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THE JUDICIAL COUNCIL OF THE FIFTH CIRCUIT  
FIFTH CIRCUIT  
LILE W. GAYCE, CLERK

Before: OWEN, Chief Judge, JONES, SMITH, HAYNES, GRAVES,  
HIGGINSON, WILLETT, HO, DUNCAN, BARBIER, DICK,  
FOOTE, BROWN, OZERDEN, GODBEY, ROSENTHAL,  
GILSTRAP, and MARTINEZ

COMPLAINT NO. 05-16-90116

MEMORANDUM OF REASONS

Complainant, a prospective juror, filed a complaint of judicial misconduct against the subject United States District Judge under Rule 6, Rules for Judicial-Conduct and Judicial-Disability Proceedings ("Rules"). Complainant alleged that the judge was verbally abusive in a telephone call placed by the judge to Complainant after Complainant requested that he be excused from jury service. Then-Chief Judge Carl E. Stewart referred the complaint to a Special Committee for investigation and recommendations to the Judicial Council pursuant to Rules 11(a)(4) and (f).

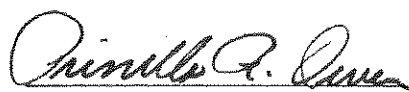
The Special Committee conducted an investigation consisting of review of the complaint, the judge's response, and a report of an in-person interview with Complainant and his wife by a representative from the court. After investigation, the Special Committee submitted its report to the Judicial Council. The Special Committee found reason for concern over many of the statements that Complainant alleged that the judge had made in the telephone call, as well as the judge's alleged tone and demeanor. It also felt that the judge's initial response demonstrated insensitivity to the seriousness of the complaint. The Committee delegated two of its members to meet with the judge in person and convey its concerns. During this meeting, the judge was cordial and respectful, listened to and acknowledged the issues raised by the

complaint, was apologetic for his conduct, and expressed a sincere determination to modify his behavior. The judge then submitted a supplemental written response to the Special Committee, in which he acknowledged that he “should not have spoken harshly” to Complainant, and stated that he would no longer personally telephone prospective jurors to discuss requests to be excused from service. The Special Committee found the judge’s contrition and representations to be sincere.

Based on the judge’s commitment to be more careful about the tone and substance of his comments in the future, and pledge that he would no longer personally telephone prospective jurors to discuss requests to be excused from service, the Special Committee recommended that the Judicial Council conclude the proceeding under Rule 20(b)(1)(B) because appropriate corrective action has been taken. The Judicial Council accepts this recommendation. An order concluding the proceeding pursuant to Rule 20(b)(1)(B) has been entered simultaneously herewith.

For the Council:

Date: November 18, 2019

  
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Chief United States Circuit Judge