



STATE OF TENNESSEE BOARD OF JUDICIAL CONDUCT

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January 4, 2024

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Judge Toby Gilley
116 West Lytle Street, Suite 3-127
Rutherford County Judicial Center
Murfreesboro, TN 37130

RE: Public Reprimand
File No. B23-9528

Dear Judge Gilley:

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

While trying a case in which the value of the property at issue was the primary point of contention, specifically a tree that had been wrongfully cut, you conducted an internet search to research the value of the property. You found an online valuation calculator and then used that information to question an expert witness about the differences between his methodology for valuing the tree and that of the online source that you located.

The ethics rules provide that “[a] judge shall not investigate facts in a matter independently, and shall consider only the evidence presented and any facts that may properly be judicially noticed.” Tenn. Sup. Ct. R. 10, RJC 2.9(C). This prohibition extends “to information available in all mediums, including electronic.” RJC 2.9, cmt. 6. The rule ensures that cases are tried based on the evidence presented by the parties and that judicial decisions are based on information in the record subject to being evaluated for accuracy and credibility and appellate courts can review it. A judge’s independent performance of online research of a factual nature regarding a contested issue and then using that extrajudicial source to question a witness, as was done here, is inconsistent with RJC 2.9(C).

In addition, an independent factual inquiry, using the internet or otherwise, can raise questions about a judge's impartiality. *See* Tenn. Sup. Ct. R. 10, RJC 1.2 (requires judges to act at all times in a manner that promotes confidence in the judge's impartiality). Your independent investigation of the value of the tree at the center of the party's dispute was inconsistent with your role as an impartial arbiter.

Accordingly, the investigative panel decided to impose a public reprimand, which you have accepted. In imposing this sanction, the panel considered in mitigation that you have been cooperative and have taken full responsibility, acknowledging that resorting to extrajudicial information in adjudicating a case is inconsistent with the proper role of a judge. The panel considered your disciplinary history as an aggravating factor in imposing this public reprimand.

The Board trusts that this reprimand will result in an elevated consciousness about how to approach similar situations going forward and avoid any future conduct that violates the Code of Judicial Conduct.

Sincerely,

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

G. Andrew Brigham
Board Chair