

ORIGINAL

**IN THE TENNESSEE COURT OF THE JUDICIARY**

**IN RE: THE HONORABLE JAMES TAYLOR  
JUVENILE COURT JUDGE  
HAWKINS COUNTY, TENNESSEE**

2011 MAR 29 AM 10:18

APPELLATE COURT CLERK  
NASHVILLE

Docket No. M2011-00706-CJ-CJ-CJ

File Nos. 10-4293, 10-4322, 10-4382

**FORMAL CHARGES**

Timothy Discenza, Disciplinary Counsel for the Tennessee Court of the Judiciary, at the direction of an investigative panel of three judges of the Court of the Judiciary, in accordance with Tennessee Code Annotated § 17-5-301, *et. seq.*, hereby files formal charges against the Honorable James Taylor, Juvenile Court Judge of the Juvenile Court of Hawkins County Tennessee.

**Jurisdiction**

1. Following a full investigation authorized under the provisions of Tennessee Code Annotated § 17-5-304(b)(3), the three judge investigative panel composed of the Honorable Joe F. Fowlkes, the Honorable J. Steven Stafford, and the Honorable Chris Craft found, pursuant to Tennessee Code Annotated § 17-5-304(d)(2)(A), that there is reasonable cause to believe that the Honorable James Taylor has committed judicial

offenses alleged herein in violation of Tennessee Code Annotated § 17-5-302 , and directed Disciplinary Counsel to file formal charges pursuant to Tennessee Code Annotated § 17-5-304(d)(2)(A).

2. The Honorable James Taylor, at all times relevant herein, was a continuing part time Juvenile Judge of the Juvenile Court of Hawkins County, Tennessee, having been elected to that position. Therefore, Judge Taylor is subject to judicial discipline by the Court of the Judiciary pursuant to Tennessee Code Annotated § 17-5-102.

### **Charges**

Disciplinary Counsel charges the Honorable James Taylor as follows:

### **Count I**

3. In June of 2010, Juvenile Court Judge James Taylor, Juvenile Court Judge for Hawkins County, Tennessee did make an appearance before the County Commission of Hawkins County, Tennessee, a legislative body, on matters not concerning the law, the legal system, or the administration of justice. Specifically Judge Taylor made an appearance before said legislative body to gain approval to have a “Citizens Heritage Display” displayed in the courtroom lobby of the Justice Center of Hawkins County. Both before and after this appearance, Judge James Taylor did become involved in fund raising designed to solicit and collect funds for the construction of said display.

4. At all times described in paragraph 3, the said James Taylor, as Juvenile Judge of Hawkins County Tennessee was subject to the Code of Judicial Conduct, as set out in Rule 10, Rules of the Supreme Court of Tennessee.

In pertinent part, the Code of Judicial Conduct, by and through its Canons, provides as follows:

*CANON 1 — A Judge Shall Uphold the Integrity and Independence of the Judiciary*

A. An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing high standards of conduct and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective.

**Commentary.** Deference to the judgments and rulings of courts depends upon public confidence in the integrity and independence of judges. The integrity and independence of judges depends in turn upon their acting without fear or favor. Although judges should be independent, they must comply with the law, including the provisions of this Code. Public confidence in the impartiality of the judiciary is maintained by the adherence of each judge to this responsibility. Conversely, violation of this Code diminishes public confidence in the judiciary and thereby does injury to the system of government under law.

*CANON 2 — A Judge Shall Avoid Impropriety and the Appearance of Impropriety in All of the Judge's Activities*

A. A judge shall respect and comply with the law\* and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

**Commentary.** —Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety and appearance of impropriety. A judge must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions on the judge's conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.

The prohibition against behaving with impropriety or the appearance of impropriety applies to both the professional and personal

conduct of a judge. Because it is not practicable to list all prohibited acts, the proscription is necessarily cast in general terms that extend to conduct by judges that is harmful although not specifically mentioned in the Code. Actual improprieties under this standard include violations of law, court rules, or other specific provisions of this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality, and competence is impaired.

B. A judge shall not allow family, social, political, or other relationships to influence the judge's judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge shall not testify voluntarily as a character witness.

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

**A. Extra-Judicial Activities in General.** A judge shall conduct all of the judge's extra-judicial activities so that they do not:

- (1) cast reasonable doubt on the judge's capacity to act impartially as a judge;
- (2) demean the judicial office; or
- (3) interfere with the proper performance of judicial duties.

**Commentary**

Complete separation of a judge from extra-judicial activities is neither possible nor wise; a judge should not become isolated from the community in which the judge lives.

Expressions of bias or prejudice by a judge, even outside the judge's judicial activities, may cast reasonable doubt on the judge's capacity to act impartially as a judge. Expressions which may do so include jokes or other remarks demeaning individuals on the basis of their race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status. See Section 2C and accompanying Commentary.

**B. Avocational Activities.** A judge may speak, write, lecture, teach, and participate in other extra-judicial activities concerning the law \*, the legal system, the administration of justice, and non-legal subjects, subject to the requirements of this Code.

**Commentary**

As a judicial officer and person specially learned in the law, a judge is in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice, including revision of substantive and procedural law and improvement of criminal and juvenile justice. To the extent that time permits, a judge is encouraged to do so, either

independently or through a bar association, judicial conference, or other organization dedicated to the improvement of the law. Judges may participate in efforts to promote the fair administration of justice, the independence of the judiciary, and the integrity of the legal profession and may express opposition to the persecution of lawyers and judges in other countries because of their professional activities.

In this and other Sections of Canon 4, the phrase “subject to the requirements of this Code” is used, notably in connection with a judge's governmental, civic, or charitable activities. This phrase is included to remind judges that the use of permissive language in various Sections of the Code does not relieve a judge from the other requirements of the Code that apply to the specific conduct.

**C. Governmental, Civic, or Charitable Activities.**

(1) A judge shall not appear at a public hearing before, or otherwise consult with, an executive or legislative body or official except on matters concerning the law \*, the legal system, or the administration of justice or except when acting pro se in a matter involving the judge or the judge's interests.

**Commentary**

See Section 2B regarding the obligation to avoid improper influence.

(2) A judge shall not accept appointment to a governmental committee or commission or other governmental position that is concerned with issues of fact or policy on matters other than the improvement of the law \*, the legal system, or the administration of justice. A judge may, however, represent a country, state or locality on ceremonial occasions or in connection with historical, educational, or cultural activities.

**Commentary**

Section 4C(2) prohibits a judge from accepting any governmental position except one relating to the law, legal system, or administration of justice as authorized by Section 4C(3). The appropriateness of accepting extra-judicial assignments must be assessed in light of the demands on judicial resources created by crowded dockets and the need to protect the courts from involvement in extra-judicial matters that may prove to be controversial. Judges should not accept governmental appointments that are likely to interfere with the effectiveness and independence of the judiciary.

Section 4C(2) does not govern a judge's service in a nongovernmental position. See Section 4C(3) permitting service by a judge with organizations devoted to the improvement of the law, the legal system, or the administration of justice and with educational, religious, charitable, fraternal, or civic organizations not conducted for profit. For example, service on the board of a public educational institution, unless it were a law school, would be prohibited under Section 4C(2), but service on the

board of a public law school or any private educational institution would generally be permitted under Section 4C(3).

(3) A judge may serve as an officer, director, trustee, or non-legal advisor of an organization or governmental agency devoted to the improvement of the law \*, the legal system, or the administration of justice or of an educational, religious, charitable, fraternal, or civic organization not conducted for profit, subject to the following limitations and the other requirements of this Code.

#### **Commentary**

Section 4C(3) does not apply to a judge's service in a governmental position unconnected with the improvement of the law, the legal system, or the administration of justice; see Section 4C(2).

See Commentary to Section 4B regarding use of the phrase "subject to the following limitations and the other requirements of this Code." As an example of the meaning of the phrase, a judge permitted by Section 4C(3) to serve on the board of a fraternal institution may be prohibited from such service by Sections 2C or 4A if the institution practices invidious discrimination or if service on the board otherwise casts reasonable doubt on the judge's capacity to act impartially as a judge.

Service by a judge on behalf of a civic or charitable organization may be governed by other provisions of Canon 4 in addition to Section 4C. For example, a judge is prohibited by Section 4G from serving as a legal advisor to a civic or charitable organization.

(a) A judge shall not serve as an officer, director, trustee, or non-legal advisor if it is likely that the organization:

(i) will be engaged in proceedings that would ordinarily come before the judge; or

(ii) will be engaged frequently in adversary proceedings in the court of which the judge is a member or in any court subject to the appellate jurisdiction of the court of which the judge is a member.

#### **Commentary**

The changing nature of some organizations and of their relationship to the law makes it necessary for a judge regularly to reexamine the activities of each organization with which the judge is affiliated to determine if it is proper for the judge to continue the affiliation. For example, in many jurisdictions charitable hospitals are now more frequently in court than in the past. Similarly, the boards of some legal aid organizations now make policy decisions that may have political significance or imply commitment to causes that may come before the courts for adjudication.

(b) A judge as an officer, director, trustee, or non-legal advisor, or as a member or otherwise:

(i) may assist such an organization in planning fund-raising and may participate in the management and investment of the organization's funds but shall not personally participate in the solicitation of funds, except that

a judge may solicit funds from other judges over whom the judge does not exercise supervisory or appellate authority;

(ii) may make recommendations to public and private fund-granting organizations on projects and programs concerning the law \*, the legal system, or the administration of justice;

(iii) shall not personally participate in membership solicitation if the solicitation might reasonably be perceived as coercive or if the membership solicitation is essentially a fund-raising mechanism, except that a judge may solicit membership from other judges over whom the judge does not exercise supervisory or appellate authority; and

(iv) shall not use or permit the use of the prestige of judicial office for fund-raising or membership solicitation.

### **Commentary**

A judge may solicit membership or endorse or encourage membership efforts for an organization devoted to the improvement of the law, the legal system, or the administration of justice or a nonprofit educational, religious, charitable, fraternal, or civic organization as long as the solicitation cannot reasonably be perceived as coercive and is not essentially a fund-raising mechanism. Solicitation of funds for an organization and solicitation of memberships similarly involve the danger that the person solicited will feel obligated to respond favorably to the solicitor if the solicitor is in a position of influence or control.

A judge must not engage in direct, individual solicitation of funds or memberships in person, in writing, or by telephone except in the following cases: 1) a judge may solicit funds or memberships from other judges over whom the judge does not exercise supervisory or appellate authority; 2) a judge may solicit other persons for membership in the organizations described above if neither those persons nor persons with whom they are affiliated are likely ever to appear before the court on which the judge serves; and 3) a judge who is an officer of such an organization may send a general membership solicitation mailing over the judge's signature.

Use of an organization letterhead for fund-raising or membership solicitation does not violate Section 4C(3)(b) provided the letterhead lists only the judge's name and office or other position in the organization, and, if comparable designations are listed for other persons, the judge's judicial designation. In addition, a judge must also make reasonable efforts to ensure that the judge's staff, court officials, and others subject to the judge's direction and control do not solicit funds on the judge's behalf for any purpose, charitable or otherwise.

A judge must not be a speaker or guest of honor at an organization's fund-raising event, but mere attendance at such an event is permissible if otherwise consistent with this Code.

5. The above-described conduct and actions of Judge Taylor set forth herein in

paragraph 3 constitute multiple violations of the Code of Judicial Conduct as set forth in the proceeding paragraph 4, and as such, subject him to the sanctions provided by the provisions of Tennessee Code Annotated § 17-5-301.

6. In addition, the above-described conduct, actions, and/or inactions of Judge Taylor set forth on Count I constitute multiple statutory violations of the Tennessee Code Annotated as hereinabove described, and as such, subject him to sanctions due to the misconduct provisions of Tennessee Code Annotated §17-5-302, including violation of the following:

#### **§17-5-302. Misconduct**

Offenses of which the court may take cognizance shall include the following...

(3) Violation of the Code of Judicial Conduct as set out in the rules of the Supreme Court of Tennessee...

(8) Any other conduct calculated to bring the judiciary into public disrepute or to adversely affect the administration of justice.

#### **Count II**

7. On September 8<sup>th</sup>, 2010, Judge James Taylor was found in contempt of court by the Tennessee Court of Criminal Appeals for willfully failing to take steps to protect his client's interests in an appeal before that court. This finding imposed as punishment for this contempt a fine of fifty dollars (\$50.00), an assessment of all costs relating to filings resulting from Judge Taylor's dereliction of duties relating to the contempt proceeding, confinement in the Knox County Jail for a period of forty-eight (48) hours,



said confinement being suspended upon the condition that Judge Taylor complete a probationary period of one year. This sentence by the Court of Criminal Appeals recited that it took into account the fact that Judge Taylor had been found in contempt by an order dated October 6<sup>th</sup>, 2006 for similar misconduct.

8. At all times relevant to the conduct of Judge James Taylor as described in the proceeding paragraph 7, Canons 1 and 2 of the Code of Judicial Conduct as set forth in paragraph 4 above, were in full force and effect and applicable to Judge Taylor. Those Canons are incorporated by reference into this paragraph.

9. The above-described conduct and actions of Judge Taylor set forth herein in paragraph 7 constitutes multiple violations of the Code of Judicial Conduct as set forth in the preceding paragraph 4, incorporated by reference in paragraph 8, and as such, subject him to the sanctions provided by the provisions of Tennessee Code Annotated § 17-5-301, and further constitute misconduct pursuant to the provisions of Tennessee Code Annotated § 17-5-302 (3) and (8).

### **Count III**

10. On September 30<sup>th</sup>, 2010 notice was given to Judge James Taylor pursuant to Tennessee Code Annotated 17-5-304(c)(1) notifying Judge James Taylor that a full investigation of the matters contained in Count I above, among other matters, had been authorized by an investigative panel, and requiring Judge Taylor to file a response within 30 days to the office of the Disciplinary Counsel, Tennessee Court of the Judiciary. Judge Taylor failed to file a written response to said allegations as required by statute.

### **Count IV**

11. On October 27th, 2010 notice was given to Judge James Taylor pursuant to Tennessee Code Annotated 17-5-304(c)(1) notifying Judge James Taylor that a full investigation of the matters contained in Count II above, had been authorized by an investigative panel, and requiring Judge Taylor to file a response within 30 days to the office of the Disciplinary Counsel, Tennessee Court of the Judiciary. Judge Taylor failed to file a written response to said allegations as required by statute.

12. At all times described in paragraphs 10 and 11 above, the said James Taylor, as Juvenile Judge of Hawkins County Tennessee was subject to the provisions of Tennessee Code Annotated § 17-5-304. In pertinent part, Tennessee Code Annotated §17-5-304 provides as follows:

**§ 17-5-304**

**Complaints of judicial misconduct or incapacity; investigations; notice requirements; recommendations of disciplinary counsel; filing of formal charges**

... (c)(1) Within thirty (30) days after the investigative panel authorizes a full investigation, disciplinary counsel shall give the following notice to the judge by certified mail:

(A) A specific statement of the allegations being investigated and the canons or rules allegedly violated, with the provision that the investigation can be expanded if appropriate;

(B) The judge's duty to respond;

(C) The judge's opportunity to meet with disciplinary counsel; and

(D) The name of the complainant, unless the investigative panel determines that there is good cause to withhold that information.

(2) The investigative panel may defer the giving of notice; however, notice must be given

pursuant to this section before making a determination other than dismissal of the complaint.

(3) Disciplinary counsel may request that the judge file a written response within thirty (30) days after service of the notice...

13. At all times relevant to the conduct of Judge James Taylor as described in the preceding paragraphs 10 and 11, Canons 1 and 2 of the Code of Judicial Conduct as set forth in paragraph 4 above, were in full force and effect and applicable to Judge Taylor. Those Cannons are incorporated by reference into this paragraph.

14. The above-described conduct and actions of Judge Taylor set forth herein in paragraphs 10 and 11 constitute multiple violations of the Code of Judicial Conduct as set forth in the preceding paragraph 4, incorporated by reference in paragraph 8, and as such, subject him to the sanctions provided by the provisions of Tennessee Code Annotated § 17-5-301, and further constitute misconduct pursuant to the provisions of Tennessee Code Annotated § 17-5-302 (3) and (8).

### **NOTICE**

The Honorable Judge James Taylor is hereby given written notice of the details of the Formal Charges brought against him pursuant to Tenn. Code Ann. § 17-5-307.

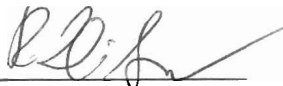
Pursuant to Tenn. Code Ann. § 17-5-307(c), Judge Taylor shall have thirty (30) days from and after the date of receipt of these Formal Charges to file an Answer with the Court by filing the same at the Office of the Clerk of the Court of the Judiciary, 100

Supreme Court Building, 401 Seventh Avenue North, Nashville, Tennessee 37219 and by serving a copy on Disciplinary Counsel at P.O. Box 3088, Memphis, Tennessee 38173.

Failure to answer these Formal Charges shall constitute an admission of the factual allegations not answered.

WHEREFORE, Disciplinary Counsel moves the Court to set this matter for hearing before the Hearing Panel of the Court of the Judiciary at such location where the Court of the Judiciary may convene by law, within sixty (60) days from and after the date the Answer is filed by Judge Taylor, as required by Tenn. Code Annotated § 17-5-308(a), or, in the event no Answer is filed, to set the matter within ninety (90) days of the date these Formal Charges are filed with the Clerk of the Court, in order to comply with the statutory time limit, and upon the hearing of this action, to impose just and proper sanctions as provided by law, including the costs and discretionary costs as provided by law.

This the 29 day of MARCH, 2011.



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APPROVED BY THE INVESTIGATIVE PANEL  
IN ACCORDANCE WITH RULE 6, SECTION 5  
OF THE RULES OF PRACTICE AND PROCEDURE  
OF THE TENNESSEE COURT OF THE JUDICIARY:

BY: Joe F. Fowlkes by Permission  
Honorable Joe F. Fowlkes  
Investigative Panel Member

BY: Chris Craft by Permission  
Honorable Chris Craft  
Investigative Panel Member

BY: J. Steven Stafford by Permission  
Honorable J. Steven Stafford  
Investigative Panel Member