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SM minutes 3/10/2014

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Special Meeting - agenda

Monday, March 10, 2014

3:00 PM



- I. Attendance
 - a. Announce absences
 - b. List guests
- II. Additions/deletions to agenda
- III. Additions/deletions to minutes
- IV. Open forum
- V. Judicial reports
- VI. Sgato report
- VII. New business
 - a. Request for Trial
 - i. Requested by: Senator Jean Cocco
- VIII. Announcements
- IX. Adjournment

Bryan Buenaventura: I call this meeting to order, this special meeting to order. The day is Monday March 10th, 2014. The time is 3 o'clock pm. Present is myself Bryan Buenaventura (BB), Daniel Shapiro (DS), Sammy Hamed (SH), Corey McCance (CM), Alexis Sacasas (AS), appearing via telephone is Lindsey Betros (LB), and appearing via Skype technology is Michael Kalmowicz (MK). We also have from SGATO Jessica Morgan (JM). Are there any additions/deletions to the agenda? Is there a motion to move out of additions/deletions to the agenda and go into the minutes?

DS: so moved

BB: are there any objections? Seeing none, we are now in additions/deletions to the minutes. There are no minutes so is there a motion to move onto open forum?

SH: so moved

BB: are there any objections? Seeing none, we are now in open forum; does anyone have anything to say?

CM: yeah I want to talk to you guys about a couple of things real quick: I've been giving some thought-looking over the ROPs to the recent grant of certiorari and also to what we're about to speak about today... I know that in the judicial ethics act, one of the things that it talks about is that a justice shall avoid impropriety and the appearance of impropriety. I know that several of the justices have personal relationships with one of the members of the petition, and I would like to urge the court to keep that into consideration moving forward because it's not just important that we keep that in consideration as far as our own personal thoughts, but also as to how thoughts of others looking at this case are going to affect the outcome. That being said, there are a couple of things that we can do if we decide to we have already granted certiorari; there is precedent though that we can dismiss it for being improvidently granted even though we've already granted certiorari. If that's not the case...

BB: let's discuss that in new business then because now we're talking about the actual trial.

CM: I'd like to point out section 22 of the statute that says that I have the right to be heard by quorum...

DS: there is no section 22 statutes...

CM: my apologies, 22-

BB: Corey you're going to be heard this is just open forum not general.

CM: this is not pertinent to the case that we have today so much as it is important to be heard and to remember moving forward.

BB: okay

LB: I apologize, is that Corey talking?

BB: yes

LB: Okay I can't tell sometimes I apologize.

BB: okay anything else in open forum? Seeing none, is there a motion to move out of open forum and into judicial reports.

DS: so moved

BB: alright, any objections? Seeing none, we are now in judicial reports. I'll start with myself: let's see... just enjoying spring break so far and came in today to hear this. I did send out the grant of certiorari to both parties so they both have the first one and I did tell them that we wanted the record of all of the grievances that have been filed for the candidate and so they should be submitting that soon; and we're going to try to have the trial for the first one on Wednesday March 19th around 3. We're going to try to look for a room. That's what we'll do after this meeting. And that's all I have to report. Mr. Shapiro do you have anything to report?

DS: no report

BB: Sammy do you have anything to report?

SH: no report

BB: Corey do you have anything to report?

CM: just to apologize to Mr. Shapiro, you're right, I meant section 2.2 "individuals appearing before the supreme court" and the "rights and responsibilities of the justice to be heard by quorum, and to have his or her say without ridicule or interference- unnecessary interference or interruption" and that's all.

DS: I'd like to remind you that that only applies to trial proceedings; this is a general business meeting.

BB: Sacasas do you have anything to report?

AS: yeah, I ordered the promotional items through Housman so we're going to be getting some new promotional items soon so yeah.

BB: Kalmowicz do you have anything to report?

MK: no report

BB: Lindsey do you have anything to report?

LB: just that I'm enjoying my time in Virginia (inaudible)

BB: okay

LB: (inaudible)

BB: excellent outreaching, thank you. Is there a motion to move out of judicial reports and move into SGATO report?

SH: so moved

BB: any objections? Seeing none we are now in SGATO report. Jessica do you have anything to report?

JM: I do not.

BB: Okay. Is there a motion to move out of SGATO report and move into new business?

AS: so moved

BB: any objections? Seeing none, we are now in new business. And now we will talk about the request for trial that was submitted by Jean Cocco. This is the second one that was submitted. I won't go into full detail because it pretty much is stating the same kind of allegations as the first one, except they're just for different violations that were assessed to him. And according to 704.2.1 multiple violations assessments may be handled by the supreme court as one singular appeal so it is with my recommendation that we just deny the- this request for trial and just kind of pile it onto the first trial so we don't have two trials going on at once. And since this is a sensitive issue- a time sensitive issue, I believe it would be best if we just hear all of the allegations in one trial since it has the same complaint. So I'll open the floor for any suggestions or how they feel about that.

DS: well I concur, the issue is raised in the first request and is identical in the second request, and this matter may be addressed in the hearing already set. The court has already requested all materials related to any grievance hearing which related to Jean Cocco, thus the consideration of all points assessed in one trial will not unduly burden the respondent in their gathering of materials as they should already be submitting all documents related to all Jean Cocco grievance hearings no matter what; so I would counsel that we deny cert and just hear this identical request in the request for trial that we already granted and set for the 19th of March.

CM: I'd just like to say, if I may, I agree with Mr. Shapiro in everything that he just said. I would like to add though like I was saying before about the appearance of impropriety- impropriety is very important. If we do decide as a court to move forward with this, there is precedent in which we can suspend ROPs on the matter of quorum, allowing justices who are affiliated with Mr. Cocco outside of the court, and who have personal relationships with him to abstain and still have the hearing. That is a possibility and I urge all of the justices to keep that in mind in order to make sure that moving forward we don't violate our statutes.

DS: recusal is a personal issue and I would urge every justice to only think about their own conscious and not worry about someone else. It is a personal matter; if you feel that you will be unduly biased then you may recuse, if you feel that you can remain unbiased on this issue though that is your personal preference and I would listen to your own conscience and obey your own conscience on this one.

JM: I think definitely for you guys, I mean obviously there are relationships, I think that for you as an individual whether or not you can really be unbiased on this matter (inaudible) there is a lot of perceptions out right now even before the election started so I think everybody just give it some thought; I think Corey is definitely (inaudible) for you guys to at least consider when you make your decisions as you will, but definitely give it some consideration.

BB: okay, so without further ado, do I have a motion to vote whether or not to grant or deny cert for this request for trial?

SH: motion to move by roll-call.

BB: okay. So can you please restate it just in case?

SH: motion to vote by roll-call on certiorari.

BB: okay, is there a second to his motion?

DS: second

BB: okay so we will go down since Brandon Telchi is not here today, and that's understandable because it's spring break, we'll go down Shapiro if you could just record the votes and we'll go in reverse order so just I guess I'll do it. Sacasas how do you vote?

AS: deny

BB: okay. Lindsey how do you vote?

LB: deny

BB: okay. McCance how do you vote?

CM: deny

BB: Kalmowicz how do you vote?

MK: deny

BB: okay, Sammy how do you vote?

SH: deny

BB: okay, Shapiro how do you vote?

DS: deny

BB: okay and I abstain as chair so if you could please read the results.

DS: there are zero justices voting to grant cert, six voting to deny, and one abstain.

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BB: okay, so with a 0-6-1 this request for trial has been denied, but we will consider the violations in one case and it will be heard in the trial that we granted certiorari for. With that said, is there a motion to move out of new business and into announcements?

DS: so moved

BB: are there any objections? Seeing none, are there any- we are now in announcements. Does anyone have anything to announce?

MK: have a great spring break court

BB: okay. If there's no further announcements, is there a motion to move out of announcements and into adjournment?

SH: so moved.

BB: are there any objections? Seeing none, this meeting- this special meeting is now adjourned at 3:11pm.