

BEFORE THE FLORIDA
JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A JUDGE,
THE HONORABLE ELIZABETH A. SCHERER
JQC No. 2022-785

SC23-_____

NOTICE OF FORMAL CHARGES

**TO: Honorable Elizabeth A. Scherer
Circuit Court Judge, 17th Judicial Circuit
Broward County Courthouse
201 SE 6th Street, Suite 7760
Fort Lauderdale, FL 33301**

The Investigative Panel of the Florida Judicial Qualifications Commission, by a vote of the majority of its members, pursuant to Rule 6(f) of the Rules of the Florida Judicial Qualifications Commission and Article V, Section 12(b) of the Constitution of the State of Florida, finds that probable cause exists for formal proceedings to be instituted against you in connection with your conduct while presiding over the proceedings in *State of Florida v. Nikolas J. Cruz* (Broward County Case Number 18001958CF10A), during the penalty phase and at sentencing. Your conduct was, at times, intemperate and gave the appearance of partiality to the prosecution:

1. You chastised defense counsel for the time and manner with which counsel announced the conclusion of the defense mitigation presentation.

2. Defense counsel raised arguments attempting to curtail vitriolic comments directed at them during sentencing by family members of the victims. You acknowledged that some comments were inappropriate but failed to take action to stop the comments or enforce the prosecution's obligations under Section 921.143(2), Florida Statutes. (Section 921.143(2) requires that the prosecution advise victims that statements "shall relate to the facts of the case and the extent of any harm . . . and any matter relevant to an appropriate disposition and sentence.")

3. During the argument referenced in paragraph 2, a member of the defense team stated "Judge, I can assure you that if they were talking about your children, you would definitely notice." You responded by accusing him of trying to threaten your children. You told him he violated "about every rule of professional responsibility" and ordered that he leave the defense table and sit in the back of the courtroom effectively denying him the ability to represent his client. You then accused the elected Public Defender of instructing that attorney to "say something about (her) children." You denied the elected Public Defender's request for a brief recess to consult with members of the defense team.

4. At the conclusion of the sentencing hearing, you stepped down from the bench in your judicial robe and embraced members of the prosecution team. You also embraced victims and family members of the victims.

Your actions violated Canons 1, 2A, 3B(2), 3B(3), 3B(4), 3B(5), and 3B(9) of the Code of Judicial Conduct.

You are hereby notified of your right to file a written answer to these charges within twenty (20) days of service of this notice on you. Your response and all subsequent pleadings must be filed with the Clerk of the Florida Supreme Court, in accordance with the Court's requirements. Copies of your response should be served on the undersigned Special Counsel for the Judicial Qualifications Commission.

Dated this 2nd day of June, 2023.

BEDELL, DITTMAR, DeVAULT, PILLANS & COXE
Professional Association

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Special Counsel for Judicial Qualifications Commission

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of June, 2023, a true and correct copy of the foregoing has been electronically filed with the Clerk of the Court by utilizing the Florida Courts E-Filing Portal, which will send a notice of electronic filing to:

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