

ORIGINAL

IN THE SUPREME COURT OF OHIO

Disciplinary Counsel

Relator,

vs.

Scott Allan Pullins

Respondent,

NO. 10-0851

Before the Board of Commissioners
On Grievances and Discipline
Case No. 09-022

**RESPONDENT SCOTT ALLAN PULLINS' REQUEST FOR LEAVE TO CLARIFY
THE RECORD**

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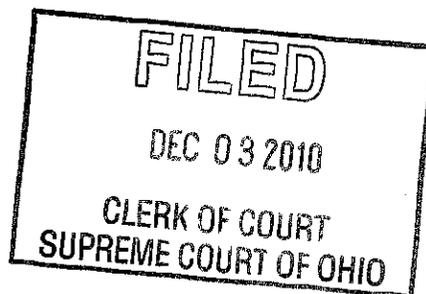
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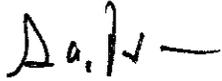
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Counsel for Relator



Now comes the Respondent and requests that this Honorable Court allow him to clarify the record of the oral argument of September 14, 2010. The clarifications and the reasons therefore are fully explained in the attached memorandum.

Respectfully Submitted,



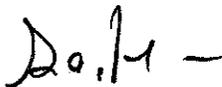
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CERTIFICATE OF SERVICE

A copy of this document was served upon counsel for the Relator, Michael Murman and Edward Kagels, 14701 Detroit Av., Suite #555 Lakewood, OH 44107-4109, and Jonathan Marshall, Secretary, The Board of Commissioners on Grievances and Discipline, the Supreme Court of Ohio, 65 South Front Street, 5th Floor, Columbus, Ohio 43215 via first class, regular mail, this 1st Day of December, 2010.



Scott A. Pullins (0076809)

MEMORANDUM

During oral arguments held on September 14, 2010, Counsel for the Relator, Michael Murman, made several serious misstatements of fact concerning this case. Whether these misstatements were intentional, negligent, or were the result of a lack of preparation, they reflected badly upon the Respondent before this Court and require clarification.

1. **At approximately the 18 minute and 35 second mark of the oral argument, Mr. Murman stated that Respondent filed documents with the Supreme Court that stated that Judge Eyster was incompetent.**

The Respondent's allegation of incompetence was filed in a confidential investigative report filed with the Trial Court in Respondent's capacity as a Guardian Ad Litem. *See Res. Ex. No. 45*. Respondent has never filed a document with the Ohio Supreme Court stating that Judge Eyster is incompetent, as the record clearly shows.

2. **At approximately the 19 minute and 45 second mark of the oral argument, Mr. Murman stated that Respondent made an accusation that Judge Eyster and Judge Curran engaged in an ex parte conversation without providing any evidence or conducting any investigation. At approximately the 20 minute and 7 second mark of the oral argument, Murman again stated that no evidence was presented of any investigation before accusations were made against judges.**

These statements are simply not accurate. Respondent provided evidence in the form of direct testimony of this event, along with substantial documentary evidence concerning Judge Eyster's proclivity to engage in improper ex parte conversations. In fact, Respondent showed that the appellate court overturned the conviction in the underlying case because Judge Eyster went into the jury room on multiple occasions and had ex parte conversations with the jurors. See the opinion in *State v. Wilhelm, 2004 Ohio 5522, P61 (Ohio Ct. App., Knox County Oct. 15, 2004)* and *Res. Ex. No. 109, 110, 111, and 114, Rel. Ex. No. 21, and Deposition of Judge Eyster at 63:16 – 24, and transcript at 413*.

- 3. At approximately the 22 minute mark of the oral argument, Mr. Murman stated that Judge Eyster had an open door policy and that Respondent could have simply gone to his chambers, met with Judge Eyster, and apologized.**

These statements are also simply not accurate. Judge Eyster stated during his deposition that he had refused to meet with Respondent and that this “open door” policy applied to everyone but Respondent. In fact, Judge Eyster stated that he would only consider meeting with Respondent if a Court Reporter was present to make a transcript. *See deposition of Judge Eyster 64:9 – 66:4.*

- 4. At approximately the 22 minute 30 second mark of the oral argument, Mr. Murman stated that Respondent first tried to have his staff set up a meeting with Judge Eyster’s staff and when Judge Eyster wouldn’t meet, Respondent complained about it in a letter.**

Despite this assertion, Respondent’s letter shows otherwise. Respondent apologized thoroughly, completely, and respectfully to Judge Eyster on these matters and did not complain about Judge Eyster’s refusal to meet with him. *See Res. Ex. No. 89.*

- 5. At approximately the 24 minute and 3 second mark of the oral argument, Mr. Murman stated that Respondent had his wife prepare an affidavit of disqualification, that was false evidence, had no basis in fact and dishonest, and file it with the Ohio Supreme Court.**

This affidavit of disqualification clearly had a basis in fact because it was granted by the late Chief Justice Moyer. *See Res. Ex. 135.* The full panel dismissed the charge of dishonesty in this count. *See Page 21 of the Board Recommendation.*

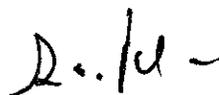
- 6. At approximately the 25 minute and 3 second mark of the oral argument, Mr. Murman stated that Respondent signed his wife’s name to an affidavit that was then used in a case to attempt to obtain a civil protection order and restrain a man’s liberty.**

This statement is also incorrect. Respondent signed his wife’s name to a verification of a pleading for a request for a temporary restraining order as described in Count Three. This affidavit had nothing to do with a civil protection order nor would it have restrained a man’s

liberty. *See Rel. Ex. No. 5.* In fact, the affidavit filed by the Respondent in his request for a civil protection order was neither signed incorrectly nor questioned as part of this case. *See Res. Ex. No. 6.*

The evidence before this Court clearly shows that these statements made by Mr. Murman during oral argument on September 14, 2010 were factually incorrect and harmed Respondent and his case. As such, Respondent respectfully urges the Court to permit these important clarifications.

Respectfully Submitted,



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