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County judiciary under fire

Two allege corruption, misconduct of three judges

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An investigation by state court officials into allegations of wrongdoing by a local judge was triggered by two people who have separately pursued personal vendettas against the Monterey County judicial system.

The state Commission on Judicial Performance has removed Judge Michael Fields from a panel presiding over a disciplinary hearing for a Santa Barbara judge based on the declaration of a Monterey woman who said Fields expressed prejudgment of the case to her during a rendezvous at a Ventura hotel.

The woman, former Monterey County Superior Court clerk Crystal Powser, was at the root of charges that forced her former fiance, Traffic Commissioner Richard Rutledge, to resign in late September. She has now apparently joined forces with Eugene Forte, a former Salinas resident who has alleged corruption and misconduct in a series of lawsuits against members of the Monterey County judicial system. Court records indicate they, in turn, have questioned his mental stability and labeled him a "vexatious litigant," limiting his ability to file future lawsuits.

The convergence of Powser and Forte's mutual scorn for the local court system has thrown into disarray a state hearing to determine whether Santa Barbara Judge Diana Hall violated judicial ethics. It has also raised serious questions about the judgment and ethics of at least two Monterey County Superior Court judges, Fields and Russell Scott, for whom Powser worked as a clerk for more than 10 years.

Fields was presiding over a three-judge panel hearing allegations that Hall, 55, failed to report a \$20,000 campaign contribution from her live-in girlfriend; improperly questioned a prosecutor who attempted to dismiss her from a case; and was convicted of drunken driving.

That hearing, being conducted in Ventura, was abruptly suspended Nov. 17, one day after Forte filed Powser's declaration in an unrelated lawsuit. According to the declaration, Powser traveled at Fields' request to his Ventura hotel room, where Fields, who is married, made sexual advances and discussed the case against Hall.

Unknown to Fields, according to the declaration, Powser accepted his invitation at the suggestion of Forte, who traveled with her to Ventura "so that it could be verified that this meeting took place."

During the rendezvous, Powser said, Fields told her he and the other two judges on the panel had discussed the case against Hall over breakfast, lunch and dinner, and had "already decided she was guilty of all three allegations."

Fields also told her, Powser said, that Hall concealed her girlfriend's campaign contribution because she did not want people to know she was a lesbian, and he made fun of the girlfriend's surname, Dykeman.

Fields, who continues to hear cases on the Monterey County bench, declined comment Friday, saying he couldn't discuss pending litigation.

"If at some point that changes, I'd be happy to talk," he said, "but at this point I'm precluded from discussing anything about" the declaration or his relationship with Powser.

Fields is being represented in the matter by Monterey attorney Larry Biegel, who said Friday he would likely bring in another attorney who is more familiar with proceedings before the Commission on Judicial Performance, "if it comes to that."

New panel requested

On Wednesday, Hall's attorneys asked the Commission on Judicial Performance, which handles discipline of the state's

judges, to dismiss the misconduct charges against Hall, arguing that Fields' comments had irreparably tainted the proceedings.

The commission, which has never suspended a disciplinary hearing that was already in progress, has asked that a new panel of judges be appointed to hear the case, according to spokeswoman Victoria Henley. That request is pending.

Henley wouldn't comment about the allegations against Fields.

"Complaints to the commission and investigations are confidential," Henley said when asked if Fields was being investigated. "I can't confirm or deny a complaint or allegation made against any California judge."

She declined comment on allegations in Powser's declaration about Scott.

Over dinner in Ventura, Powser said, she and Fields discussed Scott's alleged habit of telling her to call local prosecutors who were trying cases in his courtroom to give them direction on questions they should ask of witnesses.

Fields "sat back with this disgusted look on his face, crossed his arms and said he totally thought that was wrong and he would never have, or never has had his clerk do such a thing," Powser wrote.

Scott did not respond to requests for comment.

While judges are free to ask witnesses questions during a trial, privately directing a prosecutor on how to conduct a trial would raise questions of judicial bias. Such a revelation could prompt defense attorneys to challenge the judge's appointment to a case or, if they did not, open subsequent verdicts to appeal.

Powser's past allegations

It is not the first time accusations by Powser have shaken the Monterey County courthouse. In August, she circulated an e-mail to 47 people in the courthouse alleging that her former fiance, Commissioner Rutledge, fixed tickets for friends, sent her thousands of love letters by e-mail on court time and had sex with her on numerous occasions in the Salinas and Marina courthouses.

At the time, she said she wanted revenge against Rutledge for ending their engagement and against the court for refusing to let her withdraw a resignation she had submitted in anger in April, thus terminating her longtime employment there.

In interviews with The Monterey County Herald earlier this fall, Powser said she also targeted Scott, her longtime ally whom she now blames for failing to save her job. She said she forwarded to presiding Monterey County Superior Court Judge Stephen Sillman a voicemail from Scott's telephone revealing inappropriate behavior between him and a court clerk. It is unclear whether any action was ever taken on that revelation.

Powser's e-mail regarding Rutledge prompted a criminal investigation by the Monterey County District Attorney's Office, which concluded there was insufficient evidence to warrant criminal charges against the commissioner.

In a blistering statement during a news conference, however, District Attorney Dean Flippo said there was evidence of actions by Rutledge that raised "the specter of favoritism" and "undermine the confidence of the public in the administration of justice and our court system."

Rutledge resigned that afternoon.

Forte's case with the courts

Shortly thereafter, Forte contacted Powser, an admittedly emotionally fragile woman who had managed in a matter of weeks to accomplish what he had failed to do in six years of lawsuits: bring down an officer of the Monterey County courts.

Forte's vendetta against the Monterey County judicial system stems from a lawsuit he filed over a soured real estate deal in 1999. Forte lost that case, as well as two subsequent appeals to the Sixth District Court of Appeal.

In the ensuing years, that case has mushroomed into a number of lawsuits against dozens of defendants ranging from

his real estate agent to his own former lawyers, judges, the District Attorney's Office, the Monterey County Counsel's Office, the Monterey County Sheriff's Office and several deputies who work in the Monterey County courts.

In rambling and flippant language, the lawsuits allege corruption and misconduct at the highest levels of the local courts. One lawsuit was dismissed after Forte admitted in open court that he had concealed from defense attorneys recordings of telephone conversations he secretly and illegally taped with his attorneys and his real estate agent, the target of the lawsuit.

Another lawsuit was filed against Judge Robert O'Farrell after he had Forte arrested for contempt in a Monterey courtroom in December 2003. Forte, who is not an attorney but who by then was representing himself in court, angered the judge by repeatedly interrupting him during a hearing for another lawsuit.

Transcripts of the hearing show Forte was trying to file a motion to disqualify O'Farrell for alleged bias. In a formal contempt hearing later that afternoon, O'Farrell said Forte had been given a chance to file the "challenge for cause" but instead, "loaded for bear," had taken the opportunity to grandstand with his two young children present in the courtroom.

After allowing Forte to carry on for several minutes about the issues in the case, according to a transcript, the judge said his comments had failed to mitigate or apologize for his actions.

"As a matter of fact, you're arrogant, you're defensive and you're, in fact, offensive," O'Farrell said. "Quite frankly, I believe I'm dealing with a certain pathology here, and I don't mean that in any pejorative way. But if you're not aware of some potential issues there yourself, perhaps you should look into them.

"Your conduct, not only today, and as it has led up to today, is really not terribly rational," O'Farrell added. "In fact, that's being generous."

Vexatious litigants|

It was in that lawsuit against O'Farrell and numerous additional defendants that Forte filed Powser's declaration Nov. 16. The case against O'Farrell was dismissed Nov. 23 by visiting Judge John Golden.

At that hearing, Forte requested that Golden, a retired Lake County Superior Court judge, turn himself over to the bailiff to be placed under citizen's arrest. The request was denied. He also requested that Golden recuse himself, alter an order declaring Forte a vexatious litigant and refer the case to Flipppo -- who is a defendant in the case -- for criminal investigation. All of the requests were denied, according to court records.

Golden also ruled that Powser's declaration was irrelevant in the case and sealed it.

Individuals are generally declared vexatious litigants after filing numerous unsuccessful lawsuits, without legal representation, over a number of years. They can be prohibited from filing future lawsuits without permission of the presiding judge or can be required to post security deposits that would cover the defendant's court costs in the event the litigant loses again.

Reached at his Los Banos home last week, Forte declined comment, referring a reporter to a prepared statement he disseminated earlier in the week in which he accused local media of colluding with the "good ol' boys... corrupt public officials, corrupt judges, corrupt law firms of Monterey and a few unethical prominent citizens."

Forte said he planned to sue local media outlets for failing to report information he has provided over the past three years.

"There is no reason at this time based upon your conduct and motives to believe that you would report in a balanced and impartial way," he wrote. "... You have been willfully silent and you have endangered the lives of myself and my family by doing so."

In an e-mail he attached when circulating Powser's declaration, he said he believed the allegations would be the final downfall of the local court system.

"Your honors of the bench and other public officials, the time for you to redeem yourself has past," he wrote. "You will go down in infamy as being the example of what America cannot tolerate."

Forte's work unclear

It is unclear how Forte supports himself financially. Articles in the Fresno Bee -- reporting another unsuccessful, real estate-related lawsuit he filed against a law firm there in the early 1980s -- described Forte as a former stockbroker and rock-concert promoter who had once bankrolled an unsuccessful attempt to recover a B-24 bomber that had crashed into a Sierra lake in 1943.

On his Web site, he identifies himself as the president of AttorneyBusters.com, an organization he founded sometime after his arrival in Monterey County. But he has told the courts he is unable to pay well over \$100,000 in judgments against him in Monterey County lawsuits.

Forte may be creating a documentary about his work. He has been seen outside the Monterey courthouse speaking before a videographer.

It is unclear whether he taped, photographed or otherwise documented Powser's alleged rendezvous with Fields.

Powser declined to answer that question last week, saying she had been advised not to comment by her "P.R." representative, adding that that person was not an attorney.

Monterey County Presiding Judge Sillman wouldn't comment when asked whether Powser's latest allegations have prompted an investigation of Fields or Scott.

Said Charles Warner, president of the Monterey County Bar Association: "The important thing to remember is that they're just accusations. They haven't been proven and they're coming from a person who's made many accusations."

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