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JUDICIAL CONFERENCE OF THE UNITED STATES

WASHINGTON, D.C. 20544

THE CHIEF JUSTICE
OF THE UNITED STATES
Presiding

JAMES C. DUFF
Secretary

September 11, 2015

Honorable John Boehner
Speaker
United States House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

At a special session held on September 9, 2015, the Judicial Conference of the United States by its members present determined, upon recommendation of its Committee on Judicial Conduct and Disability, to transmit the enclosed Certificate and record of proceedings in a judicial misconduct matter to the House of Representatives in accordance with 28 U.S.C. § 355(b)(1).

The Certificate is a "determination" within the meaning of the following provision in section 355(b)(1): "Upon receipt of the determination and record of proceedings in the House of Representatives, the Clerk of the House of Representatives shall make available to the public the determination and any reasons for the determination." The Judicial Conference will make no public statement on this matter, but will transmit the Certificate to the individual who is the subject of the determination and to the chair of the Judicial Council of the Eleventh Circuit.

Sincerely,

James C. Duff
Secretary

Enclosures

cc: Honorable Bob Goodlatte
Honorable John Conyers, Jr.

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U.S. HOUSE OF REPRESENTATIVES



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CERTIFICATE

TO THE SPEAKER, UNITED STATES HOUSE OF REPRESENTATIVES:

Pursuant to 28 U.S.C. § 355(b)(1), the Judicial Conference of the United States certifies to the House of Representatives its determination that consideration of impeachment of former United States District Judge Mark E. Fuller (M.D. Ala.) may be warranted. This determination is based on evidence provided in the Report of the Special Committee to the Judicial Council of the Eleventh Circuit and unanimously adopted by the Circuit Judicial Council.

The Constitution entrusts impeachment of public officials to Congress. But the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-64, creates a distinct role for the Judiciary in the impeachment process. The Act mandates a process through which the Judicial Conference and its members identify and investigate allegations of misconduct by judges. However, there may be considerations relevant to impeachment of other officers outside the Judicial Branch that are different from those faced by the Judiciary under the Act.

In a case with less egregious and protracted conduct, the Judicial Conference may decide that resignation obviates the need for certification. However, given the severity of the misconduct outlined below, together with a finding of perjury, the Judicial Conference believes that certification of this matter “to the House of Representatives for whatever action the House of Representatives considers to be necessary” is appropriate.
28 U.S.C. § 355(b)(1).

The Judicial Conference also recognizes that, given Judge Fuller’s resignation, Congress may decline to pursue impeachment. In the event that the House of Representatives determines in its sound discretion that impeachment is not warranted, this certification may also serve as a public censure of Judge Fuller’s reprehensible conduct, which has no doubt brought disrepute to the Judiciary and cannot constitute the “good behavior” required of a federal judge.

The determination is based on substantial evidence provided in the Report of the Special Committee to the Judicial Council of the Eleventh Circuit, as adopted by the Circuit Judicial Council, that:

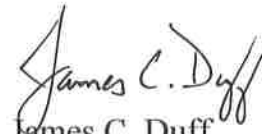
(a) Judge Fuller physically abused Kelli Fuller at least eight times, both before and after they married, which included and culminated in the assault that took place on August 9, 2014, in the Ritz-Carlton Hotel in downtown Atlanta, Georgia.

(b) Judge Fuller made repeated statements under oath before the Special Committee that he never, at any time, hit, kicked, or punched Kelli Fuller, which were false and material under 18 U.S.C. § 1621.

(c) Judge Fuller made false statements to the Chief Judge of the Eleventh Circuit in late September 2010 in a way that caused a massive disruption in the District Court's operation and loss of public confidence in the Court as an instrument of justice. These false statements, in combination with the actions outlined in (a) and (b), contributed to the overall determination that Judge Fuller's conduct may constitute grounds for impeachment.

(d) The conduct described in (a)–(c) has individually and collectively brought disrepute to the federal Judiciary.

Executed this 9th day of September, 2015.


James C. Duff
Secretary