$200,000 personal loan from my brother Hugo Rodriguez [based on a bridge loan from my boy friend Gabriel Bach] made for purpose of influencing the election;
- (2) treated the loan proceeds as my own money;
- (3) loaned these proceeds to my campaign as a loan from myself, instead of my brother and my boy friend;
- (4) reported it as such during the campaign, instead of loan from my brother and my boy friend;

(5) disclosed after the election that my brother was the source of the \$200,000 personal loan, without also disclosing that my boy friend Gabriel Bach was the source of the bridge loan to my brother

--- this conduct was contrary to the Florida election laws. Accordingly, I have stipulated to such violations at paragraph 6a, 6b, 6c, 6e, 6f, 6g and 6i of the Stipulation.

As to the remaining two violations contained at paragraphs 6f and 6h of the Stipulation, I also acknowledge that I was negligent in not depositing the aforementioned \$200,000 loan that I made to my campaign account within five (5) business days after receiving this loan as required by law [I was 12 days late]--- and was also negligent in not disclosing in my Financial Disclosure papers that I owed my boy friend Gabriel Bach \$120,000 based on commercial paper that I prepared during the campaign to memorialize the entire loan transaction [see 5-6 of Response] [although this was omission corrected in a subsequent filing].

Beyond that, I acknowledge that the way in which the personal loan from my brother was hastily structured in this case [funded as it ultimately was by the bridge loan from my boy friend] was highly negligent and has rightly generated great suspicions against me, thereby bringing the Florida judiciary into disrepute. The circumstances surrounding this loan are discussed at pages 4-6 of my Response which I now incorporate by reference as part of my Statement here.

I deeply regret my conduct. It has caused me great anguish. And it has caused great embarrassment to the Florida judiciary for which I am profoundly sorry. I ask the Court for a chance to redeem myself and regain my good name. I am confident that if given the opportunity, I can bring credit to the Florida judiciary and can serve the people of Miami-Dade County with distinction.

Circuit Judge Rosa Rodriguez

Date