

November 2, 2023

Judicial Merit Selection Commission
Post Office Box 142
Columbia, South Carolina 209202
Via Email to: ErinCrawford@scsenate.gov



Re: Response to Filed Complaints

Dear Commission Members:

I respectfully request the Judicial Merit Selection Commission accept this letter in response to the complaints filed against me by Sarah Ford, Karl Stoller, Dr. Darren Bess and Tripp Montgomery.

These complaints are not consistent with the reputation I have earned through my years of practice as a lawyer in private practice for nearly a decade or over twelve years as a prosecutor in the Second Judicial Circuit. While I strongly disagree with these allegations, I regret that I did not meet the expectations of the families impacted by this matter and am disappointed in the tenor of these complaints which I have taken very personally.

I first met Sarah Ford immediately prior to a bond hearing in the Bess case that was held in Dorchester County. Prior to the hearing, I was informed she was representing Chloe Bess and her family. Later, I was also told she would be representing Dallas Stoller and her family. Ford informed me all communication with the victims and their families would need to be coordinated through her and that she needed to be present for any conversations with them. Later she informed me she was also representing the Montgomery family. In compliance with Rule 4.2, RPC, Rule 407 SCACR, and out of professional courtesy, I never had any communication with any victims in this matter without first coordinating the meeting through her and her being present for the meeting. During the course of the case, my office and I had numerous communications by email and phone with Ford regarding Bowen Turner. It was my expectation and belief the information we provided was being relayed to the victims, however it is clear from the complaints that it was not.

Ultimately, I made the prosecutorial decision to resolve the Turner cases by means of a plea with a recommended sentence that I believed at the time would address the concerns expressed to me by the victims' families at our first meeting. In making that decision, I considered the evidence I believed would be admissible at a trial and our likelihood of success at trial based on the evidence we could present. I am prohibited by Rule 3.6, RPC, Rule 407 SCACR, from discussing the specific facts of the cases publicly, but I can say that in my estimation, some of testimony I expected the jury to hear would not be favorable to the State's case. With those considerations in mind, I worked with SLED, other attorneys in my office, and Probation Agent Todd Graham to formulate a plea offer that would seek to accomplish multiple goals that the victims' families had told me personally were important to them.

When I informed Ford of the terms of the proposed plea offer I told her I wanted to speak to the victims to explain it to them before I conveyed it to the defense attorney. She replied by

telling me that Chloe and her father would not attend a meeting, but that Chloe's mother wanted to discuss the offer. I spoke with her, with Ms. Ford present, the next afternoon. I then spoke with the Stoller family, again with Ms. Ford, the following day.

On Friday, April 8, 2022, all parties appeared in Orangeburg for the hearing. Prior to the hearing, the presiding judge asked the attorneys to come into chambers, which was not surprising considering the size of the audience and the amount of media in the courtroom. Sen. Hutto and I explained to the judge what was going on. Ms. Ford explained she had motions she wanted to argue in the case. Two were motions I had been emailed Wednesday evening. The third was a "motion to enforce victim rights" that had been handed to me (along with copies of the other two motions) when I walked into the courtroom. Until Ms. Ford mentioned her "motion to enforce victim rights", I did not realize there was actually a third motion I hadn't seen before.

Bowen Turner pleaded guilty as contemplated in the plea agreement. The victims' fathers were allowed to address the Court, as was Ms. Ford. At sentencing, the Judge slightly modified the recommended sentence and ordered that any violations of probation be immediately brought before the General Sessions court for a revocation hearing.

In the days and weeks following Turner's guilty plea a number of media outlets reported on the story, to include print and electronic media companies, podcasters, and social media commenters. This publicity, fueled by incomplete and inaccurate information, generated hundreds, if not thousands, of emails, letters and calls to the Second Circuit Solicitor's Office. Despite the cacophony of well-intentioned, but less than fully-informed commenters, I refused to engage in the public debate regarding the case.

I believe that my record of more than two decades as an attorney in South Carolina has demonstrated the Bowen Turner matter is an anomaly. I respected, and continue to respect, the positions of the victims' families regarding Bowen Turner. However, as the prosecutor of the cases, I had to determine the best path forward based on more than their input alone.

The duty of a prosecutor is to seek justice within the bounds of the law, not merely to convict. In the preamble to the Judicial Canons our Supreme Court states: "Our legal system is based on the principle that an independent, fair and competent judiciary will interpret and apply the laws that govern us." The comment to Canon 1 of the Code of Judicial Conduct provides: "The integrity and independence of judges depends in turn upon their acting without fear or favor." While I have certainly been frustrated by the way this matter was presented to the public, I can say I handled this case, like every other case, in the manner I thought best when considering *all* of the facts, including the ones that are not publicly known. I made no decision to curry favor with anyone, or in fear of threats of public backlash.

I have personally prosecuted over five thousand warrants during my time as a prosecutor in the Second Judicial Circuit. I have assisted other prosecutors, met with victims, and assisted defense attorneys in cases that were not assigned to me to help get the cases resolved. In the course of all those matters, I have never been informed by any judge that an attorney, staff member or litigant has complained to them about my conduct inside or outside the courtroom. Neither Solicitor Weeks nor Solicitor Thurmond before him has ever relayed a complaint from an attorney or court staff member about me. I have never had a complaint filed against me with the South

Carolina Bar that was not filed by a criminal defendant, and none of those has resulted in any finding of misconduct on my part. In numerous prior screenings before this Committee, no member of the public or Bar has filed a complaint against me.

I respectfully request that the Judicial Merit Selection Commission consider my qualifications based on my record as a whole and not based on a single, highly publicized case.

Respectfully Submitted,



David W. Miller

Cc: Bryan Triplett, Esq.

COMPLIMENTS OF LUNA SHARK