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Congress of the United States

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COMMITTEE ON THE JUDICIARY

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December 1, 2014

The Honorable Ed Carnes
Chief Judge
United States Court of Appeals, Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, GA 30303

The Honorable Gerald Tjoflat
U.S. Circuit Judge
United States Court of Appeals, Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, GA 30303

Dear Chief Judge Carnes and Judge Tjoflat:

We write regarding the arrest and ongoing prosecution of Middle District of Alabama Judge Mark E. Fuller in Atlanta, Georgia, which is pending before the State Court of Fulton County, Georgia. The allegations against Judge Fuller raise serious, substantial and troubling questions that have been the focus of constant attention and close monitoring by the Committee on the Judiciary since August 2014 when reports first appeared of his arrest for a violation of state criminal law.

In writing, we note the following undisputed facts:

- o Judge Fuller has reportedly entered into a pretrial diversion program that requires him to, *inter alia*, successfully complete domestic violence counseling;
- o James P. Gerstenlauer, the Circuit Executive of the Eleventh Judicial Circuit, published an announcement on August 12, 2014 that stated "all legal matters" then assigned to Judge Fuller, would be reassigned to other judges;
- o The Acting Chief Judge of the Eleventh Circuit subsequently appointed a Special Committee to investigate Judge Fuller's actions in connection with the filing of state criminal charges in August 2014;
- o The Special Committee's statutory authority and obligations derive from section 353 of title 28, United States Code, which includes a requirement that the Special Committee, "expeditiously file a comprehensive written report ... with the judicial council of the circuit" after completion of "an investigation as extensive as it considers necessary;" and

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o Judge Gerald Tjoflat has reportedly been appointed Acting Chief Judge for purposes of coordinating the Special Committee's investigation and providing recommendations to the judicial council of the circuit in this matter.

Article I, Section 2 of the Constitution provides the House of Representatives with the "sole Power of Impeachment." That power is initiated by and overseen by the Committee on the Judiciary. The public has a strong and abiding interest in the proper resolution of credible allegations of misconduct involving a federal judge as expeditiously as possible and in accordance with principles of due process. In furtherance of these interests, the Congress has prescribed statutory procedures that anticipate the initial investigation by the judiciary of credible allegations of serious judicial misconduct. These statutes supplement but do not supplant congressional autonomy and authority.

In recognition of the explicit statutory requirement that a Special Committee, once appointed, "expeditiously file a comprehensive written report" after the completion of its "investigation," we write to request that you provide us with an update on the status of the ongoing investigation and the anticipated timeline for completion of the required comprehensive written report to the circuit's judicial council.

Sincerely,



Bob Goodlatte
Chairman



John Conyers
Ranking Member

Cc: Mr. Barry Ragsdale