

SC11-1067
FILED
THOMAS D. HALL
2011 JUN - 1 AM 10:26
CLERK SUPREME COURT
BY _____

**IN THE SUPREME COURT OF THE
STATE OF FLORIDA**

**INQUIRY CONCERNING A
JUDGE, TIMOTHY R. SHEA,
NO. 10-265**

SC10-_____

STIPULATION

In this disciplinary proceeding, the Investigative Panel of the Florida Judicial Qualifications Commission and Judge Timothy R. Shea, Circuit Judge, 9th Judicial Circuit, present the following stipulation to this Court pursuant to Article V, Section 12 of the Florida Constitution and Rule 6(j) of the Florida Judicial Qualifications Commission's Rules.

1. Under Rule 6(j), the Investigative Panel "may reach agreement with a judge on discipline or disability, and such stipulation shall be transmitted directly to the Supreme Court, to accept, reject or modify in whole or in part."

2. A Notice of Investigation dated July 16, 2010 was served on Judge Shea. A hearing before the Investigative Panel was held in Tampa, Florida on September 30, 2010 at which Judge Shea appeared and testified. The Investigative Panel concluded that probable cause existed for the filing of Formal Charges.

3. After investigation, a review of the relevant decisional law, and Judge Shea's responses to the Panel's inquiries, the Investigative Panel respectfully submits that the interest of justice and sound judicial administration are best served by entering into this

Stipulation regarding the matters at issue and by the Findings and Recommendations which accompany this Stipulation.

4. The allegations of violations of the Judicial Canons arise from Judge Shea's conduct and demeanor in presiding over criminal cases.

5. Judge Shea was elected to the circuit bench and took office in January of 2007. Prior to taking office he had no prior judicial experience.

6. Judge Shea does not contest the following allegations as set forth in the Notice of Formal Charges:

1. Upon taking the bench in January 2007 you began to exhibit a pattern of rude and intemperate behavior that you characterized as your "Irish temper". This continuing pattern of conduct has persisted to the filing of the Notice of Investigation dated July 16, 2010. This "Irish temper" has been manifested by loud and vocal expressions of displeasure to attorneys with whom you are displeased.
2. You have on occasion exhibited rude and intemperate behavior from the bench towards certain lawyers for the Office of the State Attorney who appear before you. Once, while at sidebar during a hearing, after argument from Assistant State Attorney Camelia Coward, you remarked to the opposing male attorney, "Do you know what I do when my wife and I disagree? I just let her talk."

While making this statement you held up your hand and began moving it as if it were a talking mouth. You continued, " I find that it is best just to let the woman just talk until she's finished." You then indicated that once she is finished then you can do what you want anyway.

3. A week or so later you made the same comment about Ms. Coward, this time to her colleague, but the comment was made from the bench in open court where other attorneys, witnesses and the public could hear your comment.
4. During State v. Manderville, Case # 48-2006-CF-16844-O, On June 27, 2007, when A.S.A. Camelia Coward appeared in the courtroom, you inquired as to why she was there. Upon being told that she was there to assist another Assistant State Attorney, you belittled her by asking, "By bringing her a sandwich?" When she objected to that inappropriate remark by reminding you she was an attorney, not a coffee girl, you replied that you thought there was enough time for her to "run down and get all of us some coffee."
5. in State v. Ivy, Case # 48-2006-CF-9485-O in which Mr. Ivy was charged with Felony Fleeing or attempting to Elude a Police Officer, when Assistant State Attorney Camelia Coward declined to make a plea offer in this case, you unilaterally made your own plea offer to

the defendant. You told Ms. Cowart you made the plea offer for the purpose of "teaching her a lesson."

6. In the summer of 2007, you observed Assistant State Attorney Sarah Freeman taking notes while sitting in the jury box along with two other attorneys. Apparently she was shaking her head while writing on her pretrial docket. When you observed this you began to scream at her. You then got up out of your seat and stood behind your chair and continued your tirade. It is ironic that the subject of your outburst was "respect."
7. In 2009 during a hearing on a Motion to Quash a Capias, when Certified Legal Intern Amy Chandler, who was newly assigned to your division, turned her head to see who had opened the door at the back of the courtroom, you shouted at her, accusing her of making facial gestures. You then asked if she had a problem with your ruling. When she stated she was not involved in the case you stood up, reached over the bench, and pointed at her shouting, "Are we going to have a problem?" In doing so your face became red.
8. In State v. Douglas, Case # 48-2006-CF-11899-O, when faced with Assistant State Attorney Kenneth D. Lewis, who you felt was acting inappropriately, you manifested your displeasure by coming off the bench, approached with a red face asking, as in paragraph 11,

"[A]re we going to have problems?" in such a manner that was physically intimidating.

9. In State v. Bullock, Case # 48-2009-CF-8037-O, you expressed your dissatisfaction with Assistant State Attorney Kelly B. Hicks so vociferously that both lay and law enforcement witnesses could hear your yelling outside the courtroom. In addition you threatened to report the attorney to The Florida Bar. You ultimately granted a Judgment of Acquittal on the count alleging Possession of a Firearm by a Convicted Felon. Later when another Assistant State Attorney, Stephen Brown announced the intention to proceed on the remaining Grand Theft of Motor Vehicle charge, you became visibly angry and ridiculed the attorney in open court by saying that his duty was to your court and not the State Attorney's Office. You then ordered him into the jury room where you continued to berate his ethics. When he protested your public rebuke, you said that it was nothing compared to what you would do if he continued to annoy you. To your credit, you then apologized.
10. In State v Habeych, Case # 48-2008-CF-1288-O you sentenced Mr. Habeych without his attorney present. This was done over his objection. Mr. Haybeych was charged with Trafficking in Hydromorphone case in which a minimum mandatory sentence had to be imposed. You then told his father that if he had any questions

that he could go upstairs to the courtroom where the defense lawyer was appearing before another judge. You then commented that if that lawyer was going to occupy space in his mind, you were going to charge him rent.

7. Judge Shea accepts full responsibility for the conduct set forth above, admits that it should not have occurred and regrets and apologizes for such conduct. Judge Shea maintains that he did not intentionally engage in this pattern of behavior. Further, since being made aware how his conduct was being perceived, he has taken affirmative steps to avoid such behavior. In fact, no further instances of such behavior have been subsequently reported.

8. Guided by the circumstances set forth above and the decisions in *In re Shaprio*, 845 So.2d 170 (Fla. 2003), the Investigative Panel and Judge Shea have reached an agreement on what both believe is appropriate discipline under the circumstances. Consequently, the Investigative Panel has concurrently filed Findings and Recommendations of Discipline with the Court. Judge Shea does not contest the Findings and Recommendations and waives a plenary hearing before the Hearing Panel of the Florida Judicial Qualifications Commission, and oral argument before this Court, if the Recommendations are accepted by the Court.

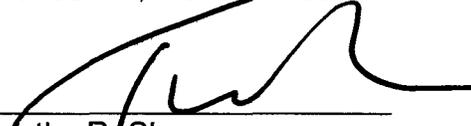
The parties acknowledge and understand that this Stipulation and the Findings and Recommendations of Discipline are subject to the review and approval of this Court. The parties acknowledge and understand that this Stipulation and Findings and

Recommendations of Discipline may be rejected by the Court, and in that event this matter may be returned to the Hearing Panel for a final plenary hearing. In such event, the parties agree that none of the statements in the Stipulation or the Findings and Recommendations of Discipline are admissible in that hearing for any purpose. The parties further agree that none of the negotiations related to this Stipulation are admissible for any purpose.

Dated this 27th day of May, 2011.

INVESTIGATIVE PANEL OF THE
FLORIDA JUDICIAL QUALIFICATIONS
COMMISSION

by 
Michael L. Schneider
Florida Bar # 525049
General Counsel
1110 Thomasville Road
Tallahassee, Florida 32303


Timothy R. Shea
Circuit Judge, Ninth Judicial Circuit


Kirk N. Kirkconnell
Florida Bar # 111988
1150 Louisiana Avenue, Suite 1
Winter Park, Florida 32790-2728
Counsel for Judge Shea