

Court of the Judiciary Annual Report

August 27, 2008

Composition of the Court

Tenn. Code Ann. 17-5-201

- Three judges form the Appellate Courts.
- One trial judge from each grand division of the state.(3)
- One practicing attorney from each grand division.(3)
- Three public members who are not judges or attorneys.
- One General Sessions or Juvenile Judge from each grand division.
- One Municipal Judge

Purpose of the Court

Tenn. Code Ann. 17-5-101

- Provide an orderly and efficient method for making inquiry into:
 - 1. The physical, mental and/or moral fitness of any Tennessee judge.
 - 2. The manner of performance of duty.
 - 3. The judge's commission of any act calculated to reflect unfavorably upon the judiciary of the state or bring the judiciary into disrepute or which may adversely affect the administration of justice in the state; or
 - 4. The conduct of candidates for judicial office

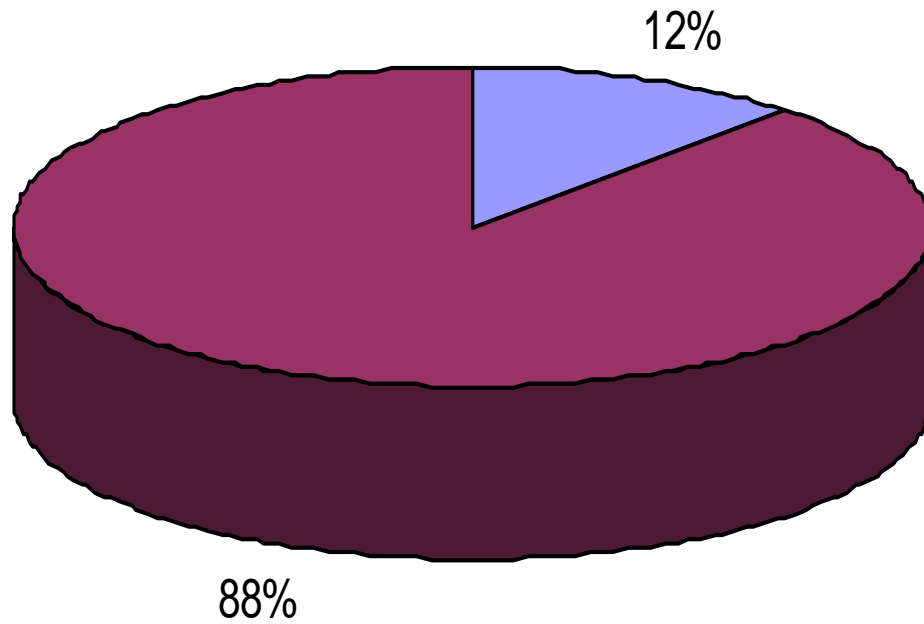
**COMPLAINTS FILED 310
THROUGH 06-30-2008**

Complaints filed	310	
Summary Dismissals & Dismissals after PI	264	85%
Dismissed by Panel after Appeal	9	3%
Total Summary Dismissals	273	88%

**AVERAGE COMPLAINTS PER
MONTH**

26

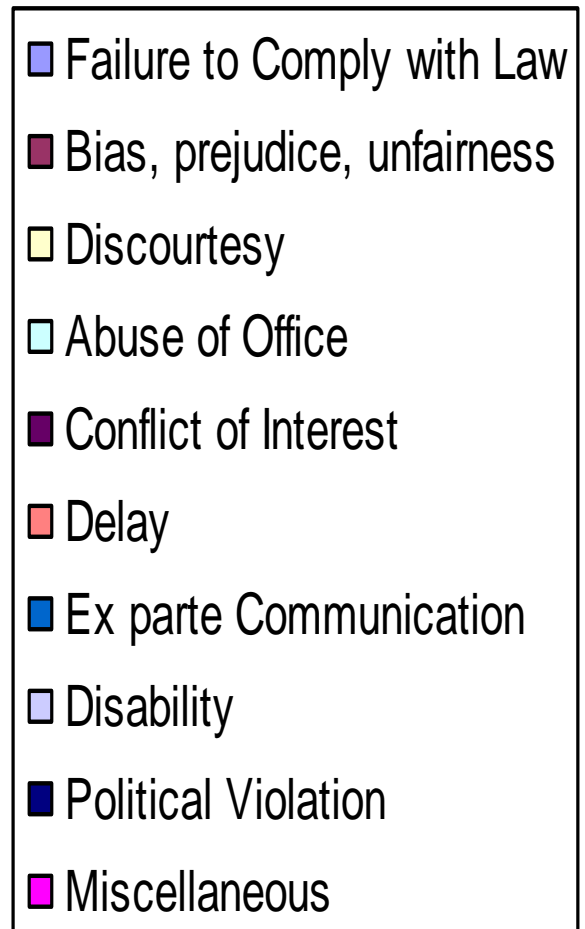
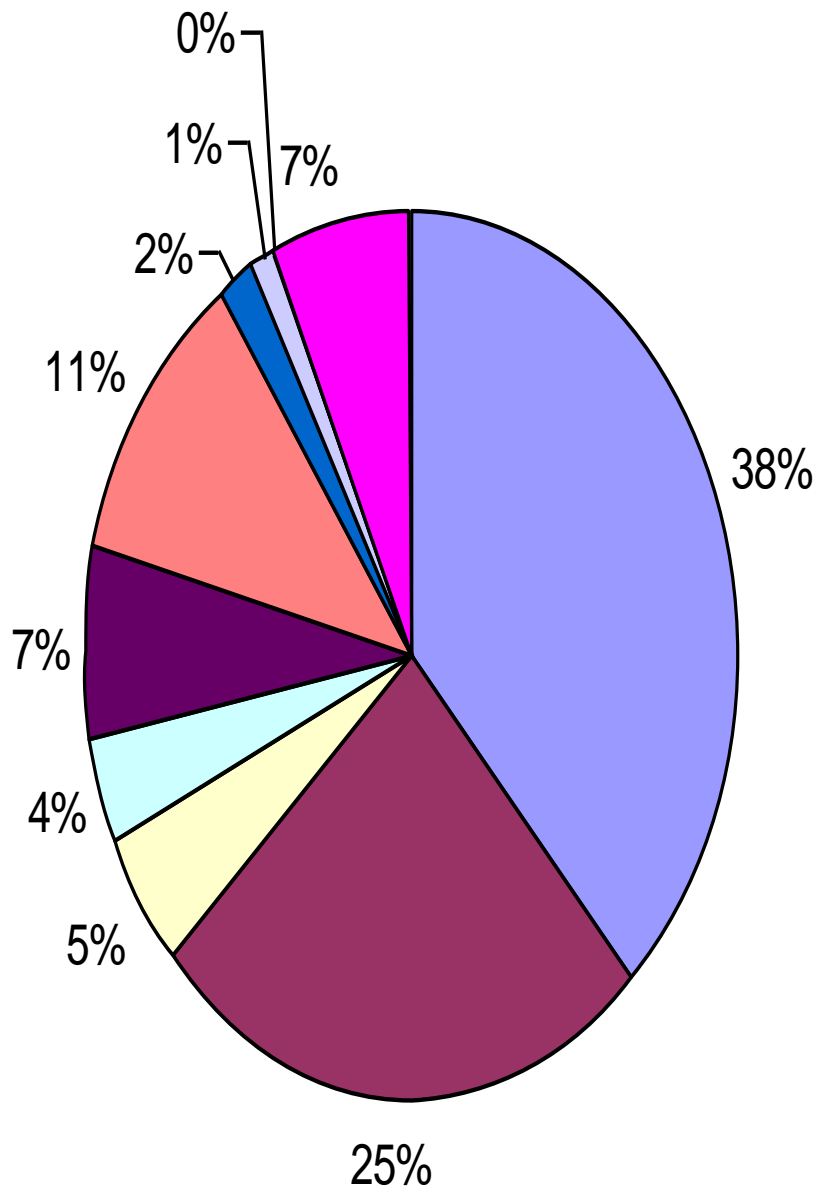
Complaints Filed



-  Cases of Discipline
-  Summary Dismissal

NATURE OF COMPLAINTS

Failure to comply with the Law	119	38%
Bias, prejudice, unfairness	78	25%
Discourtesy	17	5%
Abuse of Office	11	4%
Conflict of interest	21	7%
Delay	33	11%
<i>Ex parte</i> communication	7	2%
Disability	2	1%
Political violation	0	0%
Miscellaneous	23	7%
TOTAL	310	

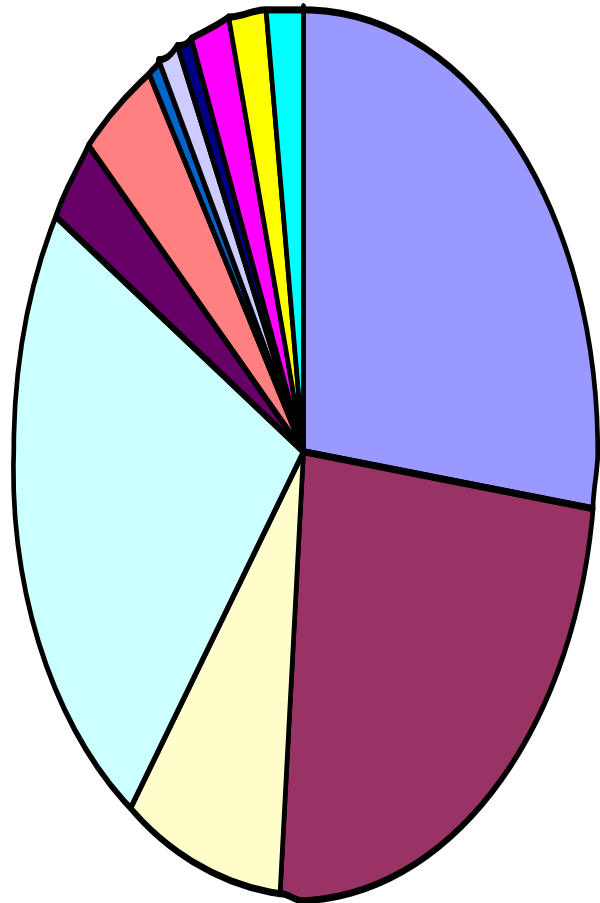


ACCUSED JUDGE

Criminal	84	27%
Circuit	74	24%
Chancery	29	9%
General Sessions	75	24%
Juvenile	10	3%
Municipal	12	4%
Referee	3	1%
Commissioner	3	1%
Probate	3	1%
Appellate	6	2%
Special Judge	5	2%
Other	6	2%

TOTAL 310

Accused Judges



- Criminal
- Circuit
- Chancery
- General Sessions
- Juvenile
- Municipal
- Referee
- Commissioner
- Probate
- Appellate

DISPOSITIONS 300 THROUGH 06/30/2008		
Dismissal by Disciplinary Counsel	208	69%
Dismissal after preliminary investigation	59	20%
Dismissal with warning after preliminary investigation	3	1%
Dismissal after appeal of summary dismissal	9	3%
Dismissal after full investigation	0	0%
Dismissal with warning after full investigation	1	0%
Deferred Discipline Agreement	6	2%
Private Letter Reprimand	5	2%
Private Censure	0	0%
Public Reprimand	3	1%
Public Censure	1	0%
Retired based on termination of Judge Status	5	2%
Other	0	0%

**TOTAL
PENDING CASES AS OF 06/30/2008**

Types of Action Where Judge Received a Warning or Discipline

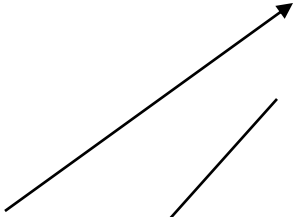
- Failure to Comply with law 5
- Bias, prejudice, unfairness 4
- Discourtesy 2
- Abuse of Office 5
- Conflict of Interest 2
- Delay 2
- Disability 1
- Political Violation 1
- Miscellaneous 2

Complaint Flow Chart

Complaint
Filed



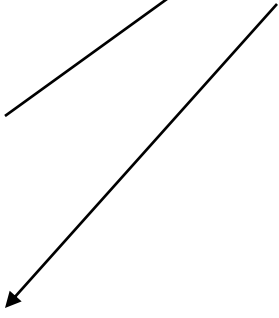
D.C.
Review



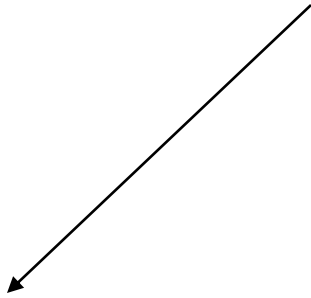
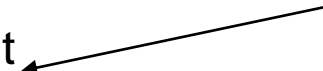
D.C. Preliminary Investigation



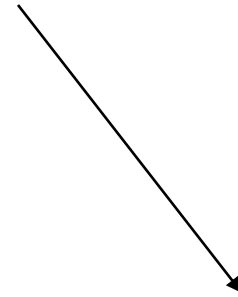
Recommendation to
Investigative Panel



Complaint
Dismissed



Direct D.C. to
take different
action



Authorize a Full
Investigation

Full Investigation



Report to Investigate
Panel who Decides to:

Dismiss

Approve D.C.
Recommendation of
Settlement

Modify D.C.
Recommendation to
Settle

Authorize Formal
Charges and Trial

- Public Reprimands and Censures for 2007/2008 to follow:



**THE TENNESSEE
COURT OF THE JUDICIARY**

511 Union Street
Suite 600
Nashville, TN 37243-067

JUDGES OF THE TENNESSEE
COURT OF THE JUDICIARY

Don R. Ash
Presiding Judge

J.S. (Steve) Daniel
Disciplinary Counsel

David M. Cook
Angelita Blackshear Dalton
David G. Hayes
William A. Kelley
Jane Latimer
Christy R. Little
Paul Neely
Pamela L. Reeves
Mary Martin Schaffner
Gregory D. Smith
Steve Stafford
Jean A. Stanley
Dwight E. Stokes
D. Michael Swiney
Bernie Weinman
Thomas T. Woodall

Michael W. Catalano, Clerk
100 Supreme Court Building
401 Seventh Avenue, North
Nashville, TN 37219-1407
615-253-1470

September 7, 2007

FOR PUBLIC RELEASE

The Honorable Clara W. Byrd
105 ½ South Cumberland Street
P.O. Box 788
Lebanon, TN 37088-0788

RE: Complaint of Kasee Elkins v. Judge Clara W. Byrd
File No. 06-2657

Dear Judge Byrd:

This shall serve as a public letter reprimand pursuant to your agreement with the Investigative Panel of this Court.

The reprimand relates to your actions in failing to implement the mandate of the Court of Appeals of the Middle Section of Tennessee in the case styled IN RE: C.A.R. #M2005-02286-COA-R3-CV. The mandate of the Court of Appeals required the implementation of the Court of Appeals judgment which required you to "immediately restore custody to the mother pursuant to the permanent parenting plan in effect prior to the change of custody in August of 2005." As a result of your failure to immediately follow the mandate, the mother of the child was required to expend additional attorney's fees to go back to the Court of Appeals to implement their order.

The above-styled conduct violates Canons 2A, 3B(2) and 3B(8) of the Code of Judicial Conduct and further constitutes conduct that brings the judiciary into public disrepute under Tennessee Code Annotated §17-5-302(8).



**THE TENNESSEE
COURT OF THE JUDICIARY**

511 Union Street
Suite 600
Nashville, TN 37243-067
JUDGES OF THE TENNESSEE
COURT OF THE JUDICIARY

Michael W. Catalano, Clerk
100 Supreme Court Building
401 Seventh Avenue, North
Nashville, TN 37219-1407
615-253-1470

Don R. Ash
Presiding Judge

February 19, 2008

J.S. (Steve) Daniel
Disciplinary Counsel

RELEASE TO PRESS

David M. Cook
Angelita Blackshear Dalton
David G. Hayes
William A. Kelley
Jane Latimer
Christy R. Little
Paul Neely
Pamela L. Reeves
Mary Martin Schaffner
Gregory D. Smith
Steve Stafford
Jean A. Stanley
Dwight E. Stokes
D. Michael Swiney
Bernie Weinman
Thomas T. Woodall

PERSONAL/CONFIDENTIAL

The Honorable Burton D. Glover
General Sessions Judge
531 South Brown Street
Springfield, TN 37172

RE: Complaint of Max D. Fagan
File No. 06-2871

Dear Judge Glover:

This shall serve as a public letter reprimand pursuant to your agreement with the Investigative Panel of this Court.

The reprimand relates to the receipt of two corporate campaign contributions in your 1998 campaign, one of which was over \$1,000. During your 2006 campaign, there was one corporate contribution to your campaign. Neither corporate contributions nor contributions over \$1,000 were allowable under our election laws. You personally signed the campaign disclosure statements listing these contributions and should have known the contributions were improper. Upon being informed by Disciplinary Counsel of this Court of this

allegation, you properly refunded these contributions. Your actions violate Canons 2A and 5(C)(2)(b) of the Code of Judicial Conduct because you did not comply with state law regarding campaign finances.

The reprimand also relates to your campaign advertising during the 2006 election in which you knowingly misrepresented that Judge Max Fagan was habitually absent from court and that you had reduced juvenile crime by 25% during your prior term of office. This is a violation of Canon 5A(3)(d)(iii) of the Code of Judicial Conduct.

Thus, this letter serves as a public letter reprimand, and we are now closing our file. We greatly appreciate your cooperation with our Disciplinary Counsel and this Court throughout this process.

Sincerely yours,

Don R. Ash
Presiding Judge

cc: David L. Raybin, Esq.
Investigative Panel
Disciplinary Counsel



THE TENNESSEE
COURT OF THE JUDICIARY

513 Union Street
Suite 600
Nashville, TN 37243-007

JUDGES OF THE TENNESSEE
COURT OF THE JUDICIARY

March 28, 2008

Michael W. Catalano, Clerk
100 Supreme Court Building
401 Seventh Avenue, North
Nashville, TN 37219-1407
615-253-1470

Don R. Ash
Presiding Judge

FOR PUBLIC RELEASE

J.S. (Steve) Daniel
Disciplinary Counsel

The Honorable Dennis W. Humphrey
Roane County Courthouse
P.O. Box 73
Kingston, TN 37763

David M. Cook
Angelina Blackshear Dalton
David G. Hayes
William A. Kelley
Jane Latimer
Christy R. Little
Paul Neely
Patricia L. Reeves
Shary Martin Scheffner
Gregory D. Smith
Steve Stafford
Jean A. Stanley
Dwight E. Stokes
D. Michael Swiney
Bernie Weisman
Thomas T. Woodall

In re: Complaint of Kismet and Pearson v. Judge Dennis W. Humphrey
File No. 07-3222

Dear Judge Humphrey:

This shall serve as a public letter reprimand pursuant to your agreement with the Investigative Panel of this Court.

The reprimand relates to your actions in finding Darrell K. Pearson in contempt of court in Roane County General Sessions Court case 6485A. In this case you found Mr. Pearson in contempt of court when he had only been served by publication and not by personal service of process. You thereupon ordered his incarceration until he paid a \$5000 purge payment. You ordered him into custody where there was no statutory basis. As a result of your actions, Mr. Pearson was incarcerated for sixty-eight days before you learned of his continued incarceration, considered his case, and released him. As result of your failure to follow basic due process under the Fourteenth Amendment of the United States Constitution and the Tennessee Constitution as well as failure to follow the law of contempt, Mr. Pearson was deprived of his freedom.

The above-styled conduct violates Canons 2A, 3B(2) and 3B(2) and 3B(8) of the Code of Judicial Conduct and is a violation of Tennessee Supreme Court Rule 13 requiring advice of the right to counsel and appointment of counsel before incarceration of someone for contempt. This conduct brings the judiciary into public disrepute under Tennessee Code Annotated § 17-5-302(8).

Accordingly, this constitutes a public reprimand for your actions. In the future, you are to accord all persons appropriate service of process and follow the statutory mandates for any contempt actions that you consider.

This the 24 day of March, 2008.

Sincerely,

Don R. Ash
Presiding Judge
Court of the Judiciary

DRA:eg
cc: Investigative Panel
Disciplinary Counsel



**THE TENNESSEE
COURT OF THE JUDICIARY**

511 Union Street
Suite 600
Nashville, TN 37243-067

JUDGES OF THE TENNESSEE
COURT OF THE JUDICIARY

Michael W. Catalano, Clerk
100 Supreme Court Building
401 Seventh Avenue, North
Nashville, TN 37219-1407
615-253-1470

Don R. Ash
Presiding Judge

May 16, 2008

J.S. (Steve) Daniel
Disciplinary Counsel

PERSONAL & CONFIDENTIAL

David M. Cook
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Jane Latimer
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Paul Nozly
Pamela L. Reeves
Mary Martin Schaffner
Gregory D. Smith
Steve Stafford
Jean A. Stanley
Dwight E. Stokes
D. Michael Swiney
Bernie Weisman
Thomas T. Woodall

A. Andrew Jackson
Dickson County General Sessions Judge
4000 Highway 48
North Suite 1
Charlotte, TN 37036

FORMAL LETTER OF REPRIMAND

In re: Complaint of Jerry Gonzales against Judge A. Andrew Jackson
File No. 07-3154

Dear Judge Jackson:

This shall serve as a public censure pursuant to your agreement with the Investigative Panel of this court and in compliance with Tenn. Code Ann. § 17-5-301 (f) (5). This reprimand relates to your actions as the Dickson County Juvenile Court Judge in hearing cases in which children appeared before you who were illegal aliens, children of illegal aliens, or perceived by you as being illegal aliens. In juvenile cases in which the defendant juvenile had illegal or questionable legal status in the United States, you consistently determined that the child was dependent and neglected when the petition before you did not seek to have the child declared dependent and neglected and that you also when informed that this was inappropriate conduct, determined each child to be unruly, jailing these juveniles as a result of their status, their parents' status or your perceived view of the status. This course of conduct was demonstrated in hearings held before you March 14, 2007, April 18, 2007 and May 2, 2007 in the case of a juvenile identified for the purpose of this letter as R. I. so as to protect that juvenile's identity. In those proceedings you repeatedly asked counsel and the child "if he was illegal." You announced to counsel your predetermination of the case when you stated "Mr. Taylor, you know what I'm going to do on that don't you, might as well go on and get your appeal set up." These statements led to laughter in the courtroom and because of your perceived predetermination as to Hispanic individuals appearing before you. You also in this hearing told the representatives of the child to "Get on over

there and get Birch to sign it. It always just irritates me to no end," referring to the requirement of counsel to seek an immediate appeal from your predetermined judgments and incarceration for juveniles in matters dealing in this particular case with a charge of speeding, expired permit and a seat belt violation.

Your actions in this and other juvenile cases violated Supreme Court Rule 10, Canon 1 requiring a judge to uphold the integrity and independent of the judiciary, Canon 2 requiring a judge to respect and comply with the law, Canon 3 B (2) requiring a judge to be faithful to the law and to maintain professional competence in it, Canon 3 B (5) requiring a judge to perform his judicial duties without biased and prejudice and your conduct in dealing with these juveniles deprived those individuals of equal protection of the law as required by the Fourteenth Amendment to the United States Constitution and the equal protection provisions of the Tennessee Constitution. In addition to the violations of the Canons of Judicial Ethics and state and federal constitutional rights, your conduct detrimentally affects the integrity of the Tennessee judiciary and undermines public confidence in the administration of justice.

This public censure represents the highest degree of judicial discipline authorized by law short of the Court seeking a judgment recommending your removal as a judge from office. In the future, you are to accord all persons who appear before you equal protection of the law and to decide their case on an independent and fair basis.

Sincerely,

Don R. Ash
Presiding Judge
Court of the Judiciary

DRA/cg
cc. Investigative Panel
Disciplinary Counsel