

June 15, 2015

Hon. David H. Sawyer, Chairperson  
Judicial Tenure Commission  
Suite 8-450, Cadillac Place  
3034 W Grand Blvd  
Detroit MI 48202

re: *In re J. Cedric Simpson*, Formal Complaint #96

Dear Judge Sawyer:

The purpose of this letter is to address a significant misstatement of the record made by Mr. Fischer during the June 8, 2015, oral argument before the Commission in the above-identified matter.

During oral argument, Mr. Fischer asserted that Judge Simpson had lied under oath during his testimony before the Master with respect to his contacts and communications with Crystal Vargas in the early morning hours on September 8, 2013. In particular, Mr. Fischer stated that Judge Simpson "testified that he went to sleep at 1:30 . . . that morning and that he didn't wake up until her phone call came at 4:25. That is untrue. They were texting for several minutes at least . . . He was not truthful. He lied about it at the hearing" (Oral Argument Tr at 48). Mr. Fischer argued that Judge Simpson had lied about his contacts with Ms. Vargas before her accident because Judge Simpson and Ms. Vargas had exchanged text messages at 4:20:28 a.m., 4:20:39 a.m. and 4:23 a.m. before she called him at 4:24:23 a.m. (Oral Argument Tr at 57-58). However, Judge Simpson was never asked about these text messages; as noted below, Ms. Rynier's questions were limited to communications between "midnight and 3:30 or 4:00 that morning" (Hearing Tr at 146). For these reasons, Mr. Fischer's assertions misrepresented both the questions asked and the answers given by Judge Simpson.

A review of the questions posed to Judge Simpson by Ms. Rynier and answers given by Judge Simpson at the trial makes clear that Judge Simpson was entirely honest in his testimony, including carefully noting when he was and was not sure as to what had occurred and when:

Q: Okay. When is the last text message that you recall in regard to that memo on Saturday or early Sunday morning?

A: *I couldn't tell you, ma'am, without looking at the record.*

Q: Do you recall what time you went to bed?

A: When?

Q: Saturday night into Sunday morning.

A: I went upstairs with Garrison about 1:00. 1:30.<sup>1</sup>

Q: A.m.; correct?

A: A.M.

...

Q: And did you fall asleep?

A: I dozed in and out. He was having a very difficult time, because we had just switched from the summer schedule to the school schedule. And so he was having problems sleeping, but I dozed off at points, yes.

Q: At some point in time, did you receive a phone call from Ms. Vargas?

A: I did.

Q: And do you recall what time it was?

A: It was near 4:25, I think. I know at some point I looked up and saw the clock in my room, which I keep 20 minutes fast, and they were all fours. I do remember that.

(Hearing Tr at 88-89; emphasis added).

Q: Did you have any contact with Mrs. Vargas between midnight and 3:30 that morning?

A: Which morning?

Q: I'm sorry. On the day that she was – on the morning she was arrested, did you have any contact with her *between midnight and 3:30 or 4:00 that morning?*

---

<sup>1</sup>Garrison is Judge Simpson's son.

Hon. David H. Sawyer, Chairperson  
Judicial Tenure Commission  
June 15, 2015  
Page 3

A: No.

Q: And when you say no, that's not by text message or anything else; correct?

A: *I don't believe that there were any text messages. I don't believe that there was any contact.*

(Hearing Tr at 146-47; emphasis added).

Judge Simpson's testimony makes clear that he was at all times being entirely honest. He did not remember when he last exchanged text messages with Ms. Vargas that night and noted that he would need to look at the record in order to refresh his recollection. He did not testify that the telephone call from Ms. Vargas woke him up, and Ms. Rynier never asked him if he had exchanged text messages with Ms. Vargas immediately before receiving her 4:25 a.m. telephone call. With respect to contacts between midnight and 3:30 or 4:00 a.m., Judge Simpson was also clear that he wasn't certain as to his recollection, qualifying his answers with the phrase "I don't believe . . ." to reflect his uncertainty.

Given the importance of these questions and answers to the Commission's accurate understanding of the issues before it, I want to make sure that the Commission's attention is specifically directed to these portions of the trial transcript.

Copies of this letter are also included herein for the other members of the Commission and for the Commission's file. A copy is being provided to Mr. Fischer and Ms. Rynier as well.

Thank you in advance for your attention to this matter.

Sincerely,



Kenneth M. Mogill

//

c: Paul J. Fischer, Esq.  
Margaret N. S. Rynier, Esq.