

# Supreme Court of Florida

## ORIGINAL

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No. 77,929

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INQUIRY CONCERNING A JUDGE  
RE: RICHARD J. FOWLER

[February 20, 1992]

PER CURIAM.

This proceeding is before the Court for review and disposition of a recommended action of the Judicial Qualifications Commission (JQC). We have jurisdiction under article V, section 12 of the Florida Constitution.

Richard J. Fowler is the Chief Judge of the Sixteenth Judicial Circuit. At approximately 3 a.m. on December 20, 1990, Judge Fowler accidentally backed into a parked car as he was leaving the home of friends in Key West to drive his ill

companion home. The judge did not stop to determine the damage to the vehicle or the identity of its owner, but proceeded directly home.

Police officers arrived at the scene of the accident and proceeded to Judge Fowler's home after a witness identified his car. When questioned about the accident, Fowler told the officers that he was aware of the accident and that he was sorry it had happened. He then stated that a woman was the driver of the vehicle and that he was a passenger. He repeated this statement several times. When the police asked to speak to the woman, Fowler told them that "would not be possible." Fowler and the owner of the damaged vehicle agreed to work out a settlement between themselves, and Fowler has since fully compensated the owner for the damages to his car.

On December 21 a reporter from the Miami Herald called Judge Fowler to inquire about the accident. He told Fowler that an accident report had been prepared and that the report indicated that Fowler said he was a passenger in the car, not the driver. Fowler told the reporter that he was sorry the police had gotten the impression that he was not the driver of the car. Fowler contacted his attorney that evening and asked him to make arrangements to correct the statements that he had made to the police. At the request of the police, the judge subsequently prepared a written statement explaining the circumstances surrounding the accident and correcting the false information he had given them.

Judge Fowler pled guilty to furnishing false information about an accident to a police officer. He agreed to pay the maximum fine for the offense and to perform thirty hours of community service. Adjudication of guilt was withheld. He promptly paid his fine and has fully completed the community service. Judge Fowler was also charged with improper backing, leaving the scene of an accident, and failure to immediately report an accident, and he paid fines for these traffic infractions.

After a hearing, the JQC found as follows:

The Commission finds, by unanimous vote, that Judge Fowler's conduct as set forth in the Notice of Formal Charges, and established at the hearing by the requisite standard of clear and convincing evidence, is conduct unbecoming a member of the judiciary, and that Judge Fowler is guilty of violating Canons 1 and 2 [of the Florida Code of Judicial Conduct].

Judge Fowler did not uphold the dignity and integrity of the judiciary. He did not establish, maintain, enforce and observe the high standards of conduct required of members of the judiciary so that the integrity of the judiciary may be preserved. Lying is a very serious offense. As this Court has said, "[t]he integrity of the judicial system, the faith and confidence of the people in the judicial process, and the faith of the people in the particular judge are all affected by the false statements of a judge." In re Inquiry Concerning a Judge, Leon, 440 So.2d 1267.

We recognize the rule set by this Court that "in determining whether a judge has conducted himself in a manner which erodes public confidence in the

judiciary, we must consider the act or wrong itself and not the resulting adverse publicity." In re Lamotte, 341 So.2d 513, 518 (Fla. 1977). Judge Fowler's conduct was clearly improper and eroded public confidence and trust in his integrity and the integrity of the judiciary. Judge Fowler failed to regulate his extra-judicial activities in a proper manner and those activities greatly detracted from the dignity of his office. On the other hand, the evidence at the hearing established that prior to this isolated incident, Judge Fowler was a well-respected jurist. Testimony from a variety of lawyers, judges, and citizens clearly attested to this fact.

The Commission concludes that while the public's confidence in the judicial system has been eroded by Judge Fowler's conduct, such erosion has been minimized by his prior exemplary and otherwise unblemished record on the bench and in community service.

Judge Fowler stipulated that his actions in connection with the automobile accident constitute conduct unbecoming a member of the judiciary. We agree. He does not contest the JQC's findings or its recommendation of a public reprimand. Accordingly, we adopt the JQC's findings and hereby impose a public reprimand on Judge Fowler for improper conduct by a judicial officer.\*

It is so ordered.

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\* We do not address the question of whether Judge Fowler's conduct warrants more severe discipline. Our constitutional prerogative is limited to approving or reducing the disciplinary recommendations of the JQC. Art. V, § 12(3)(f), Fla. Const.

SHAW, C.J. and OVERTON, McDONALD, BARKETT, GRIMES, KOGAN and  
HARDING, JJ., concur.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF  
FILED, DETERMINED.