

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT  
OF FLORIDA IN AND FOR HILLSBOROUGH COUNTY

IN RE: AN INVESTIGATION INTO JUDICIAL MISCONDUCT  
IN HILLSBOROUGH COUNTY.

PRESENTMENT

Late in the afternoon of Thursday, July 27, 2000, Bailiff Sylvia Gay used her key to enter the offices of Circuit Judge Gregory Holder in the Hillsborough County Courthouse. Gay who is assigned by the Hillsborough County Sheriff's Office to work for Judge Holder was there to retrieve some personal effects. When she entered the offices, she found to her surprise that they were occupied by Judge Robert Bonanno.

Behind this seemingly simple scenario lie many complicated legal and ethical issues which have captured the attention and affected the operation of the Hillsborough County judicial system since that July day. To sort out these issues, we the Grand Jury for Hillsborough County for the Fall Term of 2000, were asked to conduct an investigation into Judge Bonanno's conduct and other related matters. In the process, we met on six separate occasions, listened to the testimony of twenty-four witnesses, examined many items of documentary evidence, and made a visit to Judge Holder's offices. As a result of our investigation, we today recommend the resignation or removal of Judge Bonanno from his position as a judge of the Thirteenth Judicial Circuit. We will also have several other observations to make, but we begin with what is the primary focus of our inquiry. Based

on the testimony we heard, we make the following factual findings.

In addition to serving as a circuit judge, Judge Holder is a reserve military judge assigned to the United States Air Force Judiciary. From time to time this requires his presence at military trials held outside of the State of Florida. July 27, 2000, was such a day. However, his judicial assistant kept his office open throughout the day until she left at 4:30 p.m. At that time she turned off all the lights in Judge Holder's suite of offices and checked all of the doors leading into the suite. All of them were locked. In order to understand what followed, it is helpful to know the layout of the suite, and to that end a diagram is attached to this report as Exhibit A.

Because of Judge Holder's absence, Bailiff Gay was temporarily assigned to work for another judge on the twenty-seventh. However, as was her custom, she stored her personal effects in Judge Holder's break room. Thus, when her normal workday ended she returned to Judge Holder's offices at about 5:20 p.m. The third floor of the courthouse where they are located was quiet and as it was before 5:30 p.m. when the cleaning crew would clock in and begin its rounds, she expected to find no one there.

Using her key, Bailiff Gay unlocked the front door of the suite and entered into the waiting room. To her surprise and consternation, she saw that lights were on in the break room and Judge Holder's private office. She stood still for several seconds, but when she saw a reflection or shadow moving in a furtive manner on a picture hanging on the wall in the private office, she called out the word "hello" in a raised tone of voice. When this elicited no response, she again called out "hello" in an even louder tone. After a moment's pause, Judge Bonanno appeared through the door of the private office into the waiting

room. He said he was there to talk to Judge Holder about several matters and thought that Judge Holder was not leaving town until that evening. He then engaged Bailiff Gay in a few moments of idle conversation before they both left the suite together.

Upset by the incident, Bailiff Gay sought to inform Judge Holder of what had happened. With the help of Judge Holder's wife, she was successful. Judge Holder was equally concerned. Although he knew that Judge Bonanno, like all the other judges with offices on the third floor of the courthouse, had a key to his office, he could think of no good reason for him to be there under the conditions in which Bailiff Gay found him. As a consequence, he contacted the Chief Judge and requested a meeting with the Chief Judge and Bonanno. That meeting was scheduled for the following Monday.

At the Monday meeting, Judge Bonanno immediately attacked Judge Holder for implying that he might have done anything wrong. Affronted by this attitude, Judge Holder terminated the meeting and requested an official investigation of the matter, which led to our involvement.

The investigation of Judge Bonanno's entry into Judge Holder's offices was undertaken by the Hillsborough County Sheriff's Office and the Florida Department of Law Enforcement. While we need not review that investigation in detail, there are certain points which are relevant to our conclusions. Primarily they concern statements given by Judge Bonanno to investigators and others relating to how he entered the offices of Judge Holder, how he found the offices, how he responded to Bailiff Gay's entry, and why he went there. As to his entry into Judge Holder's offices, he told investigators that he entered through the side hall door into Judge Holder's private office which he found to be ajar. This is

significant because of the credible testimony we received which indicated that the door was locked. Moreover, the evidence we received, as well as our own physical examination of the door, demonstrated that because of a closing bar at its top, it is impossible for that door to remain ajar. On the issue of how Judge Bonanno found the offices, he said in his statement to investigators that lights were on in the private office and hearing room but nowhere else. This flies in the face of Bailiff Gay's assertion that lights were on only in the private office and the break room. Another conflict between his story and Bailiff Gay's account is that he told investigators he called out Judge Holder's first name when he heard someone enter through the front door while Bailiff Gay heard only silence until Judge Bonanno walked into the waiting room. From our visit to Judge Holder's offices, we conclude that if Judge Bonanno had spoken at anything above a whisper, Bailiff Gay would have heard him.

The most significant part of the investigation dealt with the reason or motive for Judge Bonanno entering Judge Holder's offices. On that point, the evidence we received establishes that Judge Bonanno himself has at various times given conflicting answers to that question. For example, the Tuesday after the incident, he told a lawyer that he was in the offices to deliver statistics. Yet in various statements he told investigators that he went to the offices to discuss a particular case with Judge Holder. In other statements he mentioned not only a discussion of the case but also a need to discuss courthouse politics.

The evidence we heard establishes that others have very different opinions as to why Judge Bonanno went to Judge Holder's offices. Judge Holder has a reputation for being a forthright man who is willing to speak his mind and who takes a dim view of misbehavior

on the part of his colleagues. Thus, many people believed that Judge Bonanno went to Judge Holder's offices looking for written material or evidence of the misconduct of other judges who were friends of Judge Bonanno. In particular, they surmised that he might have been looking for material on Judge Gasper Ficarrota.

While Judge Bonanno remains the primary focus of our report, we think it is important at this point to also examine the conduct of Judge Ficarrota who has recently resigned from his position as a circuit judge. As can be seen from the evidence which we have just related, our inquiry into Judge Ficarrota's conduct flows naturally from our investigation of Judge Bonanno. Moreover, we think that the parallels between Judge Ficarrota's actions and those of Judge Bonanno are instructive. Finally, we believe that the public deserves some explanation as to the reasons behind Judge Ficarrota's resignation.

The evidence which we heard establishes that Judge Ficarrota conducted an extramarital affair with a Hillsborough County Bailiff, Tara Pisano, which lasted for more than a year. While we do not believe it is necessary for us to chronicle the details of their relationship, we think it is important to note that sexual relations occurred between them in the courthouse during normal business hours.

In addition, we find from the evidence that Judge Ficarrota assisted with Hillsborough County Sheriff Cal Henderson's 2000 election campaign by helping to organize a fund raising party given by several lawyers on the Sheriff's behalf. Judge Ficarrota was aided in this endeavor by Bailiff Pisano and by Corporal Michael Sheehan who is also employed by Sheriff Henderson. Again, we think it should be noted that both engaged in these activities while on duty. We should add that we heard no evidence that Sheriff

Henderson knew of or would have approved of Judge Ficarrota's involvement in his campaign or of the fact that Pisano and Sheehan were doing campaign work on county time.

After the relationship ended between Bailiff Pisano and Judge Ficarrota, she brought Judge Ficarrota's activities to the attention of the Judicial Qualifications Commission which initiated a secret investigation of him. That investigation has been terminated without its results being made public as a result of Judge Ficarrota's resignation from the Bench. While we in no way condone the conduct of Judge Ficarrota, we believe that his resignation was an honorable act which saved the taxpayers of this county and the state an untold amount of money.

We now return to our discussion of Judge Bonanno and the ways in which his situation parallels Judge Ficarrota's. In the course of our investigation we found incontrovertible evidence that Judge Bonanno, like Judge Ficarrota, conducted an illicit courthouse affair. This affair lasted for approximately five years and involved a person who was then an employee of the Hillsborough County Clerk's Office. The two spent much time together in Judge Bonanno's private offices and once attended a judicial conference together in Fort Lauderdale. While we acknowledge that a judge's private life is not public property, we think that improprieties committed on public time and public property are properly subject to public scrutiny.

What then are we to say about Judge Bonanno? First we must examine the issue of whether he committed a crime by entering Judge Holder's offices as he did. Based on the law as we understand it, we conclude that he did not. While we do not condone his conduct, we think that the fact that he, like many others, was assigned a key to Judge

Holder's offices gave him the legal if not moral right to enter as he did.

Having decided that issue, we turn to the question of what if any impact Judge Bonanno's conduct has had on his ability and right to hold office. Quite simply, we conclude, based on the evidence we have heard, that Judge Bonanno has violated Florida's Code of Judicial Conduct by demeaning his judicial office. Moreover, we believe that he has lost the credibility necessary for a judge. It is important that the public understand that we reach this conclusion based not only on the fact of his having been found in Judge Holder's offices under suspicious circumstances, which while poor form was not, as we have noted, a crime. Rather, we are more concerned about the incredible and conflicting accounts he has given about the incident. Whether his observation and memory are faulty or he is just plain lying, we cannot determine. What we can determine is that because of his lack of credibility and his conduct of his personal life, he is no longer fit to be a judge. We ask him to follow Judge Ficarrota's commendable example and immediately resign his position as a judge of the Thirteenth Judicial Circuit. However, if he should fail to do so, we urge the Judicial Qualifications Commission and the Florida Supreme Court to take action to immediately suspend him and then remove him from office after appropriate proceedings.

Before concluding, we believe it proper to make three observations about matters which while not directly related to our conclusions about Judge Bonanno were presented by the evidence we heard. The first deals with Bailiff Tara Pisano and Corporal Michael Sheehan. As we have noted, the evidence we heard established that she had sexual relations with Judge Ficarrota in the courthouse during working hours and that both she and Sheehan engaged in campaign activities while on duty. Although we do not know what

discipline this might command, we strongly recommend that the Sheriff initiate an internal affairs investigation. Given the price which Judge Ficarrota has paid, we believe simple fairness demands that the conduct of his partners not go unexamined.

Our second observation deals with the Judicial Qualifications Commission. This is the agency charged with investigating misconduct on the part of judges and making recommendations to the Florida Supreme Court for appropriate discipline. As in the case of Judge Ficarrota, they operate in secrecy during their investigative stage and should a judge resign prior to being formally charged, the investigation remains secret even if it contains evidence of a crime. Consequently, in the case of Judge Ficarrota the public would never have known of the nature of his misdeeds but for our investigation. We do not believe that these rules instill confidence in the judiciary or otherwise serve the public well. Therefore, we would urge the Supreme Court and other appropriate authorities to examine the secrecy rules of the Judicial Qualifications Commission so as to bring the proceedings and records of that body into the sunshine.

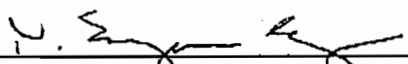
The third observation which we wish to make focuses on Chief Judge Dennis Alvarez and the office of Chief Judge of the Circuit. Opinion evidence we received indicated a concern with the practice of a chief judge serving an unlimited number of terms, as has long been the case in Hillsborough County, and with the ability of a long serving chief judge such as Judge Alvarez to effectively deal with problems like the ones we have examined in this report. On the other hand, others who testified before us thought that the current system works well. Based then on the record before us, while we might wish that the Chief Judge had taken a more active role in preventing the embarrassment our justice system has

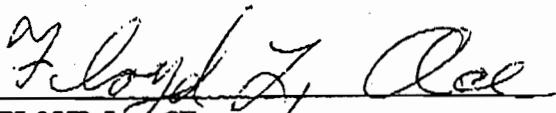


suffered, we are simply not in a position to make a finding on this issue. However, we do believe it is an issue which deserves further examination, and we would strongly encourage our local judiciary as well as the Florida Supreme Court to undertake a careful study of the matter.


In closing, we think it is vitally important to say that there are many fine, hard-working judges in the Hillsborough County judicial system. We find it unfortunate that their reputations have been tarnished by the antics of a few, but we are certain that once this process is concluded, they will be able with a concerted effort to restore the public's confidence in its judiciary.

This report of the Hillsborough County Grand Jury made in open court this 8<sup>th</sup> Day of December, 2000.

  
NELDA SUZANNE LYNN, VICE FOREMAN

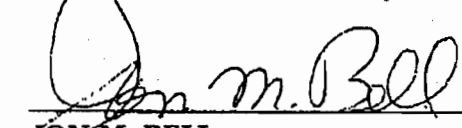
  
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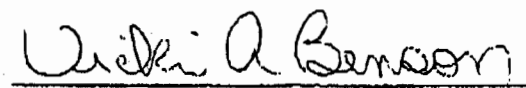
  
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CAROL J. BYRNES

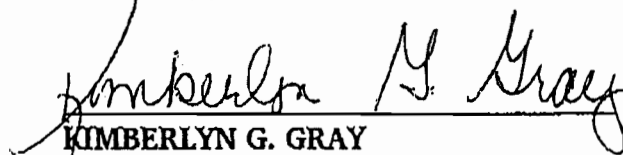
  
CATHY D. ELTZROTH

  
MICHELE L. SAKELLARIS, CLERK

  
JON M. BELL

  
VICKI A. BENSON

  
WILLIAM H. CROSBY

  
KIMBERLYN G. GRAY

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*Keith E. Kiplinger*

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JOE A. LOVERING

*Joan E. Lynch*

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*Michael J. Madalena*

MICHAEL J. MADALENA

*Eveann M. McBride*

EVEANN M. MCBRIDE

*Valerie W. Meyer*

VALERIE W. MEYER

*Susan M. Reilly*

SUSAN M. REILLY

*Kevin H. Walker*

KEVIN H. WALKER

CERTIFICATE OF STATE ATTORNEY


I, JERRY HILL, State Attorney of the Tenth Judicial Circuit being assigned to the Thirteenth Judicial Circuit by order of the Governor of Florida, do hereby certify that as authorized and directed by law, I have advised the Grand Jury in regards to returning this presentment.

THIS 8<sup>TH</sup> Day of December, 2000.

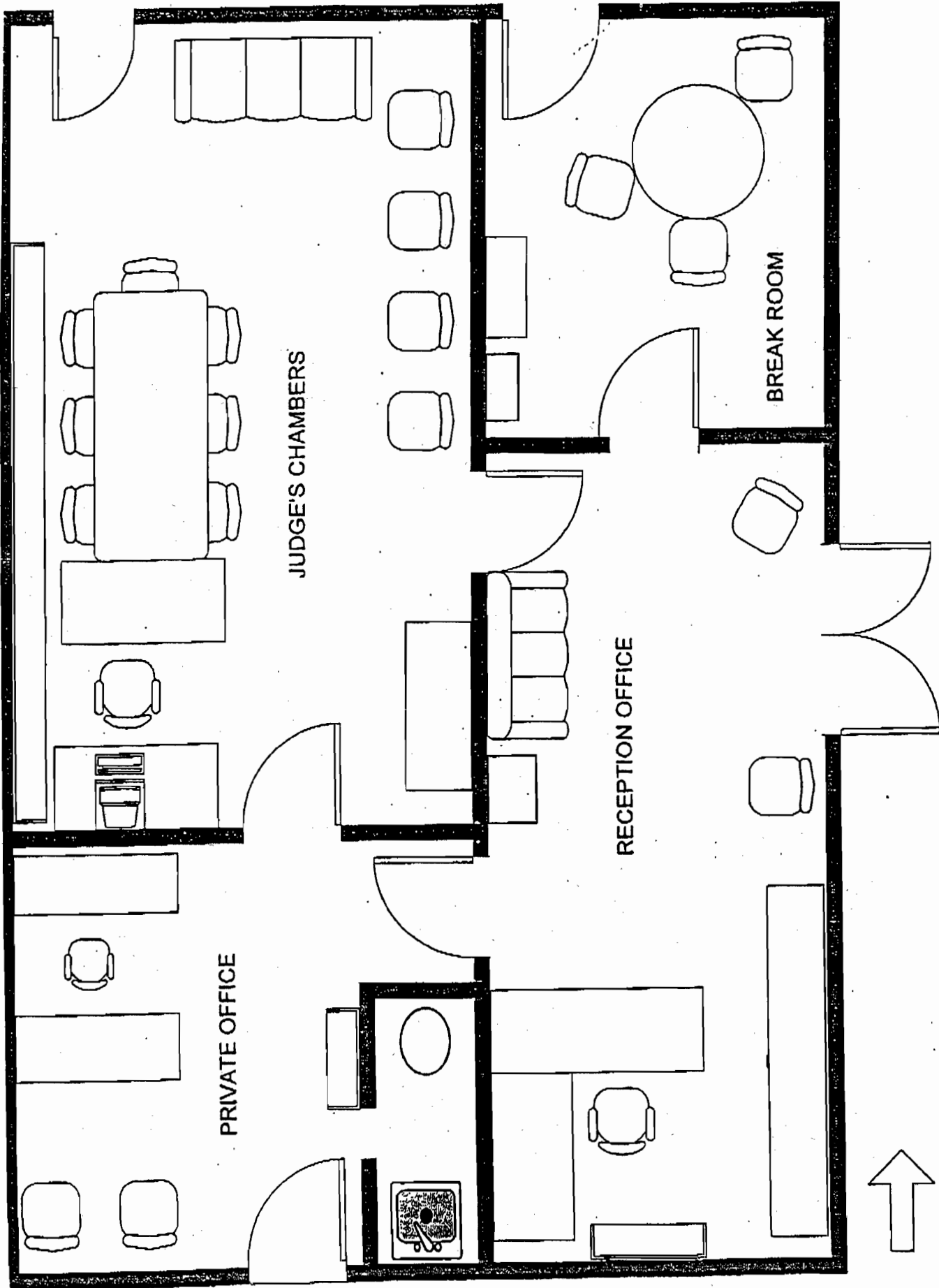
*Jerry Hill*

JERRY HILL  
STATE ATTORNEY  
TENTH JUDICIAL CIRCUIT

PRESENTED by the Grand Jury and filed in open court in Tampa, Hillsborough  
County, Florida, this 8 Day of December, 2000.

  
CLERK OF THE CIRCUIT COURT

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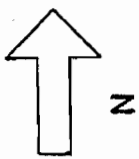
PRIVATE OFFICE

JUDGE'S CHAMBERS

RECEPTION OFFICE

BREAK ROOM

ENTRY  
ROOM 370 EXHIBIT A



NOT TO SCALE