



**THE TENNESSEE
COURT OF THE JUDICIARY**

511 Union Street
Suite 600
Nashville, TN 37243-067

JUDGES OF THE TENNESSEE
COURT OF THE JUDICIARY

December 13, 2010

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

Don R. Ash
Presiding Judge

Timothy R. Discenza
Disciplinary Counsel

Patrick J. McHale
Assistant Disciplinary Counsel

Chris Craft
David M. Cook
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Richard A. Manahan
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Pamela L. Reeves
Kathy McMahan
Mary Martin Schaffner
Steve Stafford
Jean A. Stanley
Dwight E. Stokes
D. Michael Swiney
Thomas T. Woodall

FOR PUBLIC PRESS RELEASE

The Honorable James W. McKenzie
General Sessions Judge
Rhea County Courthouse
1475 Market Street, Room 202
Dayton, Tennessee 37321

RE: Complaint of Steven Todd Harbort
File No. 10-4228

Complaint of Daniel Bennett
File No. 10-4253

Complaint of Mark Porter
File No. 10-4280

Complaint of Troy Miller
File No. 10-4307

Dear Judge McKenzie:

This shall serve as a public letter of reprimand pursuant to your agreement with the investigative panel of this court.

This reprimand as to cases 10-4228, 10-4253, and 10-4280 all relate to the fact that while Judge, you as a landlord permitted an attorney who rented office space from you to appear as an attorney for parties litigating in your court and at times you also appointed that same attorney as a guardian *ad litem* in your Court.

In case 10-4307, in open Court, you used an expletive wholly improper for a courtroom setting.

In each of the four instances, upon receiving the complaint from the Disciplinary Counsel to the Tennessee Court of the Judiciary, you promptly responded, admitted the facts of the complaint, and accepted responsibility. Further mitigating circumstances as to any discipline include the fact that the landlord-tenant relationship no longer exists; that at no time did the investigation reveal any favoritism by you to the attorney-tenant, and that throughout this matter you have been thoroughly cooperative and forthcoming.

In case 10-4307, you expressed immediate remorse and recused yourself from further consideration of the underlying action.

The Judge as landlord to an attorney practicing in the Judge's court is a violation of Canon 3 E and Canon 4 D (1) (b) and Commentary thereunder. It also is contrary to Judicial Ethics Committee Opinion No. 91-7.

Canon 3 E provides, in pertinent part:

CANON 3 — A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently

E. Disqualification.

(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned,...

Canon 4 D (1) (b) provides in pertinent part:

CANON 4 — A Judge Shall So Conduct the Judge's Extra-Judicial Activities as to Minimize the Risk of Conflict with Judicial Obligations

D. Financial Activities.

(1) A judge shall not engage in financial and business dealings that: ...

(b) involve the judge in frequent transactions or continuing business relationships with those lawyers or other persons likely to come before the court on which the judge serves.

The intemperate language violated Canon 3 B (4) requiring a judge be "patient, dignified and courteous with litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity."

Accordingly, this letter constitutes a public reprimand for your actions. In the future, you are to follow the Code of Judicial Conduct in business dealings and to refrain from improper and intemperate language.

McKenzie Public Reprimand
December 13, 2010
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Sincerely yours,

A handwritten signature in black ink, appearing to read "Don. R. Ash". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Don. R. Ash
Presiding Judge

DRA/mpm
cc: Disciplinary Counsel
Investigative Panel
Todd Harbort
Daniel Bennett
Mark Porter
Troy Miller