

REASONS FOR IMPEACHMENT OF JUDGE MARK E. FULLER

September 22, 2014

Article 3 section 1 of the United States Constitution sets "good Behavior" as the standard for federal judges to keep their jobs.

"If a judge's behavior is less than good behavior then Congress has the right to impeach that judge."
Retired U.S. District Court Judge, U.W. Clemon

The Code of Conduct for United States Judges, Cannon 2 (a) requires judges "avoid impropriety and the appearance of impropriety in all activities...[and furthermore that judges]comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."

Judge Mark Everett Fuller, a United States District Court Judge for the Middle District of Alabama, has conducted himself in such a manner as to demand impeachment.

Part I: Arrest for spousal abuse, allegations of alcohol and drug abuse, abuse of children, reckless endangerment of children, sexual exploits with U.S. Judiciary employees:

Judge Fuller has repeatedly violated state and federal laws, and has through his personal conduct has brought shame and disrespect upon the United States Judiciary. U.S. District Court Judge Mark E. Fuller has been arrested for assaulting his wife. The police report demonstrates the severity:

Grabbing a woman by her hair and throwing her to the floor, dragging her around the room by her hair, while kicking and hitting her in the face is what Kelli Fuller told Atlanta Police her husband Mark Everett Fuller had done to her. When Kelli Fuller called 911 for help the dispatcher could hear Kelli being beaten. That audio tape is part of the evidence for impeachment. Just as revolting and socially shocking as the video of National Football League player Ray Rice hitting his fiancée was to the NFL and the viewers who watched it, the 911 audio tape of U.S. District Court Judge Mark E. Fuller hitting his wife is just as repulsive to the values and standards we expect from those who have been appointed by the President of the United States to uphold justice in America.

Perhaps equally appalling and disturbing is the fact that this is perhaps not the first or even the second time Judge Mark E. Fuller has abused a woman.

Lisa Boyd Fuller in her divorce complaint makes allegations of spousal and child abuse, alcohol and prescription drug abuse, and the endangerment of minors by driving under the influence of drugs and alcohol with children in the car. Lisa Boyd Fuller also alleged numerous instances of infidelity.

Judge Fuller used the influence of his office, that of a U.S. District Court Judge, to have the divorce records sealed and shielded from public view over the strenuous objections of Lisa Boyd Fuller, the victim, and contrary to The Code of Conduct of United States Judges.

In the name of justice, those divorce records must now be unsealed and a determination made as to when and to what extent Judge Mark Fuller became addicted to alcohol and prescription drugs, and inquiries must be made as to whether his addiction impacted his decisions as a judge in the criminal and civil cases over which he has presided.

At the time of U.S. District Court Judge Mark E. Fuller's recent arrest for assaulting Kelli Fuller after she confronted the judge about having an affair with his young female law clerk, the police reported the smell of alcohol in the room, and Kelli Fuller's son, Hunter Gregg told the police that this was not the first time such a thing has happened. If other physical abuse has occurred, then Judge Mark Fuller is a habitual wife beater.

Further questions arise due to the allegations of extramarital affairs with employees of the judiciary.

Part II. Failure to disqualify himself as a presiding judge while knowing that failure to do so would raise reasonable questions of his impartiality.

One such case is that of former Alabama Governor Don Siegelman who appointed a District Attorney to investigate Mark Fuller's actions after he resigned as district attorney to become a federal judge. Georgetown Law Professor David Luban, one of the nation's leading legal ethicists, commenting on Judge Fuller's presiding over Governor Siegelman's case told Harper's Magazine:

"You simply can't preside over the criminal case of somebody who appointed a DA to investigate you." Harper's October 22, 2007

Background: The facts are public. In 2002, Mark Fuller had resigned as District Attorney to become a federal judge. As DA Fuller had been accused by Alabama presiding Circuit Court Judge, Gary McAliley, of "questionable [financial] practices at the district attorney's office..." and told Governor Siegelman that "terrible things had come to exist [and] if allowed to continue, public trust will come to be destroyed." Mark Fuller had illegally spiked the salary of his investigator costing the Alabama Retirement Systems over \$300,000. Governor Siegelman who appointed Judge McAliley to fill Fuller's unexpired term as District Attorney, rolled back the spiked salary. A law suit followed in which federal judge Mark Fuller testified in his on defense. Alabama courts ruled against Fuller holding that the spiked salary was illegal. Fuller publically blamed his embarrassment on "politics."

Moreover Mark E. Fuller had served as a Member of the Alabama Republican Executive Committee which opposed Don Siegelman's election as Lt. Governor and Governor and opposed Governor Siegelman's propose Alabama education Lottery referendum. It was a contribution to that lottery referendum that was at the heart of Governor Siegelman's conviction for bribery.

Background for the bribery charge: Governor Siegelman received a contribution to the Alabama Education Lottery campaign from a Fortune 500 Company CEO Richard Scrusby, after which Governor Siegelman reappointed Scrusby to a state board on which he had been appointed by three previous governors. There was no allegation of personal benefit nor any self-enrichment schemes.

Judge Fuller allowed the jury to convict on a legal standard that was not the law at the time Governor Siegelman acted. Fuller instructed the jury they could convict even though there was no evidence of a

quid pro quo much less an express one. Governor Siegelman became the first public official in American Jurisprudence to be convicted of bribery involving a campaign contribution to an issue advocacy campaign where there was no allegation of personal gain or financial benefit.

To the astonishment of the public and the legal community, following Governor Siegelman being sentenced, Judge Fuller had the Governor immediately shackled, chained around his waist, handcuffed and placed in solitary confinement at the nation's oldest maximum security prison, prompting former Republican Attorney General Grant Woods from Arizona to tell CBS's 60 Minutes: "That tells you that this was personal...You would not do that to a former governor." [CBS, 2/24/08]

113 former state Attorneys General, both Republicans and Democrats wrote: "This case is about the criminalization of First Amendment freedom-the giving and receiving of campaign contributions." [Amicus Brief to the U.S. Supreme Court, March 1, 2012]

Republican Pulitzer Prize winning journalist, George F. Will critical of Judge Fuller's holding means "Americans engage in politics at their peril because prosecutors have dangerous discretion to criminalize politics." [Washington Post, 2/12/2012]

Preeminent Constitutional Scholars, joining in the criticism of Judge Fuller's ruling said it gave "dangerous spacious latitude to prosecutors in selecting, for whatever reasons, those politicians and contributors whom they desire to silence."

Republican John Farmer, Dean of Rutgers Law School wrote President Obama that "The prosecution of Governor Siegelman represents the lowest threshold of criminal culpability advanced under federal anticorruption efforts..." [January 7, 2013]

Pace Law Professor Bennett Gershman, a nationally recognized author of legal treatises on prosecutorial misconduct, has stated "Legally, the charges against Siegelman appear to be more factually baseless than any case brought by the federal government." [Huffington Post, April 17, 2013]

It was not up to Siegelman to file a motion to force Fuller to be disqualified, it is a burden placed on a judge by Title 28 of the United States Code, which requires that judges disqualify themselves when their impartiality might reasonably be questioned.

Part III: Impeachment articles shall be prepared, an independent counsel should be appointed and additional evidence and testimony sought:

Whereas, it is clear that United States District Court Judge Mark Everett Fuller has broken the law by committing domestic violence against Kelli Fuller and that Lisa Boyd Fuller has made allegations of spousal and child abuse, drug and alcohol addiction and the endangerment of children in her divorce complaint; and

Whereas, Judge Mark Fuller has failed to avoid the appearance of impropriety by having had allegations of having sexual relations with court employees being made by his own wives; and

Whereas, It is clear that such conduct has brought disrepute on the United States Judiciary; and

Whereas, it is clear that because of the political conflicts of interest, which logically raise questions of his impartiality, Judge Mark E. Fuller should have disqualified himself from presiding over the trial of Governor Don Siegelman; and

Whereas, United States District Court Judge Mark Everett Fuller having violated Title 28 of the United States Code, section 455, and having violated The Code of Conduct for United States Judges, Cannons 2 and 3; and whereas

Whereas, Mark Everett Fuller having committed legal acts and acts which have brought shame and disgrace to himself and the Judiciary, and being in clear violation of Article 3, Section 1 of the United States Constitution which requires a United States Judge appointed by the President and confirmed by the United States Senate to maintain "good behavior";

Wherefore, all premises considered, impeachment proceedings should be prepared by the United States House of Representatives, an independent counsel should be appointed to file a motion to unseal Mark Everett Fuller and Lisa Boyd Fuller's divorce proceedings to obtain further evidence of unlawful and bad behavior, and the testimony of witnesses, Lisa Boyd Fuller, Kelli Fuller and Hunter Gregg as well as others, should be sought in preparation of the impeachment of United States District Court Judge Mark Everett Fuller.