

Twentieth Judicial Circuit Certified Civil Process Server Review Board

MINUTES OF MEETING

May 19, 2008

9:00 a.m.

2072 Victoria Ave., Ft. Myers, FL 33901

In attendance:

Board Members: Lt. Kent Caldwell, Chair  
Ernie Averill, Vice-Chair  
Robert Tardif, Board Member  
Lynnette Young, Board Member  
Jennifer Scott, Board Member

Others: Suzanne Ederr, representative of the Chief Judge and Court Admin  
Lawrence Mudd, process server  
Sgt. Bob Shankland, civil division of LCSO

1. Quorum present.

2. Disciplinary hearing was held regarding Lawrence Mudd. Mr. Averill, Vice-Chair, lead the proceedings and Lt. Caldwell abstained from participating as a board member and from voting. Mr. Mudd addressed the Board and presented a packet which included his letter to the Board, his letter to the Chief Judge, and six letters of reference. Mr. Mudd denied having ever spoken to Deputy Conn, and in reference to Mr. Mudd's request for the applicable statute, Mr. Mudd stated that he only heard Deputy Conn say "let him find it himself." Mr. Mudd stated that he knew Lt. Caldwell from the past and thanked Lt. Caldwell for his efforts in getting the process server program started. Mr. Mudd did not want the program jeopardized as it is now easier to get into gated communities and eliminates the 3 to 4 day "motion and order" process. Mr. Mudd stated that he does not use the Lord's name in vain and finds those accusations to be offensive. Mr. Mudd stated that he respects law enforcement. Mr. Mudd stated that Lt. Caldwell was initially helpful in explaining the law to him and that the young lady behind the counter brought to him a copy of the statute. Mr. Mudd advised the Board that he still can't find where the statute says that you can't serve with less than 5 days notice. Mr. Mudd stated that knows Nancy, the Sheriff's court liaison, and she has refused to accept service if there wasn't enough time to serve, and he has no problem with that and would report this back to his client. But, in this case, he wasn't trying to provide service to the agency head. Mr. Mudd stated that he asked Lt. Caldwell what the difference would be if he served a deputy or a deputy served a deputy and Lt. Caldwell told him that the deputy wouldn't make himself available and Mr. Mudd replied that that would be illegal under Chapter 48 which requires that an employer allow access to an employee. Mr. Mudd stated that the conversation went downhill from there. Mr. Mudd stated that he had a career in retail management and that he has had to deal with difficult situations. Mr. Mudd presented to the Board his letters of support. Mr. Mudd stated that he serves 110 to 120 papers per month and has never received a complaint. Mr. Mudd then invited questions from the Board. Mr. Averill explained that the 5-day rule is not at issue, but rather it is Mr. Mudd's conduct at issue. Mr. Averill then gave Lt. Caldwell a chance to respond. Lt. Caldwell stated that he explained to Mr. Mudd that the statute related specifically to law enforcement and even after showing him the statute, Mr. Mudd still seemed to think that it was a department rule. Lt. Caldwell stated that he recommended to Mr. Mudd that he review the statute with the attorney. Lt. Caldwell stated that Deputy Conn is a retired Florida Highway patrolman and does not

believe that he would lie. Lt. Caldwell stated that Mr. Mudd later came in to the Sheriff's office to complain and that IA offered to give Mr. Mudd a voice stress test, but Mr. Mudd refused at that time. Mr. Mudd responded by stating to the Board that he was the one who brought up taking a lie detector test and that IA told him that it was a voice stress test. Mr. Mudd stated that he asked to take it, but IA backed off. Mr. Mudd did not ask again, but stated that he is willing to take the test now. Lt. Caldwell stated that he was asked by IA as to why he didn't arrest Mr. Mudd for disorderly conduct and he told them that, in his position, he didn't normally arrest people and didn't want to use the new electronic booking sheets. Board member Mr. Tardif noted that in reading the statements submitted by Lt. Caldwell as compared to Mr. Mudd's statement, there was a huge divide. In response, Mr. Mudd stated that the only time he raised his voice was when he said that it would be against the law, and that Lt. Caldwell got loud and began to treat him like a 2-year old. Mr. Mudd stated that he told Lt. Caldwell he would report him to the State and as he was already headed for the door, Lt. Caldwell asked if he could show him the door. Mr. Mudd stated that Lt. Caldwell pushed him toward the door, put his hand on his back, and told him that this conversation was over. Mr. Mudd was asked whether it was his contention that the other employees were lying, and Mr. Mudd responded affirmatively and stated that they have an interest in protecting Lt. Caldwell. The Board then entered the deliberation stage. Mr. Averill commented that he has known Lt. Caldwell and deputy Conn for years and noted that the stories offered by each side were not even close. Mr. Averill thought that a suspension was appropriate and perhaps a requirement that Mr. Mudd take an anger management class before being reinstated. The other Board members agreed. Mr. Tardif stated that he would have preferred that Mr. Mudd make some acknowledgment of what occurred. A motion was made to find Mr. Mudd in violation of section 12(f), engaging in conduct that in the discretion of the Chief Judge would warrant suspension or revocation. The motion was seconded and passed unanimously. A second motion was made to recommend a suspension of at least 90 days with a condition of taking some anger management course prior to reinstatement. The motion was seconded and passed unanimously. Mr. Mudd was advised as to his right to rehearing. Mr. Mudd stated that he would like to make a short statement that would dispense with any request for rehearing. Mr. Mudd's request to make a statement was granted and he stated that even if this did happen, his past record does not show that him going out into the field would ever present any cause for concern. Mr. Mudd then stated that he waived his right to a rehearing. In response, Mr. Averill advised that, in that case, the recommendation would be forwarded to the Chief Judge immediately.

3. Minutes of April 21, 2008 meeting were reviewed. A motion was made to accept minutes and motion was seconded. A vote was taken and the motion passed unanimously.

4. Board Member Jennifer Scott advised that she had submitted a letter of resignation. The Board advised that options available to the Chief Judge for a replacement would include either Capt. Andy Lewis of the civil division of the Hendry County Sheriff's Office or a representative from the Collier County Sheriff's office. Ms. Ederr will pass this information along to the Chief Judge.

5. Lt. Caldwell announced that he will be retiring on September 18, 2008

6. Mr. Averill noted that the Board has had to address several disciplinary issues since the start-up of this program and acknowledged that the Chief Judge and his Judicial Assistant have perhaps had to deal with more matters than initially intended. Mr. Averill invited that all complaints or inquiries received by the Chief Judge's office be referred to the Board.

7. Mr. Averill advised that the process server course proposed by Mr. Lambley of the Collier County School Board appeared to be a good program. Mr. Averill suggested that Mr. Lambley could submit a schedule and application and that these could be posted on the webpage.
8. Lt. Caldwell advised that St. Pete College would be offering courses locally in September or October, but does not yet have exact dates.
9. Lt. Caldwell advised that one new applicant does have 2 DUI convictions, the most recent of which was in 2000, but that he was clean on his drug screen. Lt. Caldwell would recommend approval, but wanted to bring this matter before the Board before passing it along to the Chief Judge. The Board agreed to take no further action.
10. Lt. Caldwell advised of a complaint from Mr. Hohnstein of the Bonita Bay Group, complaining that process server Gary Hedderson was canvassing neighbors with questions as to the person he was trying to serve. Mr. Averill offered to call and talk to Mr. Hohnstein. The Board agreed to take no further action.
11. Board member, Ms. Young, asked for clarification with regard to the Sunshine Law and was advised that Board members cannot discuss board matters among themselves outside of a public meeting.
12. Meeting Adjourned at 10:24 a.m.