

IN THE TENNESSEE BOARD OF JUDICIAL CONDUCT

IN RE: THE HONORABLE KAY SPALDING ROBILIO CIRCUIT COURT JUDGE, 30TH
JUDICIAL DISTRICT, SHELBY COUNTY, TENNESSEE

Docket No: M2013-01143-SC-CJ-CJ

File No: 12-4986

2013 JUN 12 PM 1:39
APPELLATE COURT CLERK
NASHVILLE

ANSWER OF THE HONORABLE KAY SPALDING ROBILIO

Comes your Respondent, the Honorable Kay Spalding Robilio, Circuit Judge of the Thirtieth Judicial District in Shelby County, Tennessee and in response to the Formal Charges filed against her answers as follows, using the same paragraph numbers as used in the "Formal Charges" for convenience purposes:

1. Your Respondent does not have direct knowledge of the allegations of this paragraph and therefore for purposes of this Answer denies same and demand strict proof thereof if her interests are to be affected thereby. However, your Respondent specifically denies that there is reasonable cause to believe that she has committed judicial offenses as alleged in the formal charges in violation of TCA §17-5-302.

2. Admitted to the extent that Judge Robilio was subject to the Code of Judicial Conduct, at times relevant herein, as a Circuit Judge of the 30th Judicial District at Shelby County, Tennessee, having been elected to position. Further answering, Judge Robilio denies that she is subject to judicial discipline for any of the acts complained of in the Formal Charges, because her actions were proper.

3. Responding to the first sentence of this paragraph, your Respondent admits that she was on or about February 12, 2012, acting in her position as a Circuit Judge of the Thirtieth Judicial Circuit of Tennessee and further admits that she had pending in her court a domestic relations case in which the only issue before the Court at the time was the matter of parenting opportunity; your Respondent therefore denies the remaining allegations of that first sentence. Your Respondent specifically denies that she undertook an independent investigation of the conditions present at the residence of the father, and further specifically denies that she utilized her personal observations in making rulings and in referring to matters concerning the parenting issues. Your Respondent avers in further response to the allegations of this paragraph that she did, with the expressed consent of and encouragement from and as an accommodation to the self-represented parties involved, take a view of the residence of the father in order to obtain a clearer understanding of the issues before her Court. However, in making her Order on Parenting Time, she first appointed a guardian ad litem for the minor child and then relied solely on the evidence in the record.

4. Your Respondent admits that she was subject to the Code of Judicial Conduct as set out in Rule 10, Rules of the Supreme Court of Tennessee, that were then in effect. However, your Respondent expressly denies that she violated any of such rules. To the contrary, your Respondent asserts that at all times she upheld the integrity and independence of the Judiciary, avoided impropriety and the appearance of impropriety, and performed her judicial duties impartially and diligently.

5. Denied.

II.

For further defense your Respondent avers that under Tennessee law a trial judge has the inherent discretion to take a view of the site of a property dispute, a crime, an accident or any

other location where such a view will enable a judge to assess the credibility of witnesses, to resolve conflicting evidence or to obtain a clearer understanding of the issues before the Court. *Tarpley v. Hornyak*, 174 SW3d 736 (Tenn. Ct. App. 2004).

II.

For further defense your Respondent avers that at all times she was acting in accordance with the Code of Judicial Conduct applicable at the time and specifically avers that her actions upheld the integrity and independence of the judiciary and in no way suggested impropriety or the appearance of impropriety on the part of your Respondent.

III.

For further defense your Respondent avers that she was performing her duties of the judicial office impartially and diligently and was not making and did not make an independent investigation of the facts in this case.

IV.

For further defense your Respondent avers that in making all of her rulings in the cause in question, she considered only the evidence presented and matters in the record.

V.

For further defense your Respondent avers that in no time did she initiate or permit ex parte communications in violation of the Code of Judicial Conduct.

VI.

For further defense your Respondent avers that she was acting to make reasonable accommodations to insure self-representative litigants the opportunity to have their matters fairly heard.

VII.

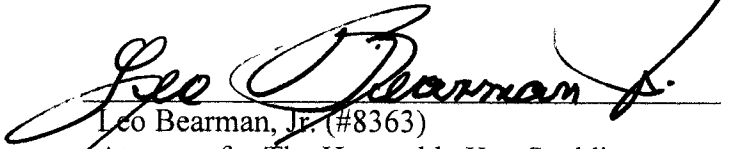
For further defense, your Respondent avers that she viewed the premises in question only after receiving the expressed consent of and encouragement from both parties.

VIII.

For further defense your Respondent avers that at all times she was acting for the best interests of the minor child of the parties which included the health, safety and welfare of a child of tender years.

WHEREFORE, your Respondent requests that the Hearing Panel be located in Shelby County, Tennessee, that at the time of the hearing, your Respondent be exonerated from any and all allegations or assertions of violation of the Code of Judicial Conduct, and that the charges be dismissed.

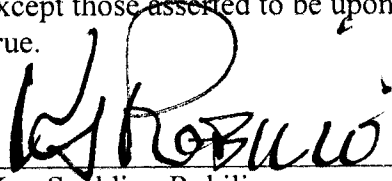
Respectfully submitted,



Leo Bearman, Jr. (#8363)
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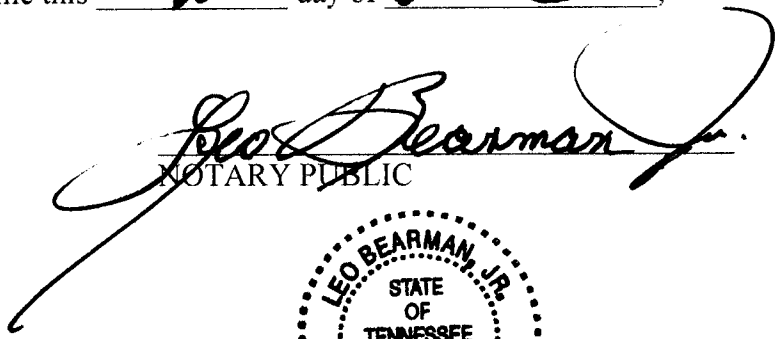
I, Judge Kay Spalding Robilio, having been first duly sworn make oath that I have read the foregoing "Answer of the Honorable Kay Spalding Robilio" to the formal charges filed in this cause, and that the facts stated in that Answer are true except those asserted to be upon information and belief and as to those I believe them to be true.



Judge Kay Spalding Robilio

STATE OF TENNESSEE)
COUNTY OF SHELBY)

Sworn to and subscribed before me this 10th day of June, 2013.



NOTARY PUBLIC

My Commission Expires:



CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been forwarded by U.S. Mail, postage prepaid to Timothy R. Discenza, Disciplinary Counsel and Patrick J. McHale, Assistant Disciplinary Counsel, Tennessee Board of Judicial Conduct, P.O. Box 50356, Nashville, TN 37205

