

**BEFORE THE INVESTIGATIVE PANEL OF THE
FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA**

INQUIRY CONCERNING A
JUDGE, NO. 05-437

SC06-2119

MOTION IN LIMINE

Comes now the Florida Judicial Qualifications Commission by and through undersigned counsel, and files this Motion in Limine and requests the Hearing Panel of the Florida Judicial Qualifications Commission to prohibit any and all argument, testimony or evidence regarding Dr. Kalmanoff or the St. Lucie County Criminal Justice System Assessment Report he authored, and in support of this Motion would state:

1. On March 15, 2005, The Institute for Law and Policy Planning, an organization of which Dr. Kalmanoff is Executive Director, submitted a study of the St. Lucie County criminal justice system. The St. Lucie Board of County Commissioners funded this study. At the time of the commissioning through its completion, Judge Barnes was a member of the county commission.
2. The gravamen of the Amended Formal Charges that have been filed in this cause speak to the respondent judge's conduct and behavior in expressing his disagreement with the criminal justice system in St. Lucie County. Whether or not the jail was overcrowded or that partners in the criminal justice system could have carried out their duties in a different manner is legally irrelevant in evaluating the respondent judge's conduct as measured by the Code of Judicial Conduct. As has been stated, "Neither honest motives nor well-intentioned conduct, however, excuse less that strict compliance with the Code of Judicial Conduct." *In re Glickstein*, 620 So2d 1000, 1002 (Fla. 1993).

3. Rule 14 of the Florida Judicial Qualifications Commission Rules allows only the introduction of “legal evidence” before the Hearing Panel. Legal evidence is a broad term that refers to all admissible evidence. Black’s Law Dictionary, Sixth Edition, 1990. Section 90.401, Florida Statutes, defines relevant evidence as evidence tending to prove or disprove a material fact. As stated previously, whether the St. Lucie County criminal justice system could have been managed differently is legally irrelevant. Therefore, on that ground the testimony of the witnesses and his report are inadmissible.

Wherefore, based upon the foregoing, the Commission requests that the Motion in Limine be granted.

Respectfully Submitted,

Michael L. Schneider
Associate General Counsel
Judicial Qualifications Commission
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U. S. Mail to the Donnie Murrell, Attorney for Judge Barnes, 400 Executive Center Drive, Suite 201, Executive Center Plaza, West Palm Beach, Florida 33401, The Honorable Thomas B. Freeman, Chair, Hearing Panel, Criminal Justice Center, 14250 49th Street, Clearwater, Florida 33762-2801, John R. Beranek, Esq. Counsel, Hearing Panel, Ausley & McMullen, P.O. Box 391, Tallahassee, Florida 32302, This 7th day of January, 2008.

Michael L. Schneider
Associate General Counsel