

FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 · MADISON, WI 53701 · (608) 256-8900 · WWW.FFRF.ORG

October 10, 2019

State Commission on Judicial Conduct
PO Box 12265
Austin TX 78711

Re: Judge Tammy Kemp, Judge of the Texas 204th Judicial District, complaint

Dear Commissioners:

Please respectfully consider this a formal follow-up to our official complaint of October 3, 2019, regarding violations of the Code of Judicial Conduct by Judge Tammy Kemp of the 204th Judicial District. Since our first letter, further information has come to light.

This letter addresses three issues. First, a more complete—and more alarming—transcript of the encounter is now available. Second, Judge Kemp has given several interviews in which she has admitted the religious motivations behind her action, bolstering our original complaint. Finally, we write to clarify the central issue of our complaint, as it has been misrepresented so often in the media: This is not about a hug.

1. Below is a more complete transcript of the encounter, though there are still holes. Specifically, we now know that Judge Kemp told Guyger it was her “job” to read the bible, that Kemp’s god “has a purpose” for Guyger, and that she told Guyger of that purpose: “You *need to accept that.*”

You can have [my Bible]. I have three or four more at home. This is the one I use every day before I go to work. **This is your job for the next month. You read right here: John 3:16. And this is where you start, ‘For God so loved the world that he gave his one and only Son, that whosoever...’** You stop at ‘whosoever’ and say, ‘Amber, [inaudible] You start with the Gospels. Then [inaudible]. You read this whole book of John. [inaudible] [inaudible, but likely where judge said: This will strengthen you. You just need a tiny mustard seed of faith. You start with this.] This has been put in front of you for a reason. [inaudible] You understand me? **He has a purpose for you.** There is no reason why this happened to you. **You need to accept that.** In order to do that, you need to forgive yourself. [inaudible]¹

¹ This newer transcript was pieced together from several sources. Court TV filled in some of the holes with video that is available at <https://www.courtstv.com/title/tx-v-guyger-formal-complaint-filed-against-judge/>. Law & Crime Network video of the event, Oct. 2, 2019. Available at youtu.be/h7FkaL5GCZY. WFAA video of the courtroom, Oct. 2, 2019. Available at youtu.be/9bPo2Dq7iK8. Other sections of this quote were pieced together

It's not because I'm good. It's because I believe in Christ. I'm not so good. You haven't done as much as you think you have, and you can be forgiven. You did something bad in one moment in time. What you do now matters.²

On October 8, 2019, Judge Kemp appeared on CNN where she admitted on national television that she was fulfilling her personal religious duty, not her secular duty as a state judge:

I kind of thought about my responsibilities as a person. And ironically, I was standing in a spot where I had been standing when I was inducted as a judge in this courtroom, and I remembered that one of the charges that I was given was to “do justice, to love mercy, and to walk humbly.”³

This charge is not in the judicial canon or the oath of office for judges. This “charge” comes from the Bible. Micah 6:8 reads “And what does the LORD require of you? To act justly and to love mercy and to walk humbly with your God.” Judge Kemp appears to hold her religious duty—what she deems her deity requires of her—above her duty as a secular judge, therefore above what the Constitution requires of judges. She admitted this to CNN, on camera, when she quoted the bible as her oath of office instead of the oath of office prescribed in Article 16 of the Texas Constitution.⁴

As with her actions during the trial, Judge Kemp's public statements regarding this matter are no doubt being absorbed by every attorney and citizen in Judge Kemp's district, along with much of the rest of the nation. Judge Kemp is effectively doubling down on her message to everyone watching—defendants and attorneys alike—that her primary duty is to her religion and not to our secular Constitution, and that those who might desire favorable treatment in her courtroom would do well to appeal to her Christian beliefs.

by first-hand reporting from Jason Trahan, “You start with this’: Judge Tammy Kemp gives Amber Guyger a Bible after sentencing,” WFAA, Oct. 2, 2019. Available at bit.ly/2lhTn9c. Emphasis added throughout.

² *Id.* specifically, Trahan.


³ CNN Interview, October 8, 2019. Available at <https://www.cnn.com/2019/10/08/us/judge-tammy-kemp-interview-amber-guyger-trial>

⁴ Judge Kemp has not been consistent with this story. She told the *New York Times* that this same charge came not in the courtroom during her oath, but from her pastor: “Our pastor had said: ‘If we’re going to attract the one, we’ve got to show love and compassion.’ And then I also thought, God says my job is to do justice, love mercy and walk humbly.” She also admits here the religious nature of the command she chose to follow. Sarah Mervosh, “Why a Judge Says She Gave Amber Guyger a Bible, a Hug and Hope of Redemption,” *The New York Times*, (Oct. 7, 2019) at <https://nyti.ms/2Vs2hGz>.

Finally, we understand that many people were upset with Judge Kemp's decision to hug Guyger, but the hug is not an issue in our complaint. Our request for a formal ethics investigation rests solely on Judge Kemp's use of a state judicial power to promote her personal religion. She told a prisoner it was her "job" to read the bible and that the prisoner "need[s] to accept" that Kemp's god has a plan for this prisoner. That is what we argue violates the Code of Judicial Conduct, especially canons 1, 2, 3, and 4C, not the hug, whose import, if any, is beyond our purview.

Given Judge Kemp's explicit admission that she was using her position as a judge to fulfill her religious duty, we ask that you take all appropriate steps to ensure that she will not engage in this misconduct again in the future. Thank you for your time and attention to this matter.

Very truly,

A handwritten signature in blue ink that reads "Dan Barker Annie Laurie Gaylor". The signature is written in a cursive, flowing style.

Dan Barker and Annie Laurie Gaylor
Co-Presidents

Freedom From Religion Foundation
P.O. Box 750
Madison, WI 53701. 608/256-8900