

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

INQUIRY CONCERNING A JUDGE

SC13-1333

LAURA M. WATSON, NO. 12-613

**FLORIDA JUDICIAL QUALIFICATIONS COMMISSION'S RESPONSE
IN OPPOSITION TO JUDGE WATSON'S *AMENDED* MOTION FOR
REHEARING AND/OR CLARIFICATION AS TO THE CLERK'S
ORDER DENYING AMICUS CURIAE JAMES S. WERTER, ESQ. AND
AMICI CURIAE PHILLIP BUSEY ET AL.'S MOTION FOR LEAVE TO
FILE AMICUS CURIAE BRIEF AND THE ULTIMATE STRIKING
OF THE PROPOSED BRIEFS**

The Florida Judicial Qualifications Commission ("JQC"), by and through its undersigned counsel, hereby files its Response in Opposition to Judge Watson's *Amended* Motion for Rehearing and/or Clarification as to the Clerk's Order Denying Amicus Curiae James S. Werter, Esq. and Amici Curiae Phillip Busey et al.'s Motions for Leave to File Amicus Curiae Brief and the Ultimate Striking of The Proposed Briefs (hereinafter "Motion for Rehearing").

ARGUMENT

For the reasons previously stated in the JQC's Response in Opposition to Motion of James S. Werter, Esq. for Leave to File Amicus Curiae Brief and Dr. Philip Busey, Samuel D. Lopez, Esq., Jay Neal and Peter Szymanski's Motion for Leave to File Brief as *Amicus Curiae* filed on July 11, 2014 (hereinafter "Response to Motions for Leave to File Amicus Briefs"), the JQC opposes Judge

Watson's Motion for Rehearing. Additionally, Judge Watson has cited no authority for the proposition that *she*, as opposed to the amici, has standing to move for rehearing of an order denying the *amici* leave to file their amicus briefs. On that basis alone, her Motion for Rehearing should be denied.

The only argument raised in Judge Watson's Motion for Rehearing which is not addressed in the JQC's Response to Motions for Leave to File Amicus Briefs is her contention that affidavits of attorneys who have appeared before her can assist the court in determining her present fitness to hold office. *See* Amended Motion for Rehearing at 7-8. Specifically, Judge Watson argues as follows:

[T]he JQC claims that the attorney affidavits demonstrating the collective experience of the testifying attorneys, that Judge Watson has an excellent judicial temperament, is hard working, well prepared, able to handle complex cases, courteous to attorneys and litigants, impartial, and one of the most competent and responsive judges these attorneys have appeared before, *will not assist the Court* in determining Judge Watson's current fitness to hold judicial office. Such an argument is completely void of logic and hardly seems worthy of comment.

See Amended Motion for Rehearing at 7-8 (emphasis in original).

The attorney affidavits submitted in the Appendix to James Werter's Motion for Leave to File Amicus Brief are completely inapposite to a determination of Judge Watson's present fitness to serve. For instance, in *In re Renke*, 933 So. 2d 482, 495 (Fla. 2006), this Court found that positive evidence of a judge's "present

abilities and reputation” has no bearing on that judge’s present fitness to serve where there has been a finding of past serious misconduct. Similarly, in *In re Sloop*, 946 So. 2d 1046 (Fla. 2007), this Court noted that “Judge Sloop presented evidence . . . that he ha[d] handled his judicial duties well, with no further allegations of misconduct,” but nonetheless removed him from office. In so holding, this Court observed that “[t]he absence of subsequent misconduct while charges are pending does not preclude a finding of present unfitness.” *Id.* at 1059. *See also In re: Henson*, 913 So. 2d 579, 593 (Fla. 2005) (“*We have previously removed judges despite strong character evidence or an unblemished judicial record when their misconduct was fundamentally inconsistent with the responsibilities of judicial office or struck at the heart of judicial integrity.*”). Accordingly, based on well-established precedent, attorney affidavits attesting to Judge Watson’s judicial temperament and competence on the bench have no bearing on her present fitness to serve in light of her past serious misconduct.

If nothing else, Judge Watson’s Motion for Rehearing readily confirms that she is attempting to manipulate the amicus process in order to bolster her *own* objectives. For instance, in the vast majority of Section II of her Motion for Rehearing (pp. 9 – 14), she devotes little effort to explaining why this Court should re-consider its decision denying the *amici* leave to file amicus briefs, but instead simply rehashes (in many cases verbatim) the arguments she has already raised in

her Principal Brief in response to the Court's Order to Show Cause.¹ That is not the purpose of an amicus filing. *See Ciba-Geigy Ltd. v. Fish Peddler*, 683 So. 2d 522 (Fla. 3d DCA 1996) (noting that amicus briefs should not be used as a means to simply replicate the arguments made in the principal brief of the party the amicus seeks to support).

CONCLUSION

Judge Watson has not established she has standing to file a motion for rehearing of an order denying the amici's motion for rehearing. Her filing of a motion for rehearing further demonstrates she is attempting to use the amicus process as a subterfuge to reinforce her own arguments, as opposed to the proposed amici offering independent perspectives to assist the court. Accordingly, the JQC respectfully requests that Judge Watson's Motion for Rehearing be denied.

[SIGNATURE LINE TO APPEAR ON FOLLOWING PAGE]

¹ Fla. R. App. P. 9.330(a) provides that "[a] motion for rehearing shall state with particularity the points of law or facts that, in the opinion of the movant, the court has overlooked or misapprehended in its decision"

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **FLORIDA JUDICIAL QUALIFICATIONS COMMISSION'S RESPONSE IN OPPOSITION TO JUDGE WATSON'S AMENDED MOTION FOR REHEARING AND/OR CLARIFICATION AS TO THE CLERK'S ORDER DENYING AMICUS CURIAE JAMES S. WERTER, ESQ.'S AND AMICI CURIAE PHILLIP BUSEY ET AL.'S MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF AND THE ULTIMATE STRIKING OF THE PROPOSED BRIEFS** has been furnished by E-Mail on this 12th day of August, 2014 to the following:

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