



CLOSE OUT MEMO  
PRELIMINARY INQUIRY

Public Corruption Unit

A.S.A.: Joseph M. Centorino

INVESTIGATION #: 64-08-42

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

5/16/08

JOSEPH M. CENTORINO, Division Chief, PC Unit

DATE: \_\_\_\_\_

5/16/08

JOSE J. ARROJO Chief Assistant

DATE: \_\_\_\_\_

5/16/08

SUBJECT(S): Syed A. Shah

EMPLOYMENT: Former Payroll Administrator,  
Administrative Office of the Courts, Miami-Dade County

INVESTIGATOR: Cedric W. Johnson  
AGENCY: OIG  
PHONE: 305-375-1946

ALLEGATION:

CRIME	STATUTE	DEGREE
Forgery	F.S. 831.01	3 F
Official Misconduct	F.S. 839.25	3 F
False or Fraudulent Notarization	F.S. 117.105	3 F

CONCLUSION:

This inquiry was opened upon referral from Linda Kelly Kearson, General Counsel for the Eleventh Judicial Circuit of Florida. Ms. Kearson informed that an issue had been raised by Attorney John B. Thompson, concerning possible forgery of a Loyalty Oath submitted on behalf of Miami-Dade Circuit Judge Dava Tunis. The document containing the oath, which is required to be signed by all State judges pursuant to section 876.05, Florida Statutes, was submitted on behalf of Judge Tunis on September 12, 2000. The oath was obtained by Attorney Thompson from Miami-



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Dade Court records. Mr. Thompson subsequently alleged that the signature on the form purporting to be that of Judge Tunis was a forgery. In support of his allegation, Thompson submitted the affidavit of Curtis Baggett, Expert Document Examiner, who stated that he had compared the signature on the oath with five documents containing the known signatures of Dava J. Tunis, and had concluded that the signature on the Loyalty Oath form was authored by a person other than Judge Tunis.

Ms. Kearson forwarded the document in question to Judge Tunis, who acknowledged that the signature on the form was indeed a forgery. Ms. Kearson then conducted a review of loyalty oaths on file for other Miami-Dade judges and located two other possibly forged loyalty oaths, one for Judge Orlando Prescott submitted on July 20, 2000, and one for Judge Linda Singer Stein submitted January 5, 1993.

Ms. Kearson, in reviewing the aforesaid documents, noted that all three of the questioned signatures were notarized by the same Notary Public, Syed A. Shah, a former employee of the Administrative Office of the Courts, who had retired from his position on December 31, 2002.

This writer, upon receiving the aforesaid information from Ms. Kearson, spoke with the Miami-Dade County Office of Inspector General, which had initiated its own investigation of the three apparently forged signatures. In the course of their investigation, OIG investigators interviewed Judges Tunis, Prescott and Stein, as well as the subject, Syed Shah. A report summarizing the findings of the OIG investigation was forwarded to this writer for review for possible criminal charges. The findings of the report and this writer's conclusion are summarized below.

#### JUDGE DAVA TUNIS

Judge Tunis related to OIG investigators that this matter came to her attention when she received Ms. Kearson's response to a public records request from Mr. Thompson, and that she had immediately acknowledged that the signature on her 2000 Loyalty Oath was not hers. She said she had also reviewed her personnel file and found another signature that was not hers, on an undated "Policy Statement" regarding discrimination in the workplace, intended to be signed by employees of the Florida State Court System. Judge Tunis said she then notified Florida Supreme Court Chief Justice R. Fred Lewis of the forgery.

Judge Tunis stated to investigators that the signature on the Loyalty Oath document is clearly a forgery, and that she had no recollection of having signed the form. She noted that she was newly-appointed as a judge at the time the form was submitted, and would have personally signed the document had it been brought to her attention.

Judge Tunis, who was appointed to the County Court in 2000, successfully ran for retention in 2002, and was elevated to the Circuit Court in 2005. Following the revelation of the forged Loyalty Oath form, Judge Tunis executed a Loyalty Oath on February 4, 2008.

#### JUDGE ORLANDO PRESCOTT

Judge Orlando Prescott also stated to investigators that this matter came to his attention when he was contacted by Ms. Kearson. He was also a newly-appointed County Court judge in 2000. Judge Prescott acknowledged that the signature on the Loyalty Oath form submitted in his name was a forgery. He indicated that he had signed numerous documents at the time of his appointment, and would have personally signed the oath had it been presented to him.

Judge Prescott successfully ran for retention in 2002, and was elevated to the Circuit Court in 2005. After he was apprised of the forged Loyalty Oath form, he executed a new oath on February 4, 2008.

#### JUDGE LINDA SINGER STEIN

Judge Linda Singer Stein stated to investigators that she reviewed the document in question when this matter was brought to her attention by Ms. Kearson. She acknowledged that the signature purporting to be hers does not exactly match her signature, but was unsure whether the signature on the form was written by her. She was a newly-elected County Court Judge when the form was filed in 1993, and had little memory of the form or any employee who may have notarized it.



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Judge Stein, who was first elected to the County Court in 1992, initially served in the Criminal Division of the Hialeah Branch Court, and since 1994 has sat in the Civil Division of that Court. She executed a new Loyalty Oath on February 4, 2008.

## SUBJECT SYED A. SHAH

Subject Syed A. Shah stated to the OIG investigators that he began working for the County around 1980, and began working for the Administrative Office of the Courts in 1987 as a Payroll Administrator. He retired from that position in 2002. Through his position as Payroll Administrator, he became a Notary Public, and often notarized documents for the judges. He said that he was the only notary in his area of the office, and was the only one that the judges or their secretaries would contact to notarize the Oath of Loyalty.

Shah acknowledged that he had notarized all three documents in question, each of which bears his notary stamp. However, he denied signing any of the three judges' names and maintained that the signatures were properly notarized by him. According to records maintained by the Bureau of Notaries Public, Division of Elections, Office of the Secretary of State for the State of Florida, the Subject's Notary Public Commission, under which he notarized the questioned documents, expired on June 13, 2001. The Subject's commission was renewed at that time based upon the Subject's application, until it expired on April 13, 2005. It was not renewed thereafter.

## CONCLUSION

There is sufficient evidence, based upon the statements of Judge Tunis and Judge Prescott, as well as the apparent discrepancy in their signatures, to conclude that the signatures on the Loyalty Oath forms submitted in their names in 2000 were forged. However, there is insufficient evidence to prove that the Subject, who denied the forgery, or any other person, forged the documents. None of those interviewed provided information concerning the identity of the forger. It is unlikely that the identity of the forger could be conclusively determined through forensic handwriting analysis or other investigative means.

The Subject was a public employee at the time he notarized the false signatures, as well as a Notary Public, which is also a public office under Florida Statutes. There are two witnesses, both judges, who would testify that they did not sign the forms in question and were not present at the time that the forms were notarized. It may be presumed, from the nature of his employment and the fact that he regularly notarized the signatures of sitting judges, that the Subject was familiar with the identities of the judges. However, any prosecution for Official Misconduct or Notary Fraud (or even Forgery), even if there were sufficient evidence to support one or more of these charges, would be time-barred since the applicable three-year Statute of Limitation for said offenses, pursuant to F.S. 775.15 (2) (b), expired during 2003 for both documents.

Inasmuch as the offenses in question were arguably based on misconduct in office by a public employee, the extender provision contained in section 775.15(b) might be applied to extend the time for initiating prosecution. However, such provision would extend the Statute of Limitations for at most two (2) years after the subject left public office. It has been 5½ years since the subject retired from his County position, and three years since his notary commission finally expired.

It is also arguable that a violation of F.S. 117.105 includes a material element of fraud, which might make applicable the extender provision of F.S.775 (15) (a), since the fraud was discovered less than a year ago. However, the fraud extender only provides an extension of three (3) years beyond the otherwise applicable Statute of Limitations, which expired, as noted above, in 2003.

The possibility of "stacking" the extenders contained in the two aforesaid statutes was considered, which could, in theory, bring the felony charges within the period of the second statutory extension. After consulting with ASA Penny Brill, Chief of the Legal Division, and ASA Angelica Zayas, also of the Legal Division, it was determined by this writer that the Statutes cannot be "stacked" and that only one or the other extender may be utilized.



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Therefore, it is the conclusion of this writer that even if a criminal offense by the subject could be proven, prosecution of the subject would be time-barred by applicable Statutes of Limitations.

It should be noted also that there is no evidence that any of the judges involved, Tunis, Prescott or Stein, had any ~~prior knowledge of or involvement with the forgeries. There is no conceivable criminal motive for a judge to have~~ participated in a forgery of his or her own Loyalty Oath. The issue of what, if any, legal consequences flow from the absence of a properly signed Loyalty Oath by a judge is beyond the scope of this memo.

This matter has already been brought to the attention of the Judicial Qualifications Commission (JQC) of the State of Florida by Mr. Thompson. Accordingly, the information derived from the OIG investigation, as well as this memorandum, will be forwarded to that agency

This inquiry is closed.

cc: Jose J. Arrojo



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