


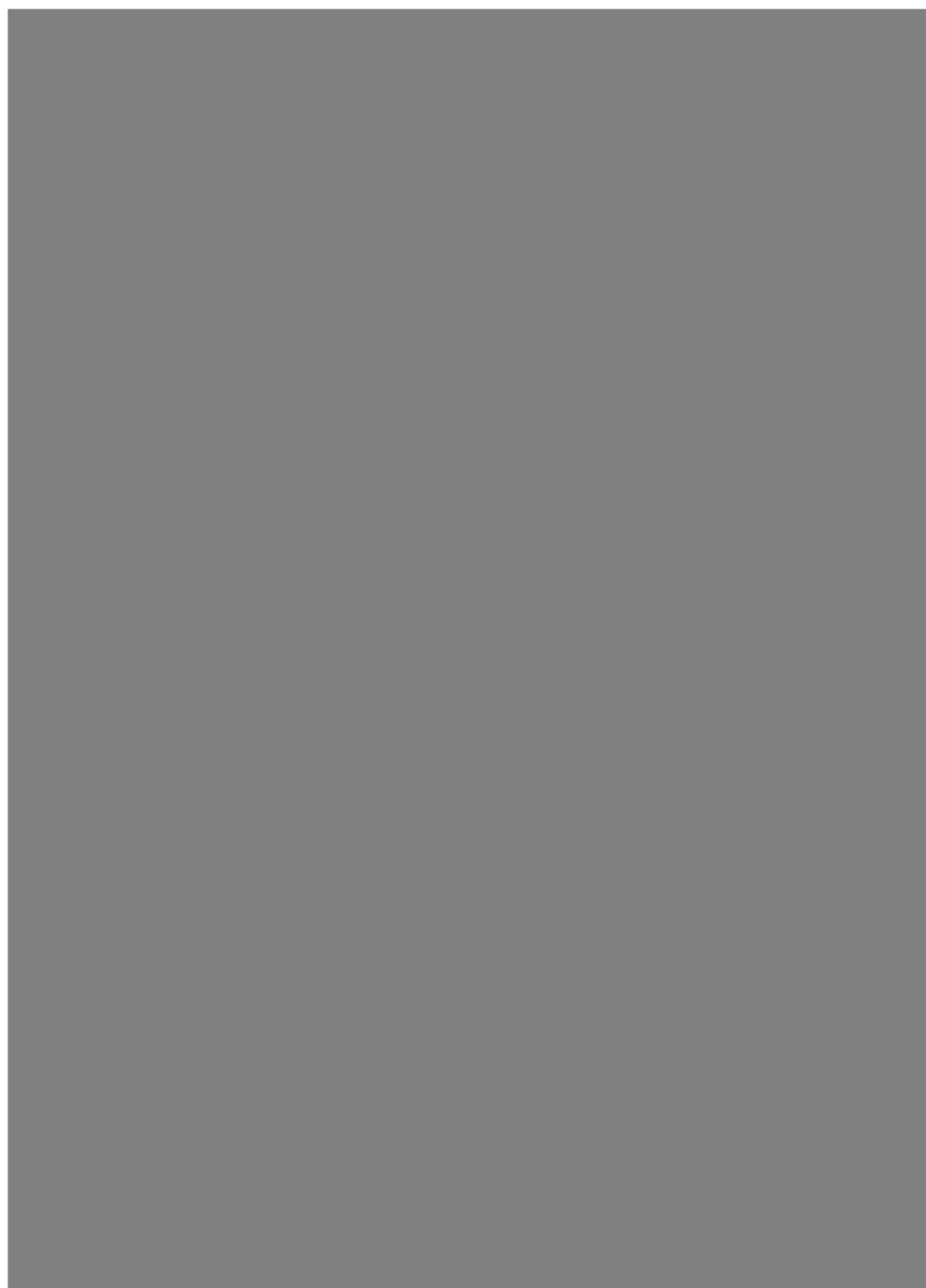
APPLICATION FOR NOMINATION TO THE
CIRCUIT COURT
EIGHTH JUDICIAL CIRCUIT OF FLORIDA

DENISE R. FERRERO

COUNTY COURT JUDGE
201 EAST UNIVERSITY AVENUE
GAINESVILLE, FLORIDA 32601


FAX (352) 548-3701

ferrerod@circuit8.org



APPLICATION FOR NOMINATION TO THE CIRCUIT COURT

(Please attach additional pages as needed to respond fully to questions.)

DATE: March 29, 2013 Florida Bar No.: 0971944

GENERAL:

Social Security No.: [REDACTED]

1. Name Denise R. Ferrero E-mail: ferrerod@circuit8.org

Date Admitted to Practice in Florida: April 23, 1993

Date Admitted to Practice in other States: n/a

2. State current employer and title, including professional position and any public or judicial office.

State of Florida, Alachua County Court Judge, Eighth Judicial Circuit

3. Business address: 201 East University Avenue

City Gainesville County Alachua State FL ZIP 32601

Telephone (352) 548-3700 FAX (352) 548-3701

4. Residential address: [REDACTED]

City [REDACTED]

Since May 2003 Telephone [REDACTED]

5. Place of birth: Fort Lauderdale, FL, USA

Date of birth: [REDACTED] Age: 45

6a. Length of residence in State of Florida: 45 years

6b. Are you a registered voter? ☒ Yes ☐ No

If so, in what county are you registered? Alachua

7. Marital status: Married

If married: Spouse's name [REDACTED]

Date of marriage [REDACTED]

Spouse's occupation [REDACTED]

If ever divorced give for each marriage name(s) of spouse(s), current address for each former spouse, date and place of divorce, court and case number for each divorce.

n/a

8. Children

| <i>Name(s)</i> | <i>Age(s)</i> | <i>Occupation(s)</i> | <i>Residential address(es)</i> |
|----------------|---------------|----------------------|--------------------------------|
|----------------|---------------|----------------------|--------------------------------|

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|--|--|--|--|
| | | | |
|--|--|--|--|

9. Military Service (including Reserves)

| <i>Service</i> | <i>Branch</i> | <i>Highest Rank</i> | <i>Dates</i> |
|----------------|---------------|---------------------|--------------|
|----------------|---------------|---------------------|--------------|

| | | | |
|-----|-----|-----|-----|
| n/a | n/a | n/a | n/a |
|-----|-----|-----|-----|

| | | | |
|---------------------------|-----|-------------------|-----|
| Rank at time of discharge | n/a | Type of discharge | n/a |
|---------------------------|-----|-------------------|-----|

| | |
|---------------------|-----|
| Awards or citations | n/a |
|---------------------|-----|

HEALTH:

10.

| |
|--|
| |
|--|

11a.

11b.

12a

12b

13.

14.

15.

16.

17.

EDUCATION:

18a. Secondary schools, colleges and law schools attended.

| <i>Schools</i> | <i>Class Standing</i> | <i>Dates of Attendance</i> | <i>Degree</i> |
|---|--------------------------|--|------------------------|
| University of Florida College of Law | unknown | January 1990 through December 1992 | Juris Doctor |
| Stetson College of Law | n/a | August 1989 through October 1989 | None |
| Vanderbilt University | unknown | August 1985 through May 1989 | Bachelor of Arts |
| St. Thomas Aquinas High School | approximately 36/300+ | August 1981 through May 1985 | High School Diploma |

18b. List and describe academic scholarships earned, honor societies or other awards.

National Honor Society

NON-LEGAL EMPLOYMENT:

19. List all previous full-time non-legal jobs or positions held since 21 in chronological order and briefly describe them.

| <i>Date</i> | <i>Position</i> | <i>Employer</i> | <i>Address</i> |
|-------------|-----------------|-----------------|----------------|
| none | | | |

PROFESSIONAL ADMISSIONS:

20. List all courts (including state bar admissions) and administrative bodies having special admission requirements to which you have ever been admitted to practice, giving the dates of admission, and if applicable, state whether you have been suspended or resigned.

| <i>Court or Administrative Body</i> | <i>Date of Admission</i> |
|-------------------------------------|--------------------------|
| The Florida Bar | April 23, 1993 |

LAW PRACTICE: (If you are a sitting judge, answer questions 21 through 26 with reference to the years before you became a judge.)

21. State the names, dates and addresses for all firms with which you have been associated in practice, governmental agencies or private business organizations by which you have been employed, periods you have practiced as a sole practitioner, law clerkships and other prior employment:

| <i>Position</i> | <i>Name of Firm</i> | <i>Address</i> | <i>Dates</i> |
|---|---|---|--|
| Civil Traffic Infraction Hearing Officer | Eighth Judicial Circuit | 201 East University Ave., Gainesville, FL 32601 | 2005-2008 |
| Attorney | Avera & Avera, LLP | 2814 SW 13th St., Gainesville, Florida 32608-2017 | 2002-2006 |
| Division Chief, Crimes Against Women and Families; | | | July 2000 - December 2001; |
| Assistant State Attorney; | Office of the State Attorney, Eighth Judicial Circuit | 120 West University Ave., Gainesville, FL 32601 | 1993-2000; Fall Semester 1992 |
| Certified Legal Intern | | | |

| | | | |
|-----------|--|---|----------------------------|
| Law Clerk | Conrad, Scherer, James and Jenne, P.A. (formerly Conrad, Scherer, & James, P.A.) | 633 South Federal Highway, Ft. Lauderdale, FL | Summer 1992 Summer 1991 |
|-----------|--|---|----------------------------|

22. Describe the general nature of your current practice including any certifications which you possess; additionally, if your practice is substantially different from your prior practice or if you are not now practicing law, give details of prior practice. Describe your typical clients or former clients and the problems for which they sought your services.

Since 2009 I have served the citizens of the Eighth Judicial Circuit as a County Court Judge for Alachua County. Since 2011 I have served as the Administrative Judge for Alachua County Court.

From 2005-2008, I served as the Civil Traffic Infraction Hearing Officer for the Eighth Judicial Circuit, serving in Alachua County. My role was to conduct civil traffic infraction hearings from start to finish. This included contested hearings, change of plea hearings, disposition hearings and motion hearings related to speeding, stop sign violations, red light violations, careless driving, non-moving infractions, and parking violations.

From 2002-2006, I was an attorney with the law firm of Avera & Avera, LLP. I practiced in the areas of criminal defense, administrative law, civil litigation and on a limited basis, probate and guardianship.

From 1993-2002, I was an Assistant State Attorney with the State Attorney's office for the Eighth Judicial Circuit. I started in 1992 as a certified legal intern and when I left the office at the end of the 2001 I was the Division Chief for the Crimes Against Women and Families Division. I handled cases in all counties of the Eighth Circuit and was assigned at different times to Alachua, Bradford and Levy Counties. I handled every type of case from municipal ordinance violations like open container to first-degree murder. During 2001 and 2002, as the Division Chief for the Crimes Against Women and Families Division, my responsibilities included reviewing, assigning, supervising and litigating cases within the division. I supervised both Circuit Court and County Court attorneys. My responsibilities also included the litigation of cases involving the Civil Commitment of Sexually Violent Predators (Jimmy Ryce Act) which is discussed in more detail in response to question 30 of this application.

23. What percentage of your appearance in courts in the last five years or last five years of practice (include the dates) was in:

| Court | | Area of Practice | |
|-------------------|---------|------------------|-------------|
| | | | (2001-2006) |
| Federal Appellate | _____ % | Civil | _____ 15 % |
| Federal Trial | | | (2001-2006) |
| | _____ % | Criminal | _____ 80 % |
| Federal Other | _____ % | Family | _____ % |

| | | | |
|----------------------|---------------------|---------|---------------------|
| | | | 5 |
| | | | (2001-2006) % |
| State Appellate | <u>0</u> % | Probate | |
| | (2001-2006) | | |
| State Trial | <u>87</u> % | Other | <u> </u> % |
| | (2001-2006) | | |
| State Administrative | <u>8</u> % | | |
| | (2001-2006) | | |
| State Other | <u>5</u> % | | |
| | <u> </u> % | | |
| TOTAL | <u>100</u> % | TOTAL | <u>100</u> % |

24. In your lifetime, how many (number) of the cases you have tried to verdict or judgment were:

| | | | |
|--------------|-------------------|------------------------|-------------------------|
| Jury? | <u>60+</u> | Non-jury? | <u>approximately 15</u> |
| Arbitration? | <u> </u> | Administrative Bodies? | <u>5+</u> |

25. Within the last ten years, have you ever been formally reprimanded, sanctioned, demoted, disciplined, placed on probation, suspended or terminated by an employer or tribunal before which you have appeared? If so, please state the circumstances under which such action was taken, the date(s) such action was taken, the name(s) of any persons who took such action, and the background and resolution of such action.

No.

26. In the last ten years, have you failed to meet any deadline imposed by court order or received notice that you have not complied with substantive requirements of any business or contractual arrangement? If so, please explain in full.

No.

(Questions 27 through 30 are optional for sitting judges who have served 5 years or more.)

- 27a. For your last 6 cases, which were tried to verdict before a jury or arbitration panel or tried to judgment before a judge, list the names and telephone numbers of trial counsel on all sides and court case numbers (include appellate cases).

21-2002-CT-287-A

Gabriel Hamlett, Esq.

(formerly an Assistant State Attorney, now with Campus USA Credit Union)

(352) 335-9090

01-2000-CA-3831

John Jopling, Esq.

(352) 372-4381

William T. Stone, Esq.

(904) 355-4401

01-2000-CF-2506-A

Victor Hayes, Esq.

(352) 338-7370

Horace N. Moore, Jr., Esq.

(813) 719-6605

Flagler County Probate Case No. 553-GGI

Scott Cichon, Esq.

(386) 255-8171

J. Lester Kaney, Esq.

(386) 677-7965

38-2000-MH-1-A

George Hedrick, Esq.

(retired from the Office of the Public Defender, 8th Judicial Circuit)

(352) 505-5886

04-1999-CA-650-A

George Hedrick, Esq.

(retired from the Office of the Public Defender, 8th Judicial Circuit)

(352) 505-5886

- 27b. For your last 6 cases, which were settled in mediation or settled without mediation or trial, list the names and telephone numbers of trial counsel on all sides and court case numbers (include appellate cases).

01-2005-CA-1769

Appeared on behalf of the Plaintiff

Defense:

M. Kristina Raattama, Esq.

Assistant General Counsel, University of Florida

(Now General Counsel at FIU (305) 348-2103)

05-85-CF-A

Appeared on behalf of Defense

State:

Karen Hatton, Esq. (386) 362-2320

01-2004-CF-5277-A

Appeared on behalf of the Defense

State:

William Ezzell, Esq. (352) 486-5140

Kristin Pickens, Esq. (352) 374-3670

01-2004-CA-722

Appeared on behalf of the Plaintiff

Defense:

Erica Vitsky, Esq. (727) 773-3201

William Bennett, Esq. (619) 240-4668

21-2003-CF-27-A

Appeared on behalf of the Defense

State:

Kristin Pickens, Esq. (352) 374-3670

01-2003-CA-2723

Appeared on behalf of the Plaintiff

Lead Counsel for the Plaintiff:

Mark Avera, Esq. (352) 372-9999

Defense:

Joan Vecchioli, Esq. (727) 461-1818

Michael Auchampau, Esq. (727) 821-2080

C. Gary Moody, Esq. (352) 373-6791

- 27c. During the last five years, how frequently have you appeared at administrative hearings? 0 (I have been a Judge or Hearing officer exclusively since 2006) average times per month
- 27d. During the last five years, how frequently have you appeared in Court? 0 (I have been a Judge or Hearing officer exclusively since 2006) average times per month
- 27e. During the last five years, if your practice was substantially personal injury, what percentage of your work was in representation of plaintiffs? 0 (I have been a Judge or a Hearing officer exclusively since 2006)% Defendants? 0%
28. If during any prior period you have appeared in court with greater frequency than during the last five years, indicate the period during which this was so and give for such prior periods a succinct statement of the part you played in the litigation, numbers of cases and whether jury or non-jury.

From 1993 until the end of 2001, I served as an Assistant State Attorney, and in that capacity it was not uncommon to appear in court several times per week. During that time, I appeared in court on thousands of cases. As the prosecutor I handled the case from start to finish, including motion hearings, trials, case management conferences, bond hearings, pre-trial conferences, change of plea hearings and post-conviction violation of probation hearings. During the time that I was in private practice, between 2002 and 2006, I appeared in Court less frequently but also appeared several times a month at pre-trial conferences, status conferences and motion hearings.

29. For the cases you have tried to award in arbitration, during each of the past five years, indicate whether you were sole, associate or chief counsel. Give citations of any reported cases.

none

30. List and describe the six most significant cases which you personally litigated giving case style, number and citation to reported decisions, if any. Identify your client and describe the nature of your participation in the case and the reason you believe it to be significant. Give the name of the court and judge, the date tried and names of other attorneys involved.

State of Florida v. Paul R. White

Circuit Court of the Eighth Judicial Circuit, in and for Alachua County

Case No. 01-1997-CF-512-A

730 So. 2d 679 (Fla. 1st DCA 1999), Per Curiam. Affirmed.

The Honorable Peter K. Sieg, Acting Circuit Judge (now Senior Judge)

Defense Counsel: Stephen Bernstein, Esq.

Trial Date: February 19, 1998

This was a Capital Sexual Battery case. I was lead counsel for the state. The case involved the sexual battery of the daughter of the Defendant's ex-girlfriend. The case was significant in that it required the preparation of a child witness (10 year old) for testimony in front of a jury. Some of the evidentiary issues presented were those involving prior bad acts of the Defendant, prior bad acts of the mother and the admissibility of child hearsay. He was convicted as charged.

State of Florida v. Ricky Lamara Brown

Circuit Court of the Eighth Judicial Circuit, in and for Alachua County

Case No. 01-2000-CF-2506-A

838 So. 2d 1148 (Fla. 1st DCA 2003), Affirmed.

The Honorable Phyllis Kotey, Acting Circuit Judge (now retired)

Defense Counsel: Victor Hayes, Esq. and Horace Moore, Jr., Esq.

Trial Date: May 16 & 17, 2001

This was a Sexual Battery Case. I was lead counsel for the State. The Defendant committed the offense against his mother-in-law when she could not help him broker a reconciliation with his wife. The Defendant's wife was the victim of an Aggravated Assault case that I prosecuted separately. His threats in that case forced his wife into a domestic violence shelter. His wife was terribly afraid of him and did not tell anyone where she was, including her own mother, the victim in this case. When the wife's mother could not tell the Defendant how to find his wife, he threatened her and in

retaliation began to beat her on the head and body and finally sexually battered her. The defendant always contended that the sex was consensual and that the injury to the victim was minor. This case was significant in that it involved the complexities of domestic violence and included DNA evidence. The jury saw and heard evidence of this brutal attack including a large portion of the carpet that was saturated with the victim's blood, directly contradicting the Defendant's two theories: consensual sex and minor injury. The jury was able to see this evidence and visualize the brutality of the attack. The Defendant was convicted of Sexual Battery.

In re the Commitment of Samuel Stutzman

Circuit Court of the Eighth Judicial Circuit, in and for Bradford County

Case No. 04-1999-CA-650

845 So. 2d 191 (Fla. 1st DCA 2003). Affirmed.

The Honorable Maurice V. Giunta, Circuit Judge (now retired)

Defense Counsel: George Hedrick, III, Esq. (now retired)

Trial Date: November 13 & 14, 2001

I was lead counsel for the State. This was a Bradford County case. Samuel Stutzman was in prison and was a convicted sex offender. Upon his release from prison he was detained under the Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators Treatment and Care Act. These are hybrid type cases. In this type of case, a petition to declare a person a sexually violent predator is filed in the Circuit Court. It is a civil mental health proceeding, but it is assigned to a criminal division in the county having jurisdiction. After a finding of probable cause and upon the expiration of his prison sentence Mr. Stutzman was detained and transported by the Department of Children and Families to a facility where he was held until an expedited trial was conducted. This case was significant in that I developed and presented complex psychological expert testimony during the jury trial. There were three psychologists called to testify and each of them had significant expertise in the area of treatment of sexually violent predators. Mr. Stutzman was involuntarily committed for treatment.

State of Florida v. Gregory Collett

County Court , in and for Gilchrist County

Case. No. 21-2002-CT-287-A

The Honorable Edward Philman, County Court Judge (now retired)

Prosecuting Attorney: Gabe Hamlett, Esq.

Trial Date: March 26, 2003

I represented a firefighter charged with Driving Under the Influence of Alcohol. He had finished his shift and headed to Cedar Key to go fishing, he planned to spend the day and much of the evening fishing. He admitted to drinking, but maintained that he stopped drinking eight (8) hours before he got back into his car to drive home. This was

my first trial representing a criminal Defendant. He was acquitted at trial. This case was significant in that during my transition from Assistant State Attorney to an attorney representing a client I confirmed what I thought I knew: my trial skills and knowledge of evidence translate to all cases whether you represent the Plaintiff or the Defendant or if you are the Judge. Additionally, my client had limited experience in the court system. The skills needed to maneuver a client through the court system and my extensive courtroom experience have served me well as a Judge.

In re the Commitment of John Houtsma,

Circuit Court of the Eighth Judicial Circuit, in and for Levy County

Case No.: 38-1997-CF-777-A

828 So. 2d 1035 (Fla. 1st DCA 2002). Affirmed.

The Honorable Martha Ann Lott, Circuit Judge

Defense Attorney: George Hedrick, III, Esq. (now retired)

Trial Date: November 2000 (Written order entered December 14, 2000)

I was lead counsel for the State. This case was a non-jury trial in Levy County. John Houtsma was in prison and based on his history of sexually violent offenses my office filed a petition to civilly commit him under the Jimmy Rice Involuntary Commitment for Sexually Violent Predators' Treatment and Care Act. In this case the Court made the initial determination of probable cause and upon the expiration of Houtsma's prison sentence, he remained in custody and was transported by the Department of Children and Families to a facility where he was held until an expedited trial was conducted. Here, both psychologists presented by the State testified that Mr. Houtsma was unable to control his behavior. Specifically, he was diagnosed with impulse control disorder and, although he might know that his behavior was wrong, he could not stop himself from committing the bad acts even when given the opportunity to do so. Houtsma himself reported that he was not able to control his impulses.

This case was significant in that I presented complex psychological testimony and witnessed first-hand someone who truly could not control his impulses. Because these are civil matters I was able to depose the Respondent, Mr. Houtsma, and asked him about his prior acts of sexual violence and lack of ability to control his impulses. It became clear that during my questioning at his deposition Mr. Houtsma was becoming sexually aroused. It was a compelling and troubling example of his impulse control disorder.

In re the Guardianship of CHC, Probate Division

Circuit Court of the Seventh Judicial Circuit, in and for Flagler County

Case No. 553-GI

The Honorable Kim Hammond, Circuit Court Judge

Lead Counsel on behalf of the Respondent: Rod Smith, Esq.

Defense Counsel: J. Lester Kaney, Esq. and Scott Cichon, Esq.

Trial Date: 01-26-2004

We represented a 97 year old resident of Flagler County in defense of a proceeding to declare him incapacitated. I was privileged to represent a man who worked his whole life and amassed a fortune in the cattle and timber business. This guardianship issue was a fascinating area in which to immerse myself. My involvement in the case included the trial to determine if he was incapacitated and then the appeals that followed. One of the important characteristics of a Judge is that she have a breadth of experience from which to draw, which is why this case with its complexities was a significant experience as an attorney. This case was significant in that while preparing for trial in this new area, I honed my trial skills and expanded my legal knowledge. As Judges we are no longer afforded the luxury of being specialists, we must perform as generalists, and when confronted with an area where my experience is lacking, I draw on this case and remember the importance of learning, studying and growing. I won't shy away from something new.

31. Attach at least one example of legal writing which you personally wrote. If you have not personally written any legal documents recently, you may attach writing for which you had substantial responsibility. Please describe your degree of involvement in preparing the writing you attached.

I have attached a legal writing sample as an appendix to this application

PRIOR JUDICIAL EXPERIENCE OR PUBLIC OFFICE:

- 32a. Have you ever held judicial office or been a candidate for judicial office? If so, state the court(s) involved and the dates of service or dates of candidacy.

I am currently an Alachua County Court Judge. I stood for election for the seat I currently hold in the Primary and General election of 2008. In 2011 I was appointed by the Chief Judge to serve as the Administrative Judge for Alachua County Court.

- 32b. List any prior quasi-judicial service:

| <i>Dates</i> | <i>Name of Agency</i> | <i>Position Held</i> |
|--------------|------------------------------------|--|
| 2005-2008 | Eighth Judicial Circuit of Florida | Civil Traffic Infraction Hearing Officer |

Types of issues heard: My role was to conduct civil traffic infraction hearings from start to finish. This included contested hearings, change of plea hearings, disposition hearings and motion hearings related to speeding, stop sign violations, red light violations, careless

driving, non-moving infractions, and parking violations.

- 32c. Have you ever held or been a candidate for any other public office? If so, state the office, location and dates of service or candidacy.

No

- 32d. If you have had prior judicial or quasi-judicial experience,

- (i) List the names, phone numbers and addresses of six attorneys who appeared before you on matters of substance.

Kevin D. Jurecko, Esq.

Scruggs & Carmichael, PA

1 SE 1st Ave

Gainesville, Florida 32601-6240

(352) 376-5242

John G. Stinson, Esq.

Scruggs & Carmichael, PA

1 SE 1st Ave

Gainesville, Florida 32601-6240

(352) 376-5242

Heather Barden Jones, Esq.

Office of the State Attorney

120 West University Avenue

Gainesville, Florida 32601

(352) 213-0386

Kristin Slaughter Pickens, Esq.

Office of the State Attorney

120 West University Avenue

Gainesville, Florida 32601

(352) 374-3670

Miles Kinsell, Esq.

Kinsell, Zadell and Whitaker
PO Box 140179
Gainesville, Florida 32614-0179
(352) 494-2014

Teresa Drake, Esq.
Levin College of Law
PO Box 117626
Gainesville, Florida 32611-7626
(352) 870-8767

- (ii) Describe the approximate number and nature of the cases you have handled during your judicial or quasi-judicial tenure.

As a County Court Judge assigned to Criminal Division II, it would not be unusual to see upwards of 1000 cases a month. My responsibilities included, first appearance, arraignment, motion hearings, pre trial conference, trial status conference, mental health court, jury trials, non-jury trials, violation of probation case management and violation of probation hearings.

Since July 2012, my assignment has been County Civil Division V and I have adjudicated hundreds of general civil, small claims, landlord-tenant and civil traffic cases. By Administrative Order of the Chief Judge of the Eighth Judicial Circuit, I am designated as an Acting Circuit Judge for all Circuit Court matters and included in my current assignment is two weeks of Circuit-wide backup. In 2010, at the request of the Chief Judge, I assumed full responsibility of a Circuit Court Family Division assignment and handled status conferences, final hearings, the injunction docket including requests for modification, and dependency matters including a termination of parental rights trial (TPR). In 2012, again at the request of the Chief Judge, I assumed responsibility for the injunction hearing docket, including requests for modifications. Additionally, I have presided over felony jury trials, case management conferences, adoptions and juvenile court as an Acting Circuit Judge.

Since taking the bench, I have been continuously assigned to Mental Health Court. Mental Health Court is a court for those with diagnosed mental illnesses or developmental disabilities and is a diversion program available to people who are accused of misdemeanors and third degree felonies and meet the criteria for admission. Mental Health Court 2-3 times per month. Additionally, as an Acting Circuit Judge I have presided over Division V, Felony Forensics.

Prior to taking the bench, while serving as the Civil Traffic Infraction Hearing Officer between 2005 and 2008, I presided over thousands of civil traffic dispositions and contested hearings. In this capacity, I issued final disposition orders finding citizens either guilty or not guilty of the traffic infraction.

(iii) List citations of any opinions which have been published.

T.W. v. Department of Children and Families, 64 So. 3d 1267 (Fla. 1st DCA 2011), Appellate Case No. 1 D11-1189, Lower Tribunal Case No.: 01-2009-DP-000909, Per Curiam. Affirmed.

James T. Ivey, III, v. State of Florida, 103 So. 3d 148 (Fla. 1st DCA 2012), Appellate Case No. 1D12-0415. Lower Tribunal Case No.: 04-2008-Cf-231-A. Per Curiam. Affirmed.

Theodore Presley v. State of Florida, 105 So. 3d 649 (Fla. 1st DCA 2013), Appellate Case No.: 1D12-3467 Case No: 01-2012-CF-128-A. Per Curiam. Affirmed.

Roosevelt Weston Parker v. State of Florida, 93 So. 3d 1018 (Fla. 1st DCA 2012), Appellate Case No.: 1D11-4763, Lower Tribunal Case No.: 01-2010-CF-3555-A. Per Curiam. Affirmed

Michael A. Acevedo v. Jennifer D. Acevedo, 85 So. 3d 488 (Fla. 1st DCA 2012), Appellate Case No.: 1D11-3069, Lower Tribunal Case No. 01-2010-DR-944. Per Curiam. Affirmed.

De Hoyos v. De Hoyos, 80 So. 3d 1024 (Fla. 1st DCA 2012), Appellate Case No.: 1D11-65, Lower Tribunal Case No.: 01-2006-DR-2075. Per Curiam. Affirmed.

Adrian Isacc Owens v. State of Florida, 33 So. 3d 37 (Fla. 1st DCA 2010), Appellate Case No.: 1D09-2390, Lower Tribunal Case No.: 01-2008-CF-2018-A. Per Curiam. Affirmed.

(iv) List citations or styles and describe the five most significant cases you have tried or heard. Identify the parties, describe the cases and tell why you believe them to be significant. Give dates tried and names of attorneys involved.

In the Interest of EW, a minor child

Case No. 01-2009-DP-000909

Pamela K. Davis, Esq., Attorney for the Department of Children and Families

Jeanne Conway, Esq., Attorney for the Mother

Thomas Daniel, Esq., Attorney for the Guardian ad Litem

December 10, 2010

Appellate Case number: 1-D11-1189, 64 So. 3d 1267 (Fla. 1st DCA 2011).

I was an Acting Circuit Judge. This was a termination of parental rights case. The minor child had been adjudicated dependant and was in the temporary custody of the Department of Children and Families. The father was unknown. After a day-long trial and testimony of many witnesses including an expert psychologist, the mother, the foster mother and the case worker among others, I

found by clear and convincing evidence that the parental rights of both parents should be terminated. The grounds were that the mother had engaged in a course of conduct toward the child that demonstrated that the continuing involvement of the of the mother in the parent-child relationship threatened the life, safety, well-being, or physical, mental or emotional health of the child, irrespective of the provision of services. Further, that because the mother had failed to substantially comply with the case plan, further reunification efforts were not in the best interest of the child.

This case was significant in that this is the type of case that a Circuit Judge in the Family Division would handle. Additionally, it is not uncommon for a Judge assigned to another division to assume responsibility of a Termination of Parental Rights trial. The opportunity to immerse myself in this case during the preparation and also the trial underscored my interest and willingness to handle the Circuit Court assignment.

State of Florida v. Christopher Sweeney

01-2011-CF-3834-A

Deborah Hunt, Esq., Assistant State Attorney

Daniel Owen, Esq., Assistant State Attorney

Kristofer Eisenmenger, Esq., Assistant Public Defender

Canaan Goldman, Esq., Assistant Public Defender

February 27 & 28, 2013

This was a criminal trial. I was an Acting Circuit Judge. Mr. Sweeney was accused of Domestic Battery by Strangulation and Petit Theft. Prior to trial, Mr. Sweeney had requested a Nelson Inquiry (an attempt to have his court appointed counsel replaced, alleging that they were acting in an incompetant manner). There was an order denying the request to remove his attorney, and the case proceeded to trial. There is a pending appeal so I will not comment on any of the rulings that I made.

This case was significant in that it required significant courtroom control and called for patience in order to effectively manage the case. It is an example of a case where it is important not to get frustrated or lose your temper. I believe my experience as an Acting Circuit Judge and a County Court Judge working with difficult situations will enhance my success as a Circuit Judge.

Patricia Moore v. Butler Plumbing of Gainesville

01-2012-SC-2311

Both parties were self-represented

Final Hearing Date: August 21, 2012

This is a typical case that comes for resolution in County Court. Two people that have an honest disagreement, and they need a Judge's help to resolve the conflict. The Plaintiff needed a drain field, and the Defendant agreed to dig one for her. The Plaintiff presented evidence that the field was improperly installed from the beginning and wanted the Defendant to compensate her for her monetary loss. This case is one of many examples of County Court cases where I learn something from both sides. This time I learned how a drain field should be properly installed. Even though there were not lawyers representing either side, they both were prepared and took the case seriously. The Plaintiff even called an expert witness. Sorting through issues that confront ordinary citizens enhances skills and tools that I brought to the job, and this case and every other broadens the perspective that I could offer in Circuit Court. This case is significant because I know that I am well prepared to listen, understand, and rule on the wide variety of cases that might come before me as a Circuit Judge because I've honed my skills in County Court.

Michael A. Acevedo v. Jennifer D. Acevedo

Case No.: 01-2010-DR-944

Cynthia Swanson, Esq., Attorney for the Wife

Jill Conti, Esq., Attorney for the Husband

Trial date: November 17, 2010

Appellate Case No.: 01-D11-3069, 85 So. 3d 488 (Fla. 1st DCA 2012). Per Curiam.
Affirmed.

This was a dissolution of marriage case that involved issues of time sharing with the minor child, the relocation of the mother prior to filing a dissolution of marriage proceeding, and issues related to joint debt. The marriage was of short duration, less than three years, and the parties had one child, a daughter. Each parent now lived in a different state, and each wanted primary parental responsibility for the child. The significance of this case is that it required strict analysis of Chapter 61. My clear responsibility was to establish parental responsibility and create a parenting plan that would govern each parent's relationship with their minor child. Additionally, my decision would impact the relationship between each parent and their minor child. My primary consideration when making these decisions was to determine what was in the best interest of the child. After carefully considering and weighing each individual criteria, and considering what was in the best interest of the child, I ordered equal time sharing with each parent. In this case, I did what was in the best interest of the child and will always do so when serving as an Acting Circuit Judge or if afforded the opportunity to serve as a Circuit Judge. My decision was affirmed on appeal.

State of Florida v. Gregory L. Strickland

Case No.: 01-2012-CF-1814-A

Daniel Owen, Esq., Assistant State Attorney

Kristofer Eisenmenger, Esq., Assistant Public Defender

Canaan Goldman, Esq., Assistant Public Defender

Trial Date: November 27, 2012

I was an Acting Circuit Judge. The Defendant was charged with Carrying a Concealed Weapon by a Convicted Felon. He was alleged to have brandished a screw driver with the tip filed down into a sharpened point, mumbling that he would kill people while he wandered around the downtown plaza in Gainesville. This case is significant in that while much of what happens in criminal cases is routine, there are often new and complex arguments and issues for a Judge to decide. In this situation, the issue was whether an ordinary object can be transformed into a weapon. I ruled that it was an issue for the jury to decide if it was a weapon considering the object itself and taking into consideration the Defendant's comments and threats. The jury found him guilty.

- (v) Has a complaint about you ever been made to the Judicial Qualifications Commission? If so, give date, describe complaint, whether or not there was a finding of probable cause, whether or not you have appeared before the Commission, and its resolution.

No

- (vi) Have you ever held an attorney in contempt? If so, for each instance state name of attorney, approximate date and circumstances.

No

- (vii) If you are a quasi-judicial officer (ALJ, Magistrate, General Master), have you ever been disciplined or reprimanded by a sitting judge? If so, describe.

I am currently a sitting Judge. During my tenure as a Civil Traffic Infraction Hearing Officer I was not disciplined or reprimanded by a sitting Judge

BUSINESS INVOLVEMENT:

- 33a. If you are now an officer, director or otherwise engaged in the management of any business enterprise, state the name of such enterprise, the nature of the business, the nature of your duties, and whether you intend to resign such position immediately upon your appointment or election to judicial office.

n/a

- 33b. Since being admitted to the Bar, have you ever been engaged in any occupation, business or profession other than the practice of law? If so, give details, including dates.

Yes.

Adjunct Lecturer, Trial Practice, University of Florida Levin College of Law. 2001-present.

Coach, Trial Team, University of Florida Levin College of Law, 2000-2003.

Instructor, Institute of Public Safety, Between 1994 and 1999 (this is an approximate date range).

- 33c. State whether during the past five years you have received any fees or compensation of any kind, other than for legal services rendered, from any business enterprise, institution, organization, or association of any kind. If so, identify the source of such compensation, the nature of the business enterprise, institution, organization or association involved and the dates such compensation was paid and the amounts.

Yes, I receive a stipend from the State of Florida for my work with the Trial Practice program. The Trial Practice stipend is less than \$4000 per year.

POSSIBLE BIAS OR PREJUDICE:

34. The Commission is interested in knowing if there are certain types of cases, groups of entities, or extended relationships or associations which would limit the cases for which you could sit as the presiding judge. Please list all types or classifications of cases or litigants for which you as a general proposition believe it would be difficult for you to sit as the presiding judge. Indicate the reason for each situation as to why you believe you might be in conflict. If you have prior judicial experience, describe the types of cases from which you have recused yourself.

My husband is an attorney. I would recuse from any case he was handling.

MISCELLANEOUS:

- 35a. Have you ever been convicted of a felony or a first degree misdemeanor?

Yes _____ No x If "Yes" what charges? n/a

Where convicted? n/a Date of Conviction: n/a

- 35b. Have you pled nolo contendere or pled guilty to a crime which is a felony or a first degree misdemeanor?

Yes _____ No x If "Yes" what charges? n/a

Where convicted? n/a Date of Conviction: n/a

- 35c. Have you ever had the adjudication of guilt withheld for a crime which is a felony or a first degree misdemeanor?

Yes _____ No x If "Yes" what charges? n/a

Where convicted? n/a Date of Conviction: n/a

- 36a. Have you ever been sued by a client? If so, give particulars including name of client, date suit filed, court, case number and disposition.

No

- 36b. Has any lawsuit to your knowledge been filed alleging malpractice as a result of action or inaction on your part?

No.

- 36c. Have you or your professional liability insurance carrier ever settled a claim against you for professional malpractice? If so, give particulars, including the amounts involved.

No.

- 37a. Have you ever filed a personal petition in bankruptcy or has a petition in bankruptcy been filed against you?

No.

- 37b. Have you ever owned more than 25% of the issued and outstanding shares or acted as an officer or director of any corporation by which or against which a petition in bankruptcy has been filed? If so, give name of corporation, your relationship to it and date and caption of petition.

No.

38. Have you ever been a party to a lawsuit either as a plaintiff or as a defendant? If so, please supply the jurisdiction/county in which the lawsuit was filed, style, case number, nature of the lawsuit, whether you were Plaintiff or Defendant and its disposition.

No.

39. Has there ever been a finding of probable cause or other citation issued against you or are you presently under investigation for a breach of ethics or unprofessional conduct by any court, administrative agency, bar association, or other professional group. If so, give the particulars.

No.

40. To your knowledge within the last ten years, have any of your current or former co-workers, subordinates, supervisors, customers or clients ever filed a formal complaint or formal accusation of misconduct against you with any regulatory or investigatory agency, or with your employer? If so, please state the date(s) of such formal complaint or formal accusation(s), the specific formal complaint or formal accusation(s) made, and the background and resolution of such action(s). (Any complaint filed with JQC, refer to 32d(v).

No.

41. Are you currently the subject of an investigation which could result in civil, administrative or criminal action against you? If yes, please state the nature of the investigation, the agency conducting the investigation and the expected completion date of the investigation.

No.

42. In the past ten years, have you been subject to or threatened with eviction proceedings? If yes, please explain.

No.

- 43a. Have you filed all past tax returns as required by federal, state, local and other government authorities?

Yes ☒ No ☐ If no, please explain. _____

43b. Have you ever paid a tax penalty?

Yes ☐ No ☒ If yes, please explain what and why. _____

43c. Has a tax lien ever been filed against you? If so, by whom, when, where and why?

No

HONORS AND PUBLICATIONS:

44. If you have published any books or articles, list them, giving citations and dates.

None

45. List any honors, prizes or awards you have received. Give dates.

Eighth Judicial Circuit Bar Association, Presidents Award, 2004, 2005, 2006

The Ferneise B. Nix Award, 1999 (Awarded in appreciation for compassionate assistance and professional dedication on behalf of victims of sexual violence).

The Clara Gehan Award, 1990 (Awarded to a law student in appreciation for my advancement of women's issues as President of the John Marshall Bar Association).

46. List and describe any speeches or lectures you have given.

I have lectured extensively for police agencies in the area of DUI law, Domestic Violence, Child Abuse and Sexual Battery.

Santa Fe Community College, Institute of Public Safety, Juvenile Law class, "Child Abuse and laws related to Sexual Predators"

Panelist, Child Advocacy Center Conference, "What to expect in Court when testifying as an expert witness."

Panelist, "The Role of the Guardian ad Litem in a Criminal Case"

Lecture, "What to expect if a child is called as a witness."

Instructor, Institute of Public Safety, general legal topics.

Lecture, "Regional Perinatal Psychological Network regarding Domestic Violence"

Panelist, "University of Florida, Public Service Forum."

Panelist, Leadership Gainesville, "The Court System"

MADD, roundtable discussion

Child Advocacy Center, presentation to the United Way

47. Do you have a Martindale-Hubbell rating? Yes ☐ If so, what is it? ___ No ☒

n/a

PROFESSIONAL AND OTHER ACTIVITIES:

48a. List all bar associations and professional societies of which you are a member and give the titles and dates of any office which you may have held in such groups and

committees to which you belonged.

The Florida Bar, 1993- present

Conference of County Court Judges, Circuit Representative, 2011- present

Criminal Justice, Mental Health and Substance Abuse Grant Planning Committee (CJMHSAG), Vice-Chair, 2013-present

Criminal Procedure Rules Committee, Chair Oversight and Internal Operating Procedures Subcommittee, Vice Chair, Executive Subcommittee, 2001-2002

Secretary, Criminal Procedure Rules Committee, 1999-2000

Member, Criminal Procedure Rules Committee

Eighth Judicial Circuit Bar Association

Past President, 2007-2008

President, 2006-2007

President-elect, 2005-2006

President-elect designate, 2004-2005

Board Member, 2002-2008

Newsletter Editor, 2002-2006

Member, 1993-present

Bench Bar Committee, 2005-2006

James C. Adkins, American Inn of Court

Clara Gehan Association of Women Lawyers

- 48b. List, in a fully identifiable fashion, all organizations, other than those identified in response to question No. 48(a), of which you have been a member since graduating from law school, including the titles and dates of any offices which you have held in each such organization.

Queen of Peace Catholic Church

St. Patrick's Interparish School, Parent Teacher Organization

The Guardian Foundation

Past President, 2004-2005

President, 2003-2004

The Child Advocacy Center

President, 2008
Executive Committee member, 2005-2008
Board Member, 2002-2008
Multi-Disciplinary Committee

The Junior League of Gainesville
Parliamentarian, 2002-2003
Board Member, 2002-2003
Member at Large

University of Florida College of Law Alumni Council
The Girl's Club of Alachua County
Logistics Committee, Hats, Hearts and Handbags
League of Women Voters

48c. List your hobbies or other vocational interests.

I enjoy spending time with my family; we love to go to Disney World. I also enjoy, swimming, walking, cooking, and reading.

48d. Do you now or have you ever belonged to any club or organization that in practice or policy restricts (or restricted during the time of your membership) its membership on the basis of race, religion, national origin or sex? If so, detail the name and nature of the club(s) or organization(s), relevant policies and practices and whether you intend to continue as a member if you are selected to serve on the bench.

Yes, the Junior League is an organization of women committed to volunteerism and aiding children. I am no longer involved in this organization.

Alpha Delta Pi Sorority is a social sorority that does not include men in its membership.

48e. Describe any pro bono legal work you have done. Give dates.

As a member of the judiciary, I am not allowed to perform any pro bono legal work.

SUPPLEMENTAL INFORMATION:

49a. Have you attended any continuing legal education programs during the past five years? If so, in what substantive areas?

Florida Judicial College-Phase 1, 2009: Juvenile Law, Contempt, Evidence, Ethics.

Florida Judicial College-Phase 2, 2009: Evidence, Domestic Violence, Criminal.

Florida Supreme Court Diversity Training for Judges.

Florida Supreme Court Mentor Training.

2012 Annual Education Program, Conference of County Court Judges: Alternative Courts in County Court, Ethics, Sovereign Citizens, Confrontation Clause, Civil Law, Disqualification and Recusal, Evidence.

2011 Annual Education Program, Conference of County Court Judges: Criminal Law, Evidence, Ethics.

2010 Annual Education Program, Conference of County Court Judges: Ethics, Evidence, Criminal Law.

- 49b. Have you taught any courses on law or lectured at bar association conferences, law school forums, or continuing legal education programs? If so, in what substantive areas?

Yes,

Trial Practice

Eighth Judicial Circuit Professionalism Seminar, Civil track

Public Service Legal Forum

Criminal, Driving Under the Influence

50. Describe any additional education or other experience you have which could assist you in holding judicial office.

Since taking the bench in 2009, I have continuously presided over Mental Health Court. Mental Health Court is a diversion program that affords those defendants with diagnosed mental illnesses or developmental disabilities to participate, with the agreement of the State Attorney's office. Mental Health Court has three phases for completion. During each phase, a person is empowered to take their medication, see their doctor, abstain from alcohol and drugs and cooperate with their case manager and the Court. When participants first join Mental Health Court they are often very ill and cannot fully engage in conversations, but as they begin taking their medication, and engage in mental health treatment, substance abuse treatment and medical care I see them become increasingly coherent. This is an area where we not only help the individual but also help their families and the community. I first was exposed to this court when, as a practicing attorney, I had a client referred to Mental Health Court. While it is often grueling, I find this court rewarding both personally and professionally. In addition to this responsibility, when there is a need to have coverage for Division V, Felony Forensics, I willingly volunteer. Division V is primarily for those defendants that are incompetant to proceed or found not guilty by reason of insanity. Mental Health is integral to our system of justice and is potentially relevant in every division, Circuit or County, and my experience will enhance my contribution to the Circuit Court.

My experience as an Adjunct Lecturer in the Trial Practice Program at the University of Florida, Levin College of Law allows me to fine tune my skills while teaching students that are a year, or less, away from taking a bar exam. My philosophy is that no one can know everything, and each of us should take the opportunity to learn and grow with every experience whether as a Judge, a lawyer, a teacher or a student. This program is a great example of that motto. Each year that I've taught, I get a new group of twelve

law students, and they are often terrified at the thought of performing in a courtroom. They learn step-by-step how to put together a trial, they gain confidence, and at the end of the class, they actually present a trial. Without fail, the students find this experience one of the best they have had in law school. I always learn something from each group of students.

51. Explain the particular potential contribution you believe your selection would bring to this position.

Honesty, integrity, modesty, professionalism, ethics, and extensive trial experience as a Judge and as a practicing attorney are assets that have served me well as a County Court Judge and will continue to serve me as a Circuit Judge. I was fortunate to have the example of my parents and grandparents, all of whom worked hard to make the future better for their own children. They taught me the value of hard work and determination. I watched their example of kindness shown to those around them and have spent each moment of my personal and professional life hoping to live up to their example. My maternal grandmother (born in Mexico) ran a small business, raised two children and was an example that a woman can succeed in a typically male world. My mother (her daughter) was the first woman in her family to graduate from college. My paternal grandfather (the only child in his family born in the United States) worked in a carpet store until he was in his eighties, rising at 5:00 a.m. every morning to open the store. He believed that I could do anything I wanted and was always so proud of me and my accomplishments. We spoke on the telephone every Saturday until he died when he was 89 years old. My parents emphasized by words and actions the importance of working hard in your chosen career and working hard to serve your community. From a young age I was encouraged to volunteer in my community and work to make someone else's life a little better. My work ethic is a direct result of seeing them dedicate themselves to their family, their work, and their community. I believe in hard work, dedication, and that I am here to serve the public. I pride myself on being a "team player." As evidenced by my willingness to be reassigned to a Circuit Family Assignment in 2010 while one of our Circuit Judges needed a medical leave and again during the last three months of 2012, I assumed responsibility for the Circuit Court injunction docket. I have a sincere commitment to the Eighth Judicial Circuit and the people in the Counties we serve. I know that my experience, commitment and perspective will serve the citizens well.

52. If you have previously submitted a questionnaire or application to this or any other judicial nominating commission, please give the name of the commission and the approximate date of submission.

Judicial Nominating Commission for the Eighth Judicial Circuit, 2000, 2004 and 2005

53. Give any other information you feel would be helpful to the Commission in evaluating your application.

My life has always been guided by a sincere desire to serve the public. I believe in hard work and dedication to the task at hand. I am even-tempered, respectful, patient, and ultimately, decisive. I will continue to serve the people of Alachua County and the Eighth Judicial Circuit with honor and respect. Early on in my judicial career, I received the following advice, "no one ever gets in trouble for listening too much, so listen more than you talk." I think of that advice every day and am diligent in my desire to make sure that each person that appears me feels heard, win or lose.

REFERENCES:

54. List the names, addresses and telephone numbers of ten persons who are in a position to comment on your qualifications for judicial position and of whom inquiry may be made by the Commission.

The Honorable Robert E. Roundtree, Jr.



The Honorable Mary Day Coker



The Honorable Robert K. Groeb



The Honorable Martha Ann Lott



The Honorable Toby S. Monaco



The Honorable William P. Cervone, Esq.



Gloria W. Fletcher, Esq.



Caridad Lee



Kimber Heddon



Rodney W. Smith, Esq.



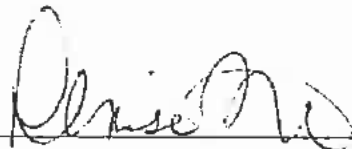
CERTIFICATE

I have read the foregoing questions carefully and have answered them truthfully, fully and completely. I hereby waive notice by and authorize The Florida Bar or any of its committees, educational and other institutions, the Judicial Qualifications Commission, the Florida Board of Bar Examiners or any judicial or professional disciplinary or supervisory body or commission, any references furnished by me, employers, business and professional associates, all governmental agencies and instrumentalities and all consumer and credit reporting agencies to release to the respective Judicial Nominating Commission and Office of the Governor any information, files, records or credit reports requested by the commission in connection with any consideration of me as possible nominee for appointment to judicial office. Information relating to any Florida Bar disciplinary proceedings is to be made available in accordance with Rule 3-7.1(l), Rules Regulating The Florida Bar. I recognize and agree that, pursuant to the Florida Constitution and the Uniform Rules of this commission, the contents of this questionnaire and other information received from or concerning me, and all interviews and proceedings of the commission, except for deliberations by the commission, shall be open to the public.

Further, I stipulate I have read, and understand the requirements of the Florida Code of Judicial Conduct.

Dated this 29 day of March, 2013.

Denise R. Ferrero
Printed Name


Signature

(Pursuant to Section 119.071(4)(d)(1), F.S.), . . . The home addresses and telephone numbers of justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the home addresses, telephone numbers, and places of employment of the spouses and children of justices and judges; and the names and locations of schools and day care facilities attended by the children of justices and judges are exempt from the provisions of subsection (1), dealing with public records.

FINANCIAL HISTORY

In lieu of answering the questions on this page, you may attach copies of your completed Federal Income Tax Returns for the preceding three (3) years. Those income tax returns should include returns from a professional association. If you answer the questions on this page, you do not have to file copies of your tax returns.

1. State the amount of gross income you have earned, or losses you have incurred (before deducting expenses and taxes) from the practice of law for the preceding three-year period. This income figure should be stated on a year to year basis and include year to date information, and salary, if the nature of your employment is in a legal field.

2012: \$134,280 (Judicial Salary)

2011: \$134,280 (Judicial Salary)

2010: \$134,280 (Judicial Salary)

2. State the amount of net income you have earned, or losses you have incurred (after deducting expenses but not taxes) from the practice of law for the preceding three-year period. This income figure should be stated on a year to year basis and include year to date information, and salary, if the nature of your employment is in a legal field.

My net income is the same as above in that I have been a member of the judiciary since 2009.

3. State the gross amount of income or losses incurred (before deducting expenses or taxes) you have earned in the preceding three years on a year by year basis from all sources other than the practice of law, and generally describe the source of such income or losses.

2012

Campus USA Credit Union Interest: \$40

Vystar Credit Union Interest: \$1

Wells Fargo Bank (Mortgage) Interest on escrow account: \$412

Rental Property (5615 NW 38th Place) income before considering depreciation, maintenance, mortgage payments, insurance, taxes and other supplies and or fees: \$12,000

2011

Campus USA Credit Union Interest: \$19

Vystar Credit Union Interest: \$1

Wells Fargo Bank (Mortgage) Interest on escrow account: \$991

Rental Property (5615 NW 38th Place) income before considering depreciation, maintenance, mortgage payments, insurance, taxes and other supplies and or fees: \$12,000

2010

Campus USA Credit Union Interest: \$25

Vystar Credit Union Interest: \$1

Wells Fargo Bank (Mortgage) Interest on escrow account: \$588

Rental Property (5615 NW 38th Place) income before considering depreciation, maintenance, mortgage payments, insurance, taxes and other supplies and or fees: \$12,000

4. State the amount of net income you have earned or losses incurred (after deducting expenses) from sources other than the practice of law for the preceding three-year period on a year by year basis, and generally describe the sources of such income or losses.

2012

Rental Property (5615 NW 38th Place) loss after considering depreciation, maintenance, mortgage payments, insurance, taxes and other supplies and or fees: - (\$148)

2011

Rental Property (5615 NW 38th Place) loss after considering depreciation, maintenance, mortgage payments, insurance, taxes and other supplies and or fees: - (\$601)

2010:

Rental Property (5615 NW 38th Place) loss after considering depreciation, maintenance, mortgage payments, insurance, taxes and other supplies and or fees: - (\$574)

JUDICIAL APPLICATION DATA RECORD

The judicial application shall include a separate page asking applicants to identify their race, ethnicity and gender. Completion of this page shall be optional, and the page shall include an explanation that the information is requested for data collection purposes in order to assess and promote diversity in the judiciary. The chair of the Commission shall forward all such completed pages, along with the names of the nominees to the JNC Coordinator in the Governor's Office (pursuant to JNC Uniform Rule of Procedure).

(Please Type or Print)

Date: March 29, 2013

JNC Submitting To: Eighth Judicial Circuit

Name (please print): Denise R. Ferrero

Current Occupation: County Court Judge

Telephone Number: [REDACTED] Attorney No.: 0971944

Gender (check one): ☐ Male ☒ Female

Ethnic Origin (check one): ☒ White, non Hispanic
☐ Hispanic
☐ Black
☐ American Indian/Alaskan Native
☐ Asian/Pacific Islander

County of Residence: Alachua

FLORIDA DEPARTMENT OF LAW ENFORCEMENT

DISCLOSURE PURSUANT TO THE
FAIR CREDIT REPORTING ACT (FCRA)

The Florida Department of Law Enforcement (FDLE) may obtain one or more consumer reports, including but not limited to credit reports, about you, for employment purposes as defined by the Fair Credit Reporting Act, including for determinations related to initial employment, reassignment, promotion, or other employment-related actions.

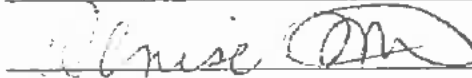
CONSUMER'S AUTHORIZATION FOR FDLE
TO OBTAIN CONSUMER REPORT(S)

I have read and understand the above Disclosure. I authorize the Florida Department of Law Enforcement (FDLE) to obtain one or more consumer reports on me, for employment purposes, as described in the above Disclosure.

Printed Name of
Applicant:

Denise R. Ferrero

Signature of Applicant:



Date: March 29, 2013

WRITING SAMPLE

IN THE COUNTY COURT OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR ALACHUA COUNTY, FLORIDA

STATE OF FLORIDA,
Plaintiff

CASE NO: 01-2009-CT-004006-A
DIVISION: II

v.

JEROME EDWARD HENDERSON,
Defendant.

FILED
CLERK OF COURTS
ALACHUA COUNTY, FL
10 MAR 12 PM 3:00

FILED
CRK 24

ORDER DENYING MOTION TO SUPPRESS

This cause came before the Court upon Defendant's "Motion to Suppress" filed through counsel on February 22, 2010. Defendant argues that police officers lacked probable cause for the initial traffic stop. The motion will be evaluated in the light most favorable to the non-moving party. Upon review of the motion and the record, and being otherwise fully advised in the premises, this Court finds and concludes as follows:

1. Following a traffic stop on September 19, 2009, Henderson was arrested and charged with the misdemeanor charge of Driving Under the Influence of Alcohol to the extent that his normal faculties were impaired. He was also issued two civil citations charging violations of 316.215 and 316.1936, Fla.Stat. Those civil citations were consolidated into the criminal traffic case pursuant to Fla. R. Traf. Ct. 6.130. A hearing on this motion was held on March 5, 2010.

2. On September 19, 2009, at approximately 5:46 pm, Officer Donna Montague and Officer Scott Bertzyck of the Gainesville Police Department were on routine patrol in separate marked vehicles. Officer Montague testified that she observed the Defendant stopped at a red light facing Westbound on Northwest 39th Avenue. Her patrol vehicle was facing North on Northwest 6th Street. She testified that his "rear right tire was completely flat" and affirmed that

Case: 2009 CT 004006 A



002634860
REV 1/2009

7

the rim of the tire was on top of the rubber. She agreed that the tire lacked sufficient air to support the tire above the surface of the ground.

At the same time, a second officer, Officer Bertzyck, was stopped at the intersection in his patrol car facing South on 6th Street. Henderson's vehicle passed in front of Officer Bertzyck as it moved through the intersection, approximately 40 - 45 feet away. Officer Bertzyck testified that he observed "a flat tire on the right rear side" of Henderson's vehicle. The officer further testified that the tire "was flat" and "visibly on its rim." He stated that the wheel was not "shooting sparks," but was "on its rim." Officer Bertzyck affirmed that the tire lacked sufficient air to support the weight of the vehicle.

When Defendant's light turned green, Officer Montague immediately initiated her overhead lights, cleared the intersection and followed directly behind the Defendant. She testified that she was immediately behind Defendant when he turned onto Northwest 7th Street and then stopped within 100 - 200 feet of the intersection. Officer Bertzyck joined Officer Montague during the stop. Officer Bertzyck subsequently issued two civil citations charging violations of § 316.215, Fla. Stat., entitled "Scope and effect of regulations," and § 316.1936, Fla.Stat., entitled "Possession of open containers of alcoholic beverages in vehicles prohibited; penalties." Defendant was also charged with a violation of § 316.193(1), Fla. Stat., entitled "Driving under the influence." After the traffic stop, Defendant's vehicle was towed from the scene with its back wheels in the air.

In addition, Defendant's brother, Stanley Henderson, further testified that he was familiar with the vehicle and that the vehicle's tire had a "slow leak," which required additional air "every couple of days." Mr. Henderson testified that he accompanied Defendant when he picked

up the vehicle from the tow lot, that the vehicle required "some additional air" before he drove it away, and that the tow lot may have added air prior to his arrival.

The Court finds all of this testimony to be credible.

3. The Court takes judicial notice of § 316.610, Fla. Stat., entitled "Safety of vehicle; inspection." The introductory paragraph mirrors § 316.215(1), Fla. Stat., under which section the officers issued Defendant's citation. It states:

It is a violation of this chapter for any person to drive or move, or for the owner or his or her duly authorized representative to cause or knowingly permit to be driven or moved, on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person or property, or which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this chapter, or which is equipped in any manner in violation of this chapter, or for any person to do any act forbidden or fail to perform any act required under this chapter.

§ 316.610, Fla. Stat.; *see also* § 316.215(1), Fla. Stat.

Section 316.610 further states that:

Any police officer may at any time, upon reasonable cause to believe that a **vehicle is unsafe** or not equipped as required by law, or that its **equipment is not in proper adjustment or repair, require the driver of the vehicle to stop** and submit the vehicle to an inspection and such test with reference thereto as may be appropriate.

§ 316.610(1), Fla. Stat.

In this case, two officers testified credibly that Defendant's vehicle had a flat tire. Defendant was at an intersection and was driving on the public road. His vehicle's tire was completely and visibly flat, and was sitting on its rim. While the rubber was still between the rim and the surface of the road, the tire lacked sufficient air to support the weight of the vehicle. Furthermore, Defendant's own witness testified that the tire

needed additional air before it could be driven again. Given these facts, this Court finds that the officers had reasonable cause to believe that the vehicle was unsafe or not in proper adjustment or repair such that the officers had authority to require Defendant to stop.

Furthermore, public policy, safety concerns, and common sense all dictate that an officer who observes a vehicle with a visibly flat tire may require the driver to stop for an inspection of the vehicle. For these reasons, this Court finds that officers had probable cause, as well as authority under Florida Statute, to stop Defendant's vehicle. *See also Schmidt v. Dep't of Hwy Safety & Motor Vehicles*, 11 Fla. L. Weekly Supp. 381a (Fla. 4th Cir. Ct. 2004) (holding that while defendant's citation for violation of § 316.2051 may not stand due to lack of damage to the roadway, the traffic stop on the basis of the flat tire was valid).

4. At the hearing, there was discussion about the lack of damage to the roadway, the lack of Defendant's interference with other traffic, and the subjective intent of the officers in stopping Defendant.¹ However, these issues are irrelevant to the issue in the Motion to Suppress, which is whether officers had probable cause to stop Defendant. *See Schmidt*, 11 Fla. L. Weekly Supp. at 381a (holding that a traffic stop is valid for safety reasons if conducted for driving with a flat tire, that the officer's subjective intent is not dispositive, and the defendant's potential violation of a statute is not dispositive).

¹ Some testimony concerned a BOLO that described a suspect vehicle with a flat tire. Although it is possible that some testimony regarding the BOLO may be permissible, it was not successfully entered during the hearing. For that reason, this testimony was not considered for purposes of this Order.

First, the lack of damage to the roadway is irrelevant. Damage to the roadway may be relevant if Defendant challenged a citation to § 316.2051, Fla. Stat., which requires that the vehicle “is likely to damage a hard-surface road” This argument may also be relevant if officers made the instant traffic stop due to suspected damage to the roadway. *See State v. Henderson*, 13 Fla. L. Weekly Supp. 193a (Fla. 17th Cir. Ct. 2005); *State v. Williams*, 7 Fla. L. Weekly Supp. 425a (Fla. 9th Cir. Ct. 2000) (“[§ 316.2051] specifically prohibits vehicles from damaging hard-surface roads and the trial court found there was no evidence that the officer observed any such damage.”) However, neither situation occurs here. Defendant was not cited under § 316.2051, and the officers do not allege that they conducted the stop because of suspected damage to the roadway. For that reason, this argument is without merit.

Second, Defendant’s lack of interference with other traffic is irrelevant. Nothing in § 316.610, Fla. Stat. or any case interpreting the applicable statutes indicate that police officers must wait for a vehicle with a flat tire to disturb the surrounding traffic before officers may lawfully conduct a stop. Given the safety hazard posed by this condition, and the potential for the driver to be unaware of the hazard, such a requirement seems illogical. A visibly flat tire unable to support the weight of the vehicle, moving through an intersection in traffic, is unlike a driver that fails to use a traffic signal or changes lanes without disturbing other traffic. Both of these situations involve traffic stops due to violation of a statute, and are not inherently dangerous to without affecting other vehicles.²

² The determination may be different if, for example, the testimony indicated that the tire was not flat, but simply low on air. That determination would require a more extensive evaluation into the officers’ reasonable belief that a safety hazard existed. In this case, the flat tire posed a safety hazard to, at least, the driver.

In addition, Defendant was not in his own driveway or stopped at an air pump inflating his tire. Rather, in this case, Defendant was operating a visibly ill-equipped vehicle in the middle of an intersection on a public road. Furthermore, unlike a cracked windshield, which is a condition visible in the driver's line of sight, a flat rear tire may not be evident to the driver. For all of these reasons, safety concerns that supersede the violation of a traffic statute would warrant a stop of a vehicle with a flat tire. Therefore, this argument is without merit.

Third, the officers' subjective intent for the stop is irrelevant. The standard found in § 316.610, Fla. Stat. is whether officers have "reasonable cause." In this case, the Court finds that the flat tire as described by the officers' testimony would lead an objectively reasonable person to determine that the "vehicle is unsafe or not equipped as required by law, or that its equipment is not in proper adjustment or repair." Therefore, the officers' subjective intent, and possible consideration of the BOLO, is irrelevant. The visibly flat tire on Defendant's vehicle provided the officers with a sufficient basis for this stop.

5. The Court notes that the State failed to supply the statute governing the officers' traffic stop. The Court also notes, without deciding, that the citation issued for a violation of § 316.215(1), Fla.Stat., requires a different determination than the issue presented here. *See also*, § 316.6105, Fla.Stat. (governing violations involving operation of a motor vehicle in an unsafe condition). In that determination, the trier must determine whether Defendant moved his vehicle on the road "in such unsafe condition as to endanger any person," or that he drove a vehicle "which does not contain those parts or is not at all times equipped with . . . equipment in proper condition and adjustment as required in this chapter." *See* § 316.215(1), Fla.Stat. The Court

ORDER DENYING MOTION TO SUPPRESS
STATE Vs. JEROME EDWARD HENDERSON
CASE NO. 01-2009-CT-004006-A

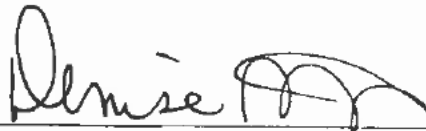
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declines to determine whether the facts of the instant case constitute a violation of § 316.215(1), Fla.Stat. However, that determination is not dispositive of the instant issue.

In the instant motion, the issue is whether the officers had probable cause for the stop based upon "reasonable cause to believe" that Defendant's vehicle was "unsafe . . . or that its equipment is not in proper adjustment or repair." § 316.610(1), Fla.Stat. Evaluating the evidence in the light most favorable to the State, and after considering the testimony and the facts in the instant case, this Court finds that the officers had reasonable cause to believe that Defendant's vehicle was unsafe or contained equipment not in proper adjustment or repair. For that reason, the stop was lawful.

Accordingly, the Motion to Suppress is **DENIED**.

DONE AND ORDERED in Chambers at Gainesville, Alachua County, Florida this 12th day of March, 2010.

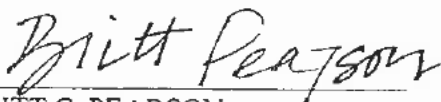


DENISE R. FERRERO
COUNTY COURT JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true copy of the foregoing Order and Attachments was furnished by United States Postal Service/hand delivery/interoffice mail, on this 12th day of March 2010, to the following:

Craig DeThomasis, Attorney for the Defendant
Steven Frisco, Assistant State Attorney



BRITT C. PEARSON
Judicial Assistant