

June 24, 2021

Senate Ethics Committee  
Colorado State Senate  
State Capitol  
Denver, CO 80203

Re: Verified Answer to Formal Complaint of  
Chris Forsyth, Esq.

Dear Chair Gonzales and Members of the Committee:

As the Respondent in this matter and pursuant to Rule 43(c) of the Senate Rules, I submit this Verified Answer to the Formal Complaint of Chris Forsyth. Rule 43(c) provides that the Committee shall make a preliminary investigation which consists of an examination of the Complaint, the Answer, and any other evidence compiled pursuant to the request of the Committee. Based upon this Verified Answer and the information attached, I respectfully submit that no further evidence is necessary and therefore, further request that pursuant to Rule 43(c), the Committee find no violation has occurred and the Complaint be dismissed.

#### **BACKGROUND OF THE COMPLAINT**

On April 21, 2021, Chris Forsyth, the principal officer of the Judicial Integrity Project, submitted a Formal Complaint to Senate President Garcia asserting that I violated Senate Rule 41 by failing to perform my duties in a manner that promotes public confidence in the integrity of the Senate and the General Assembly and further that as a Senator, by reason of my office, I exercised undue influence on a public official for economic or private gain. These charges are groundless, unsubstantiated and without merit. They are interposed for the political purposes of the

Complainant and should be dismissed by the Committee as early as possible in the preliminary investigation stage of these proceedings.

At the outset, the Ethics Committee should take note that Counts 1 and 2 involve events that were briefly and summarily recounted by me in a January 25, 2019 Joint Judiciary Committee meeting. However, the events themselves actually took place some 7 or 8 years ago when I was a member of the House and prior to my service in the Senate.<sup>1</sup> Contrary to Mr. Forsyth's assertion, I did not request that the State Court Administrator take any specific action when I contacted him in my capacity as a State Representative about a matter of concern that was reported to me by an attorney colleague. Rather, I contacted the Administrator to express my concern about the discriminatory and prejudicial statements that had been made from the bench by a senior judge over whom the State Court Administrator's Office (SCAO) had oversight. I had no power, authority, or ability to exercise any undue influence over the State Court Administrator to take any action and did not request he do so. Neither did I benefit personally or economically from any action the State Court Administrator may have taken.<sup>2</sup>

As to Counts 3 and 4, these allegations essentially assert that the performance of my legislative duties simultaneous with the sponsorship of legislation in which I have no financial interest or prospect of private gain somehow violates Senate Rule 41. Specifically, Mr. Forsyth asserts that my sponsorship of HB21-1136 (expanding the senior judges program) is a conflict of interest because the bill "[increases] the power of the chief justice and the state court administrator",

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<sup>1</sup> The Committee should take note that although my actions were appropriate at all times, the fact is that all of the conduct complained of in Counts 1 and 2 took place prior to my being a member of the Senate. While my actions, under any ethical rules, were completely appropriate, it is quite frustrating to respond to a matter that occurred almost a decade ago and long before beginning my service in the Senate. *This should itself constitute reason for dismissal of these counts.*

<sup>2</sup> A careful reading of Senate Rule 41(c) shows that in order to violate the rule, a Senator must both exercise undue influence and do so for economic or private gain. I neither exercised undue influence over the State Court Administrator, nor did the action complained of constitute a private or economic gain to me. *For this reason alone, this Complaint should have been dismissed as lacking in merit and unsubstantiated on its face.*

while I am at the same time serving on the committee responsible for selecting a proposal and awarding a contract to an independent investigator group to conduct an inquiry into the actions of the Judicial Department. This is not a conflict of interest, but rather the performance of duties that are a part of and incident to my service as a member of the Senate Judiciary Committee and as a Senator generally. My selection for service on the selection panel for the independent investigation group was actually made by the Senate Minority Leader in response to a request from the Chief Justice that Minority Leader Holbert name a caucus member for appointment to the panel.

### **THE COMPLAINANT**

Chris Forsyth is a Colorado attorney who serves as the Executive Director of the Judicial Integrity Project (JIP). *See* <https://judicialintegrity.org/index.html>. In this capacity, Mr. Forsyth advocates for judicial transparency and accountability, which in and of themselves are laudable goals. In fact, it is a supreme irony that I share some of the concerns of the Judicial Integrity Project and have suggested and at times, advocated for similar reforms as a legislator. However, Mr. Forsyth and the Judicial Integrity Project take a very aggressive approach to these matters as demonstrated by their website, which in the course of its advocacy, engages in highly personal attacks on judges, Judicial Department officials, and legislators. *See, e.g.,* <https://judicialintegrity.org/blog.html>. Mr. Forsyth and JIP certainly have a First Amendment right to engage in these activities. But, a review of the website demonstrates Mr. Forsyth's motivations and the aggressive, personal attack tactics he uses to achieve his ends. This meritless and unsubstantiated complaint is just one more instance of Mr. Forsyth's very personal, guerilla political tactics to both coerce and intimidate public officials and gain notoriety for himself and his organization.

## RESPONSE TO FACTUAL ALLEGATIONS

In his Complaint, Mr. Forsyth quotes from a statement I made in a Joint Judiciary hearing on January 25, 2019. While the quote is accurate, it is devoid of context. In fact, in the Joint Judiciary hearing, I was expressing a concern I actually share with Mr. Forsyth and JIP about assuring the quality and integrity of senior judges in Colorado. The story I related in the hearing was about events that occurred some 7 or 8 years ago now, while I was a member of the House of Representatives.

A more detailed account of those events is this: One day during the legislative interim, while at my law office, an attorney colleague who officed in my building, approached me to ask for some advice about how to handle an issue in a case. The attorney, who I shall refer to as L, was representing the wife in a divorce case which was being heard before a senior judge. During a hearing in the case, the senior judge made a very biased and disparaging remark from the bench about women and their abuse of cell phones. This related to a question of the client's financial responsibility for cell phone bills in the financial settlement of the divorce. Given the negative and gender discriminatory tenor of the senior judge's remarks, L was concerned that the client would not receive a fair hearing from a judge who held such negative attitudes toward women. L believed that the only recourse was to file a motion for recusal of the judge, something which the judge himself decides in Colorado, and which if denied as it usually is,<sup>3</sup> might result in even more negative treatment of the client. As I recall, L sought my advice as an attorney colleague, and perhaps only secondarily, to express to me as a legislator the concerns about the conduct of

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<sup>3</sup> It is worth noting that the issue of judges deciding their own recusal motions has been a matter of concern before the General Assembly in past years and the subject of unsuccessful reform legislation. Situations such as the one described here continue to be of concern both to me and others in the General Assembly and while, Colorado along with several other states, allows judges to decide their own recusal motions, there are competing policy interests in allowing a judge who is the subject of a recusal motion to decide versus allowing some case delay and the dangers of "forum shopping" that come with referring the matter to another judge or panel of judges.

the senior judge. L did not ask me to take any particular action, but was asking for my thoughts on how the situation might be handled. L showed me the transcript of the hearing in which the judge had, in fact, made a statement which clearly indicated a bias against the wife based on her gender, implicitly equating women as a group with irresponsible behavior, particularly as it relates to the use of cell phones

I found both the senior judge's statement and the situation disturbing and asked L if I might contact the then State Court Administrator Jerry Marroney to discuss the situation and seek his thoughts on the matter as well.

It is important that the Committee understand that L did not ask me to make the call or take any particular action about the situation. L had just sought my thoughts about the dilemma in the case and as I recall, expressed frustration at the biased remarks the senior judge made toward the female client. As I recall, I told L that nothing might come of my contact with the State Court Administrator, but that this kind of situation was something that the State Court Administrator's Office (SCAO) should be aware of as the whole issue of accountability of senior judges and administration of the program was the subject of ongoing discussion with some members of the legislature.

As a member of the House Judiciary Committee, I was aware that the SCAO is responsible for the senior judges program and is the office that exercises oversight of the senior judges who serve. During my time on House Judiciary, the administration of the program and use of senior judges (accountability, performance evaluation, etc.) had been the subject of discussion with members of the public and within the House and Senate Judiciary Committees themselves.

In this context, the Ethics Committee will know that I and other members of the Judiciary Committees, and presumably other members of the General Assembly, often receive complaints

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from citizens concerning court rulings and the conduct of judges in our State. It has been my practice to refer judicial complaints which appear to have some substance, whether or not credible, to the SCAO with a request that the Judicial Department review the case file and proceedings to ensure that the case is being conducted appropriately. In this regard, it is very important to note that the SCAO does not interfere in any way with the rulings of judges or the conduct of proceedings as those challenges are matters for the bench and appellate courts themselves. It is also important to make clear that I never request the SCAO to intervene or interfere in a case, as this would not be appropriate nor would the SCAO do so.

However, if the Judicial Department policies or procedures (as opposed to law and legal procedure) are not being followed, the SCAO may have some ability to remedy the situation from an administrative standpoint or make revisions to Department policies and practices in the future. And in any case, I believe it is incumbent on me as a legislator to convey constituent/citizen concerns about a department to the appropriate official there to express concern and seek further information about the situation. In my experience, this can be a very nuanced decision as to what might and might not be appropriate for any department to do in response to a legislator's inquiry, and particularly so with the Judicial Department.

L indicated that he/she had no objection to my contacting the State Court Administrator to convey concern about the biased statements from the bench and to seek the Administrator's advice as to what might be done in instances of inappropriate and biased remarks from the bench. I myself was interested in what recourse or avenue of complaint an attorney or litigant might have when this occurs. For instance, given that the senior judge arguably had violated professional ethical standards with respect to the treatment of a party in a case, how should a complaint be made when it involved a senior judge? What were the Administrator's thoughts on

filing a recusal motion and the recusal process generally? (In that regard, the State Court Administrator previously served as a trial court judge and had extensive judicial experience.) Given that L's client justifiably believed that she would not receive a fair hearing before this senior judge, was there any recourse for complaint other than letting the case go forward and then, appeal, which is an expensive, difficult, and likely unsuccessful course of action? I did not ask for or suggest any specific action from the State Court Administrator nor did I know what to expect as far as a response. I did know that the SCAO and Judicial Department were and are committed to fair treatment of litigants—both in fact and appearance---and understood the inquiry and expression of concern to be appropriate to let the SCAO know of the issue. To reiterate, I did not make any request for the removal of the senior judge from the case or any other specific action for that matter.<sup>4</sup> Actually, my expectation was that since the SCAO administers the senior judges program and the Judicial Department has discretion over the retention and assignment of senior judges, that action might be taken to prevent this from occurring in the future, as well provide some insight as to how the Department deals with these issues involving senior judges. As with legislative inquiries to any department or agency, I really did not know whether anything at all would happen. And for the record, I believe that had any attorney or litigant approached me with the same concern (discriminatory, biased remarks from the bench), I would have contacted the SCAO to report the incident and try to prevent similar things in the future. My overriding impetus for inquiring was not the source of the information, but rather my own belief that the conduct from the bench was improper and should be addressed.

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<sup>4</sup> It is also important to note that I do not recall knowing the name of the parties to the case or the senior judge, but rather had just identified it by case number and court location as my concern in addressing this had been one of the proper administration of justice rather than any particular ruling or case outcome.

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Upon hearing my report and concern, the State Court Administrator asked if I had access to the transcript of the hearing and if so, would I fax the pages in which the statements were made by the judge from the bench. I agreed to do so and the conversation ended. As I recall, the Administrator's commitment was to review the transcript pages, look into the matter as appropriate, and get back to me.

A while later that day, the State Court Administrator contacted me by telephone and informed me that my colleague should no longer have any concern about the matter. As I recall, there also was some indication that the particular senior judge might not be assigned at all in the future. I was actually somewhat surprised by this, but from the conversation, inferred that perhaps there had been other concerns as well, although nothing specific was said about this. I do recall that the State Court Administrator agreed that the judge's statement from the bench was inappropriate, that the Judicial Department had authority over the retention and assignment of senior judges, and under all of the circumstances, a change was being made.

#### **REMARKS IN COMMITTEE ON JANUARY 25, 2019**

I completed my service in the House in 2014 and practiced law full time until my election to the Senate in 2016. I have served on Senate Judiciary since my arrival in the Senate in 2017. One of the issues we dealt with early in my return to the Senate was that of Judicial Performance and the reauthorization of the Judicial Performance Commissions. In those discussions, there were concerns expressed, by Mr. Forsyth and others, about the rating of judicial performance of senior judges who were not evaluated through the Judicial Performance Commission(s). In fact, in an attempt to redress this concern, the reauthorization bill had a provision requiring the evaluation and assessment of senior judges, something which, as I recall, the Office of Judicial Performance Evaluations resisted due to concerns about the different administration of the program.



Nevertheless, given the complaints I had heard and my own knowledge of this issue, I and other legislators wanted to try and create a performance evaluation system for senior judges and a provision for this was included in HB17-1303, which reauthorized the Judicial Performance Commissions and the evaluation system.

Then, in 2019, we heard from the Office of Judicial Performance Evaluations that revisions and refinements to HB17-1303 were needed. One of the requested revisions was to remove senior judges from the judicial performance evaluation system and return to the prior practice of leaving this evaluation responsibility to the Judicial Department.<sup>5</sup> As I recall, the reason for the request was that the Judicial Performance Commission system did not work well for senior judges. Among other things, it was difficult to obtain the necessary data for valid evaluations due to their limited service and their assignments in different locations and districts depending upon need. I was somewhat frustrated by this as I believed we needed some evaluation system for senior judges and some system of public accountability. But, it was clear that the effort was not working as intended. So ultimately, I was a co-prime sponsor of SB19-187, which, among other things, removed senior judges from the Judicial Performance Commission system and returned the performance accountability for senior judges back to the SCAO. Nevertheless, I continued to believe and still do believe that the Judicial Department needs to find a way of maintaining accountability and integrity of senior judges through a more formalized independent evaluation system.

My remarks and recounting of the earlier events during the Joint Committee hearing were intended to express concerns dating back to my time in the House and still existed for me, and

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<sup>5</sup> In this regard, the Office of Judicial Performance Evaluations is a separate agency from the State Court Administrator's Office. The Office of Judicial Performance Evaluations, which is independent of SCAO, has no responsibility or control over the selection, retention, or assignment of senior judges.

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were made during these discussions and requested revisions of senior judge evaluations when I returned to serve in the Senate. My recollection is that my remarks were made during the SMART Act hearing testimony from the Director of the Office of Judicial Performance Evaluations Kent Wagner. I recounted the events to express my concern that it was very difficult for an attorney or citizen to make their concerns about the performance or integrity of a senior judge known to the appropriate authorities, barring having the knowledge of where to lodge the complaint or the good fortune to contact a knowledgeable legislator to assist with raising the concern. The intended point of my overall remarks was that though I accepted the fact that the inclusion of senior judges in the judicial performance system was not working well, I believed then and continue to believe that a formalized system of performance evaluation for senior judges needs to be developed. This is quite ironic in light of the tenor and overall thrust of Mr. Forsyth's complaint.

#### **RECENT INTERACTION WITH MR. FORSYTH**

In this most recent regular session, the General Assembly and particularly the Judiciary Committees, received requests from the Judicial branch for legislation to help deal with the backlog in the courts due to COVID restrictions. One request was that we modify and expand the senior judges program to permit the Judicial Department to contract with additional retired judges to assist in dealing with the case backlog. The bill to do this, HB21-1136, was heard in Senate Judiciary on April 14<sup>th</sup> and passed on a unanimous vote. Mr. Forsyth testified in opposition to the bill, raising concerns about the accountability of senior judges and the administration of the senior judges program. Subsequently, Mr. Forsyth sent an email to all members of the Senate Judiciary Committee accusing me, as well as the other members of the Senate Judiciary Committee of being "complicit with the chief justice and the state court

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administrator”, and then further asserting that it did not appear that the members of the committee behaved, “in a manner that promotes public confidence in the integrity and independence of the Senate and of the General Assembly.” See Exhibit A, Forsyth Email to Senate Judiciary Committee, dated April 15, 2021. In essence, while Mr. Forsyth has not filed a complaint against other members of the Senate Judiciary Committee, it is his view that all the members of the Senate Judiciary Committee behaved unethically by violating their duty under Senate Rule 41.

### **RESPONSE TO SPECIFIC COUNTS**

COUNTS 1 and 2: As discussed above, I did not exercise any undue influence on then State Court Administrator Jerry Marroney when I contacted him concerning my attorney colleague’s request for advice concerning the inappropriate remarks made by a senior judge from the bench. *This assertion is verified by the statement of former State Court Administrator Jerry Marroney, which should be dispositive of this matter.* See Exhibit B, Statement of Jerry Marroney, June 23, 2021.

Moreover, my contact with the Administrator on the matter was not done for private or economic gain. The attorney colleague who approached me with the concern was a professional colleague only. This colleague has never made any contribution to my campaign committee and in fact, though a member of our community, does not live in my district. Though friendly, we are not close and I have not seen or spoken to this colleague in several years now. In making the inquiry and asking the State Court Administrator to look into the matter, I did not act in any way to coerce the State Court Administrator or even request that the senior judge be removed from the case or no longer assigned duties. Whatever action, if any, taken by the State Court Administrator was based on the facts and circumstances which I made known to him, as well as

any other knowledge the Administrator may have had about the senior judge, though this information was not shared with me.

Every member of the General Assembly makes similar contacts with State departments and agencies hundreds of times a year when we contact an executive or judicial branch official and request that they look into a constituent concern or complaint and respond to our inquiry in an appropriate way.<sup>6</sup> Sometimes we are able to obtain relief for a constituent and other times, the department advises that they are correct in their position, there is no discretion, or that they do not believe it appropriate to alter their decision or actions in a matter. In this case, it appeared to me that some action was taken in apparent response to the concern expressed and perhaps due to other concerns that may have been expressed by others.

COUNT 3: This count essentially alleges that I have breached the public confidence by performing my legislative duties. This is groundless on its face and should be dismissed out of hand. Mr. Forsyth complains that I, as a Senator, acted as a co-prime sponsor for HB21-1136 which expands the senior judges program to help deal with the trial court backlog. Mr. Forsyth states that this is a conflict with my service as assigned to me by the Minority Leader, to serve on the panel to select the group to perform the independent investigation services for the Judicial Department.<sup>7</sup> Mr. Forsyth complains that it is a conflict of interest for me to sponsor a bill (HB21-1136) “increasing the power of the chief justice and the state court administrator as requested by the chief justice in his address to the legislature” while at the same time accepting an appointment to the committee responsible for drafting and approving a request for proposal

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<sup>6</sup> Again, the Committee should take note that all of the actual events complained of took place some 7 to 8 years or longer ago and prior to my service in the Senate.

<sup>7</sup> Four other members of the General Assembly also co-sponsored or voted for HB21-1136 and also serve on the independent investigator selection committee. Needless to say, if my conduct violates the ethical rules, then four other legislators have also violated the rules of their respective legislative chambers. But, of course they have not done so which highlights the fact that this Complaint should be dismissed.

for an independent investigation in the judicial branch and participating in the evaluation and award of the contract for the investigation.<sup>8</sup> This allegation not only is without merit, it is absurd on its face and should be dismissed.

COUNT 4: Mr. Forsyth states that it is obvious that I co-sponsored HB21-1136 to help myself. This is only obvious to Mr. Forsyth. The core of his assertion is that the senior judges program has worked for me, apparently because I received a concern and inquiry from an attorney colleague about the conduct of a senior judge some 7 or 8 years ago while a member of the House and relayed that concern to the State Court Administrator who had responsibility for oversight of the senior judges program. In Mr. Forsyth's estimation, my sponsorship of HB21-1136, rather than being an attempt to deal with a serious court backlog, is for the principal purpose of increasing my power at the expense of my constituents. Mr. Forsyth's logic is more than a little strained. In fact, it is illogic. I do not have any authority or control over the senior judges program or the State Court Administrator. My only influence over the program is the same as that of 99 other members of the General Assembly to make inquiries, express concerns, and introduce and advocate for or against legislation affecting the senior judges program and the Judicial Department generally. Mr. Forsyth's allegation is both frivolous and groundless and should be dismissed at the earliest possible stage of these proceedings.

## CONCLUSION

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<sup>8</sup> Mr. Forsyth incorrectly states that the committee is responsible for "overseeing an investigation into the judicial branch." The committee, which has 5 legislators and representatives from the Governor's Office and the Attorney General as well, does not have responsibility for overseeing the investigation, but only for drafting the request for proposals, evaluating the proposals, and selecting a group to perform these services under contract with the Judicial Department.

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Based on the foregoing Verified Answer and the Rules of the Senate, I respectfully request that pursuant to Rule 43(c) and at the earliest opportunity, the Committee make a finding that no violation has occurred and that the Complaint is dismissed.

Respectfully submitted,



Robert S. (Bob) Gardner  
Senator, District 12

**AFFIDAVIT**

STATE OF COLORADO

COUNTY OF EL PASO

The foregoing Verified Answer to the Complaint of Chris Forsyth was signed and sworn to be true and correct before me by Robert S. Gardner this 24<sup>th</sup> day of June 2021.



Notary Public

**SARAH ENDERSBEE**  
**NOTARY PUBLIC**  
**STATE OF COLORADO**  
NOTARY ID 20194045356  
MY COMMISSION EXPIRES 12/05/2023

# EXHIBIT

## A

Chris Forsyth Email to Members of Judiciary Committee, dated April 15, 2021.



Subject:

Hearing yesterday on HB 21-1136 concerning retired judges

From:

Chris Forsyth <cforsyth@judicialintegrity.org>

Date:

4/15/2021, 1:38 PM

To:

"robert.rodriquez.senate@state.co.us"<robert.rodriquez.senate@state.co.us>,  
"julie.gonzales.senate@state.co.us"<julie.gonzales.senate@state.co.us>, "pete.lee.senate@state.co.us"  
<pete.lee.senate@state.co.us>, "john.cooke.senate@state.co.us"<john.cooke.senate@state.co.us>,  
"bob.gardner.senate@state.co.us"<bob.gardner.senate@state.co.us>

Committee members,

There were comments made during yesterday's hearing that concerned me. Specifically, Senator Gardner's comments that the number of judges in a judicial district could not be reduced. The Colorado Constitution specifically provides for the reduction in the number of judges in a judicial district.

"The number of district judges provided by law for each district on the effective date of this amendment shall constitute the number of judges for the district until changed. The general assembly may by law, whenever two-thirds of the members of each house concur therein, increase or diminish the number of district judges, except that the office of a district judge may not be abolished until completion of the term for which he was elected or appointed, but he may be required to serve in a judicial district other than the one for which elected, as long as such district encompasses his county of residence."

Colorado Constitution Art. VI, Sec. 10, para. 3 (emphasis added).

Legislators are presumed to know the law and, indeed, Senators Gardner and Lee used this provision to increase the number of judges as recently as 2019.

It may also be important to note that Senate Rule 41 regarding Ethics states as follows: "A member shall respect and comply with the law and shall perform his or her legislative duties at all times in a manner that promotes public confidence in the integrity and independence of the Senate and of the General Assembly."

It appeared to me that you were working for the judicial branch and refused to listen to testimony about how the judicial branch is inappropriately using the senior judge program. You refused to even acknowledge that because the discipline commission dismisses complaints against a judge who retires, every judge under the age of 72 who retires carries the stigma that they were facing discipline. Teresa Cisneros was provided as a specific example. Senator Lee asked the state court administrator about local entities the state court administrator might reach out to regarding retired judges. The problems with the judicial discipline commission were intentionally avoided.

Fortunately, the judicial branch is currently under investigation by more than one entity. But it's easy to understand why the chief justice and state court administrator would dare to do what they allegedly did when a committee, such as Senate Judiciary, certainly won't hold them accountable. Indeed, it appeared yesterday that the Senate Judiciary committee is complicit with the chief justice and the state court administrator. In other words, it did not appear that you behaved, "in a manner that promotes public confidence in the integrity and independence of the Senate and of the General Assembly."

For many reasons, yesterday's hearing was interesting.

Chris Forsyth

Executive Director

The Judicial Integrity Project

303-892-3894

# EXHIBIT

## B

Statement of former State Court Administrator Jerry Marroney.

**Subject:** Fwd: Senator Gardner.pdf  
**From:** GERALD Marroney <jj10th@msn.com>  
**Date:** 6/23/2021, 10:19 AM  
**To:** "rgardner@rsglaw.net" <rgardner@rsglaw.net>

Sent from my iPhone

Begin forwarded message:

**From:** GERALD Marroney <jj10th@msn.com>  
**Date:** June 23, 2021 at 10:16:16 AM MDT  
**To:** GERALD Marroney <jj10th@msn.com>  
**Subject:** Senator Gardner.pdf

Sent from my iPhone

— Attachments: —

Senator Gardner.pdf

22.6 KB

Senator Gardner and members of the Senate Ethics Committee

Although I got contacted by many legislators in my 17+ years as the Colorado State Court Administrator about matters with involving constituent concerns and other matters concerning the judicial branch, I do not recall having a conversation with Representative / Senator Gardner on a matter involving a senior judge. I do remember there were many conversations by several people and legislators including many members of the house and senate judiciary committees about trying to find a fair way to evaluate senior judges over several years.

In my dealings with Representative/Senator Gardner as a legislator, there was never any instance in which he or any other legislator that contacted me requested that I do anything improper, nor did he or any other legislator ever attempt to coerce or use any undue influence with me on any matter. (I would note that Representative Gardner did not to my recollection become a Senator until January of 2017 and I retired June 30, 2017.

I would also state in any case, as the State Court Administrator, I did not have the authority to remove, replace, or non-renew a senior judge; this was the prerogative of the Chief Justice; my role in that decision was only one of making recommendations to the Chief Justice about renewal or non-renewal of a senior judge's contract. Others may have also had input into that decision, including the Judge the senior judge was substituting for, the clerk of court and district administrator in the district where the substitution occurred and in many cases by comments by attorneys representing parties in front of the senior judge.

/signed/

Gerald A. Marroney  
Retired State Court Administrator (03/2000-6/2017)