

**REPORT OF THE PROCEEDINGS
OF THE JUDICIAL CONFERENCE
OF THE UNITED STATES**

**Special Session
June 9, 2009**

The Judicial Conference of the United States convened in special session by telephone conference call on June 9, 2009, pursuant to the call of the Chief Justice of the United States issued under 28 U.S.C. § 331. The Chief Justice presided, and the following members of the Conference participated:

First Circuit:

Chief Judge Sandra L. Lynch
Judge Mary M. Lisi,
District of Rhode Island

Second Circuit:

Chief Judge Dennis Jacobs
Chief Judge William K. Sessions III,
District of Vermont

Third Circuit:

Chief Judge Anthony J. Scirica
Chief Judge Harvey Bartle III,
Eastern District of Pennsylvania

Fourth Circuit:

Chief Judge Karen J. Williams
Chief Judge James P. Jones,
Western District of Virginia

Fifth Circuit:

Chief Judge Edith Hollan Jones
Judge Sim Lake III,
Southern District of Texas

Sixth Circuit:

Chief Judge Danny J. Boggs
Judge Solomon Oliver, Jr.,
Northern District of Ohio

Seventh Circuit:

Chief Judge Frank H. Easterbrook
Judge Wayne R. Andersen,
Northern District of Illinois

Eighth Circuit:

Chief Judge James B. Loken
Judge Lawrence L. Piersol,
District of South Dakota

Ninth Circuit:

Judge Charles R. Breyer,
Northern District of California

Tenth Circuit:

Chief Judge Robert H. Henry
Judge Alan B. Johnson,
District of Wyoming

Eleventh Circuit:

Chief Judge Joel F. Dubina
Judge Myron H. Thompson
Middle District of Alabama

District of Columbia Circuit:

Chief Judge David Bryan Sentelle
Chief Judge Royce C. Lamberth,
District of Columbia

Federal Circuit:

Chief Judge Paul R. Michel

Court of International Trade:

Chief Judge Jane A. Restani

Also present for this session of the Conference were, from the Administrative Office of the United States Courts (AO), James C. Duff, Director; William R. Burchill, Jr., Associate Director and General Counsel; Bret G. Saxe, Assistant General Counsel; Laura C. Minor, Assistant Director, and Wendy Jennis, Deputy Assistant Director, Judicial Conference Executive Secretariat; and David A. Sellers, Assistant Director, Office of Public Affairs. Jeffrey P. Minear, Counselor to the Chief Justice, attended as well.

PROCEEDINGS UNDER THE JUDICIAL CONDUCT AND DISABILITY ACT

The Chief Justice called this special teleconference session of the Judicial Conference to determine whether to certify to the House of Representatives, under 28 U.S.C. § 355(b), that consideration of impeachment of United States District Judge Samuel B. Kent may be warranted based on (1) a certification issued by the Judicial Council of the Fifth Circuit on May 27, 2009, pursuant to 28 U.S.C. § 354(b)(2)(A), that Judge Kent had engaged in conduct that might constitute grounds for impeachment, and/or (2) the Conference's own independent awareness of a felony conviction of Judge Kent.

On February 23, 2009, Judge Kent of the Southern District of Texas pleaded guilty in that court to a single count of obstruction of justice, a felony, in violation of 18 U.S.C. § 1512(c)(2). A judgment of conviction in the matter was entered on May 11, 2009, when the court sentenced Judge Kent to

33 months' imprisonment and ordered him to surrender on June 15, 2009. The time for Judge Kent to file a notice of appeal of his sentence passed without the filing of such notice and without the filing of any post-judgment motion.

On May 27, 2009, the Fifth Circuit Judicial Council submitted its certification to the Judicial Conference pursuant to 28 U.S.C. § 354(b)(2)(A) that Judge Kent "has pled guilty to obstruction of justice in violation of 18 U.S.C. § 1512(c)(2) and has thus by his own admission engaged in conduct which constitutes one or more grounds for impeachment under Article II of the Constitution...." At the same time, the Council declared moot any reopening of the Judicial Conduct and Disability Act proceeding against Judge Kent as the judge had voluntarily moved out of his chambers and ceased handling cases, and Chief Judge Edith Hollan Jones issued and published a letter denying Judge Kent's request that he be certified for disability retirement under 28 U.S.C. § 372(a).

In advance of the teleconference, the members of the Judicial Conference were given copies of relevant documents from the record of the proceedings before the Fifth Circuit Judicial Council and from the court proceedings on Judge Kent's guilty plea and sentence. At the teleconference, the Chief Justice afforded each member of the Conference the opportunity to comment upon a proposed certification. After discussion, the Conference agreed to certify to the House of Representatives, pursuant to 28 U.S.C. § 355(b)(1)-(2), the Conference's determination that consideration of impeachment may be warranted, to transmit to the House of Representatives relevant portions of the proceedings, and to adopt and include the following certificate:

TO THE SPEAKER, UNITED STATES HOUSE OF
REPRESENTATIVES:

Pursuant to 28 U.S.C. § 355(b), the Judicial Conference of the United States certifies to the House of Representatives its determination that consideration of impeachment of United States District Judge Samuel B. Kent, of the Southern District of Texas, may be warranted. Having been informed that Judge Kent was convicted of a felony, and that the judgment has become final by the exhaustion or termination of all rights of direct judicial review, the Conference, under Rule 1 of its *Rules for the Processing of Certificates from Judicial Councils that a*

Judicial Officer Has Engaged in Conduct that Might Constitute Grounds for Impeachment, accepts the judgment as conclusive and has determined in its discretion to issue this certificate.

The Conference's determination in this matter is based on

(1) the court record in Case No. 4:08-cr-00596, *United States v. Samuel B. Kent*, filed in the Southern District of Texas at Houston, which reflects Judge Kent's February 23, 2009, plea of guilty to obstruction of justice in violation of 18 U.S.C. § 1512(c)(2); the resulting judgment of conviction, dated May 11, 2009, in which Judge Kent is sentenced to a term of 33 months' imprisonment; and the absence of any timely notice of appeal of that judgment; and

(2) the certification of the Fifth Circuit Judicial Council, premised on the judgment of conviction in said case, that Judge Kent has engaged in "conduct which constitutes one or more grounds for impeachment under Article II of the Constitution."

This certificate is transmitted with the certification of the Fifth Circuit Judicial Council and relevant portions of the court record.

In sum, Judge Kent has stipulated, as the basis for his plea of guilty, that

- a. in August 2003 and March 2007, he engaged in non-consensual sexual contact with a person ("Person A") without her permission;
- b. from 2004 through at least 2005, he engaged in non-consensual sexual contact with a person ("Person B") without her permission; and
- c. in connection with a judicial misconduct complaint against him, he testified falsely before a Fifth Circuit special investigative committee regarding his unwanted, non-consensual sexual contact with Person B, by

understating the extent of that contact and by falsely stating that it had ended after Person B told him it was unwelcome.

Judge Kent's conduct and felony conviction, as described above, have brought disrepute to the Judiciary.

Executed this 9th day of June, 2009.

Chief Justice of the United States
Presiding