



STATE OF TENNESSEE BOARD OF JUDICIAL CONDUCT

November 8, 2023

Mailing Address:
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MEMBERS OF THE TENNESSEE
BOARD OF JUDICIAL CONDUCT

FOR PUBLIC RELEASE

G. Andrew Brigham
Board Chair

Chancellor Russell T. Perkins
1 Public Square, Suite 411
Nashville, TN 37201

Jeffrey M. Atherton
Vice-Chair

Marshall L. Davidson, III
Disciplinary Counsel

RE: Public Reprimand
File No. B23-9410

Shane A. Hutton
Assistant Disciplinary Counsel

Dear Chancellor Perkins:

H. Allen Bray
Rodney Brown
Tony A. Childress
Edwena L. Crowe
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Camille R. McMullen
Benjamin Purser, Jr.
Dan Springer
Terica N. Smith
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Bishop Edward Stephens, Jr.
John W. Whitworth
Robert W. Wilkinson

This letter shall serve as a public reprimand pursuant to Tennessee Code Annotated section 17-5-303(e)(2)(B)(i)(c).

On September 1, 2023, a litigant in your court filed a complaint asserting that you failed to timely rule on six motions pending since October 2022. The motions were heard on November 18, 2022. The complainant contends that no ruling was forthcoming despite having the delay brought to your attention and despite your assurance to the parties that you would rule by a certain date. The complainant further asserts that the parties have been unable to conduct discovery or otherwise proceed with the case for nearly a year due to your failure to act.

In a response, you acknowledged that you failed to rule on the motions until October 4, 2023, after the complaint was filed and approximately eleven months after the motions were argued. You also acknowledged that there were no extenuating circumstances for the failure to act promptly, that the motions could have been decided within thirty days of when they were heard, and that the eleven-month delay in issuing a ruling was unreasonable.

The ethics rules require that judges “perform judicial and administrative duties competently, promptly and diligently.” Tenn. Sup. Ct. R. 10, RJC 2.5(A). This directive includes the specific responsibility of promptly disposing of cases. *Id.* at cmt. 5. Motions may not be held under

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advisement in excess of thirty days “absent the most compelling of reasons.” Tenn. Sup. Ct. R. 11, section III(d). Failing to make timely rulings also implicates Tenn. Sup. Ct. R. 10, RJC 1.1 (a judge shall comply with the law) and RJC 1.2 (a judge shall promote confidence in the judiciary).

Here, you failed to rule on the motions at issue for nearly a year despite the delay having been brought to your attention. It is undisputed that you could have decided the motions within thirty days of hearing them and that there were no extenuating circumstances for failing to rule promptly. As you have acknowledged, the eleven-month delay in issuing a ruling, which was prompted by the filing of the complaint, was unreasonable.


The investigative panel decided to impose a public reprimand, which you have accepted. The panel considered in aggravation that you have previously been sanctioned twice for this same issue, the length of the delay, and not acting promptly when the delay was brought to your attention. The investigative panel considered in mitigation that you have taken full responsibility and have offered no excuses for your actions.

Given the reoccurring nature of this problem, the investigative panel has determined, and you have agreed, that as a part of this reprimand you will submit a semi-annual report to the panel via disciplinary counsel identifying any pending matters in your court, whether motions or other matters, that have not been acted upon within applicable timeframes. Any such matter shall be accompanied by an explanation for the delay. This reporting requirement shall begin January 1, 2024, and continue through the end of your current term or until excused by the investigative panel, whichever occurs first. Failure to comply with this reporting requirement for any reason shall result in an immediate thirty-day suspension.

In addition, the investigative panel has determined, and you have agreed, that any additional meritorious complaints of unreasonable delay filed on or after January 1, 2024, through the end of your current term, will result in an additional suspension of thirty days.

In short, the repetitive nature of this problem not only reflects poorly upon you as a jurist but also upon the court system, as undue delays in resolving cases prevents the parties from moving on from their litigation and undermines public confidence in the proper administration of justice. The Board trusts that it will be unnecessary to revisit this issue in the future.

Sincerely,

A handwritten signature in blue ink, appearing to read "G. Andrew Brigham".

G. Andrew Brigham
Board Chair