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July 11, 2016

The Hon. Carl E. Stewart, Chief Judge
U.S. Court of Appeals for the Fifth Circuit
600 S. Maestri Place
New Orleans, LA 70130

Judicial Council of the Fifth Circuit
600 S. Maestri Place
New Orleans, LA 70130

Re: Misconduct Case Nos. 05-14-90121 (Judge Harry Lee Hudspeth) and 05-16-90014 (Judge Walter S. Smith, Jr.)

Chief Judge Stewart and Members of the Judicial Council:

I request that you release the investigative report concerning Judge Harry Lee Hudspeth in Misconduct Case No. 05-14-90121. According to a May 2, 2016 email from Shelley Saltzman, Judge Hudspeth's case was held in abeyance during my appeal of the Judicial Council's decision concerning Judge Smith in Case No. 05-14-90120. As you know, the Judicial Conference's Committee on Judicial Conduct and Disability ruled on my appeal on July 8, 2016. Accordingly, there is no reason to hold Judge Hudspeth's case in limbo any longer.

Frankly, the Judicial Conference's July 8, 2016 order reaffirms my suspicion that the Fifth Circuit was more interested in political damage control than justice, specifically because the Fifth Circuit's investigative committee ignored Judge Smith's alleged involvement in other incidents of sexual misconduct. And this seems to be part of a pattern.¹ Shortly before I received the email from Ms. Saltzman, I learned that Judge Hudspeth had been allowed to retire quietly in January, apparently to avoid the embarrassment of judicial discipline.

According to the May 2 email from Ms. Saltzman, ordinarily "retirement from judicial office results in the dismissal of pending complaints of misconduct or disability." I would direct your attention, however, to the case of former Judge Mark Fuller, which was referenced in the July 8, 2016 order. In that case, the Judicial Conference recommended impeachment *after Judge Fuller had already resigned from office*. In this case, if Judge Hudspeth covered up a felony in order to protect Judge Smith, then Judge Hudspeth can and should be referred to Congress for impeachment, regardless of whether he retired.

¹ Consider, for example, the case of Judge Samuel Kent. The Judicial Council initially suspended him for only four months before the *Houston Chronicle* revealed that Judge Kent had attempted to rape a female employee in the courthouse.

Finally, I renew my request that you transfer Case No. 05-16-90014. In Case No. 05-14-90120, the Judicial Council found that Judge Smith improperly concealed his attorney-client relationship with Greg White from the parties who appeared opposite Mr. White and before Judge Smith. After filing the complaint in Case No. 05-16-90014, I submitted evidence that Mr. White represented Judge Smith at no charge. If Judge Smith received the services at no cost, that would have been an illegal gift at best and a bribe at worst.

Given the fact that the Fifth Circuit refused to investigate Judge Smith's other alleged incidents of sexual misconduct, I do not have confidence that Judge Smith's relationship with Mr. White was investigated adequately in Case No. 05-14-90120. For that reason, I ask that you transfer Case No. 05-16-90014 to the chief justice for reassignment to another circuit.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ty Clevenger', with a long horizontal flourish extending to the right.

Ty Clevenger