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Both parties favored Donald

Ford Sr., Thompson liked Ford case judge

By Chris Conley
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Late afternoon on Jan. 17, the federal court clerk's office got an electronic notice of a new case: just-elected state Sen. Ophelia Ford, asking a judge to step in and keep her state Senate colleagues from ousting her.

When a clerk used a Rolodex-type gadget to spin cards with the names of the district's four judges on them, it stopped at U.S. Dist. Judge Bernice Donald.

And just like that, the biggest hot potato of her career landed right in her lap.

Two weeks and many late nights of legal research later, Donald is poised to rule as early as today on whether the Senate disfranchised voters in District 29.

Donald heard arguments from both sides by telephone that evening and issued a temporary restraining order, which keeps the status quo until a full hearing.

Ford won the election by a mere 13 votes, but Republican opponent Terry Roland brought evidence of at least 10 illegal votes.

Before a Senate committee investigating fraud allegations could make its report, a committee made up of the whole Senate voted 17-13 to oust Ford.

The committee set a final vote for Jan. 19.

On the eve of that vote, Ford went to federal court.

Those who know her say Donald will consider the law and the facts carefully before ruling.

"She is an individual of the highest integrity," said attorney Arnold Perl, who recently acted as a mediator between the City of Memphis and disabled citizens in a landmark settlement in Donald's court last month.

Some conservatives have raised questions about Donald's relationship with the politically connected Ford family.

She was recommended for the position by Ophelia Ford's brother, then-Sen. Harold Ford, though she wasn't his first choice.

Donald had broad support with West Tennessee legal groups, and one of her biggest boosters was Fred Thompson, then a Republican senator from Tennessee.

She was approved unanimously by the U.S. Senate in 1995, making her the first African-American woman ever to sit on Tennessee's federal bench.

Thompson had as much to do with her appointment as he did, Harold Ford Sr. said.

The Administrative Office for the U.S. Courts outlines the times when a judge should remove herself from a case.

Most involve personal financial interest, an insiders' knowledge of the case, or a professional or familial relationship with one of the parties.

Federal law forbids a judge from disqualifying himself simply to avoid a difficult or controversial case.

No one involved in the case has suggested Donald recuse herself because of Harold Ford's backing.

In refereeing the dispute between Ford and her estranged colleagues, Donald will have to decide difficult matters, including when it's appropriate for a federal judge to intervene in a state legislative process.

Ford's team, led by attorney David Cocke, argues that voters' rights were violated when the Senate moved to unseat her without a full investigation.

The 17 senators who voted to oust her, represented by the Attorney General's office and Memphis attorney John Ryder, argue that if Donald intervenes, she'll tip the balance of power between state and federal government.

Interfering with a lawful act of the Senate would be a dangerous precedent, they say.

However she rules, the decision is likely to be scrutinized by the Sixth Circuit Court of Appeals.

-- Chris Conley: 529-2595

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