

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

INQUIRY CONCERNING A
JUDGE, NO. 05-437

SC06-2119

ANSWER TO AMENDED NOTICE OF FORMAL CHARGES

The undersigned hereby files his answer to the Amended Notice, as to paragraph number 4 (the other charges being essentially the same and already answered), and states as follows:

This allegation is as misguided as the others. The Chief Judge did not, and could not, have written the order so as to limit the discretion of judges.

The order referred to, attached and incorporated by reference as Exhibit A, does not specifically or impliedly require judges to certify or order that Sentencing Alternatives certify, defendants for pretrial release under the GPS program that they themselves intend to place in the program, requiring of judges only that “Any judicial decision to grant Pretrial GPS through Sentencing Alternatives, Inc. must be reflected in a written order” (pg.4, para. 4). In every case, this judge met that requirement. The requirements of the order setting forth the guidelines for the program specifically apply only to Sentencing Alternatives : “...Sentencing Alternatives, Inc., may place pretrial detainees...with Eligibility for Pretrial Release utilizing the following criteria...” (Pg. 1, para. #2). That paragraph of the order goes on to emphasize “...however, the court shall retain the discretion to release an accused on electronic monitoring or on recognizance

bond if the findings on the record of facts and circumstances warrant such a release.”

At no time has the State Attorney or County Attorney (who pays the bills for the program) objected to any of this judge’s appointments to the program. At no time has Chief Judge Roby contacted the undersigned with concern that the order wasn’t being followed. From this judge’s perspective, it is believed that most of the other judges doing criminal cases in St. Lucie County have also used the program without reference to the guidelines set forth for Sentencing Alternatives.

If Chief Judge Roby had intended the order to apply to limit judges’ discretion on who they release and under what circumstances, it would be patently illegal. The Florida Supreme Courts Criminal Rule of Procedure 3.131 (b) (D) specifically prefers the “placement of the defendant in the custody of a designated person or organization agreeing to supervise the defendant” over the standard St. Lucie release method, the bail bond. As the Florida Supreme Court made clear in Norris v. State, 768 So.2d 1070 (Fla. 2000), no chief judge can impose an administrative order that restricts the rights granted by the Florida Supreme Court.

Respectfully Submitted,

Cliff Barnes
St. Lucie County Judge
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Answer to Amended Notice of Formal Charges has been furnished by mail to Michael L. Schneider, Associate General Counsel for the Judicial Qualifications Office, 1110 Thomasville Road, Tallahassee, Florida 32303 and John R. Beranak at Post Office Box 391, Tallahassee, FL 32302, this ____ day of March , 2007.

Cliff Barnes