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NEWS

'Go Sit Down': Some Florida Lawyers Want Judge Scherer Off the Bench After Parkland Trial

"The image of a judge relegating an elected public defender and his top assistant to sit in the corner like misbehaving children is offensive and discounts their very vital and difficult role in this system," wrote Ernest L. Chang, president of the Florida Association of Criminal Defense Lawyers.

November 04, 2022 at 11:14 AM

Judicial Ethics



Michael A. Mora

What You Need to Know

- The Florida Association of Criminal Defense Lawyers sent a letter to Broward Chief Judge Jack Tuter to discipline a colleague.
- The defense association claimed that Broward Circuit Judge Elizabeth Scherer failed to uphold the high standards of conduct pursuant to Canon 1 of the Florida Code of Judicial Conduct.
- The Florida Bar confirmed that it is investigating a member of Nikolas Cruz's defense counsel.

The Florida Association of Criminal Defense Lawyers sent a letter to Broward Circuit Chief Judge Jack Tuter in which it alleged that one of his colleagues, Judge Elizabeth Scherer, failed to uphold the high standards of conduct pursuant to the Florida Code of Judicial Conduct while presiding over the trial of Parkland school shooter Nikolas Cruz.

Ernest L. Chang, president of the association, penned the letter to Tuter in which he urged the chief judge to address Scherer's comments and actions in an exchange between the judge, Gordon Weekes, the elected public defender, and his assistant, David Wheeler.

Chang took issue when Scherer allegedly misrepresented statements regarding "comments victims' families made earlier in the day."

"Judge Scherer told both Mr. Weekes and chief assistant public defender David Wheeler to 'go sit down,'" [Chang wrote in the letter](#). "The image of a judge relegating an elected public defender and his top assistant to sit in the corner like misbehaving children is offensive and discounts their very vital and difficult role in this system."

Scherer did not respond to a call to her chambers requesting comment.

Tuter, who is out of the office recovering from eye surgery, declined to comment.

Scott Fingerhut, a judicial ethics expert at Florida International University College of Law, is twice past chair of the bar's Criminal Procedure Rules Committee. He suggested that Scherer could be removed from future "public defender cases, the criminal division, or the bench entirely."

"If our courts are indeed to be great levelers, judges must uphold their end of the bargain," said Fingerhut, who is a member of the FACDL.

Lawyer Investigated

Chang alleged that Scherer's behavior "undermines public confidence in the integrity and independence of all judges," and in doing

so, violated Canon 1 of the Code of Judicial Conduct.

Tensions were high throughout the nearly four-month death penalty phase of the trial for Cruz, who pleaded guilty to the murder of 17 people on Valentine's Day in 2018 at Marjory Stoneman Douglas High School.

A jury returned a verdict that the 24-year-old should not be executed, resulting in Cruz later being sentenced to 34 consecutive mandatory life sentences in prison without the possibility of parole. Since then, 90 survivors have delivered testimony regarding how Cruz had shattered their lives.

But long before this point was reached, Tamara Curtis, a member of Cruz's defense counsel, appeared to flash an obscene gesture at the court as she rubbed her middle finger on her cheek.

Jennifer Krell Davis, a spokesperson for the bar, confirmed in an email on Thursday that there is a pending investigation into Curtis.

Curtis did not respond to an email or call requesting comment.

In court, Scherer said Curtis' gesture and the "laughing and joking" at the defense table left parents rightly mad.

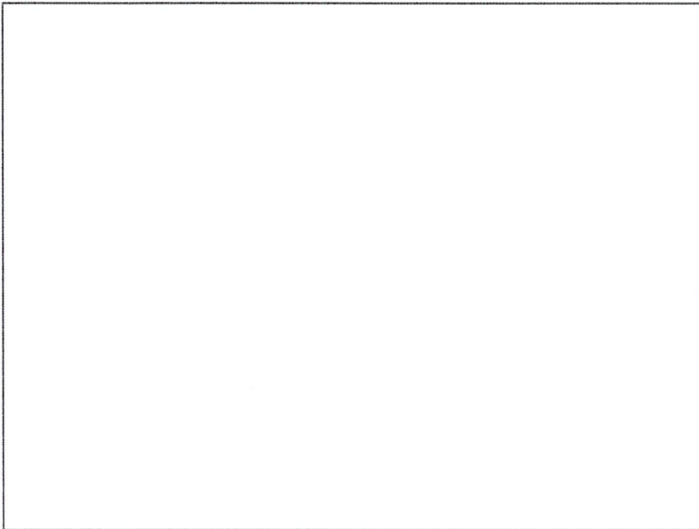
But Chang accused Scherer of exhibiting "hostile and demeaning treatment of defense counsel." For instance, in the letter, he accused Scherer of condoning "thinly veiled threats" expressed by the parents of victims toward the children of defense counsel.

"When Mr. Wheeler suggested that Judge Scherer would view the comments differently were they about her and her family, she turned that on its head and said the lawyer was threatening her children," Chang wrote. "Mr. Wheeler never did any such thing."

Chang wrote that Weekes unsuccessfully asked the judge to address the issue at the sidebar rather than in full public view moments before the incident occurred.

Chang added that Cruz's actions were reprehensible but to "stand by those who all else would readily condemn is the test of not just a great defense lawyer, but also of the constitution itself."

Read the full letter:



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