



JUDICIAL INVESTIGATION COMMISSION

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October 27, 2004

Dear Chief Justice :

In a recent letter you have requested an advisory opinion. You presented the question of whether or not it is proper or appropriate for the chief justice to publically comment on any of the issues raised in the so called " decision." Particularly, you asked is it permissible at this time to make a public statement concerning the validity of the decision and the internal court procedures and mechanisms that resulted in the decision. You further stated that Mr. is presently supervised on probation and the procedure by which that has occurred is the subject of great public discussion. The case has become very controversial and the accuracy and validity of the decision is widely disputed in the press.

To address the question which you have raised, the Commission has considered your current and unique position with the Court and the fact that the decision has become a focal point in a bitterly contested judicial election. Given the fact that you are currently serving as the Chief Justice it would be difficult, if not impossible, for you to say anything regarding the decision which would not be viewed as a statement of support or opposition for one side or the other in this election. It may further be viewed as some sort of an official pronouncement by the Court. This would serve only to further entangle the judiciary in the election rhetoric and debate a short time before the election.

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, Chief Justice

After considering these matters, it is the opinion of the Commission that it would be inappropriate for you, given your current and unique position to make any public comment on any of the issues raised in the decision. Further, it would be inappropriate for you to make any public statements concerning the validity of the decision and the internal court procedures and mechanisms that resulted in the decision.

It is hoped that this opinion fully addressed the question which you raised. If there is any further question regarding this matter do not hesitate to contact the Commission.

Very truly yours,

A handwritten signature in black ink, appearing to read "Fred L. Fox, II".

Fred L. Fox, II, Chairperson
Judicial Investigation Commission

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