

ORIGINAL

IN THE TENNESSEE COURT OF THE JUDICIARY

IN RE: THE HONORABLE GLORIA DUMAS,
JUDGE, GENERAL SESSIONS COURT
METROPOLITAN NASHVILLE and
DAVIDSON COUNTY, TENNESSEE, Division IV

Docket No. M2009-01938-CJ-CJ-CJ

Complainant: JOSEPH S. DANIEL, in the exercise of his duties as
Disciplinary Counsel, and at the direction of an Investigative Panel of the
Tennessee Court of the Judiciary.

File No. 08-3487

FILED
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APPELLATE COURT CLERK
NASHVILLE

RESPONSE OF GLORIA DUMAS TO
DISCIPLINARY COUNSEL'S MOTION TO COMPEL
AND MOTION TO HAVE CERTAIN FACTS DEEMED ADMITTED.

MOTION TO QUASH SUBPOENAS ISSUED
IN VIOLATION OF RULE 45 TENN. R. CIV. PRO.

Judge Dumas files this response in opposition to Disciplinary Counsel's motion to compel and motion to have certain facts deemed admitted.

A. Prior Motion Pending

Judge Dumas has pending before the Court a motion to strike disciplinary counsel's discovery requests on the ground that they are "unduly burdensome or expensive, taking into account the needs of the case . . ." Rule 26.02 Tenn. R. Civ. Pro. Disciplinary counsel has not responded to this motion.

Prior to the formal charges being filed by disciplinary counsel, Judge Dumas fully and completely answered all of disciplinary counsel's inquiries, even when they had been fully answered before. Most of the relevant information sought in the discovery requests

is already in the disciplinary counsel's possession. Serving discovery requests requiring Judge Dumas to identify where she parked her car every day she attended court since January 1, 2007, to produce documents identifying her as a General Sessions Judge and to state the number of days she has not opened court at the time designated on a warrant, citation or summons can only be for the purpose of harassment.

B. Jurisdiction

Under the statutes creating the Court of the Judiciary, the hearing panel is given the duty and authority to rule on prehearing motions. Tenn. Code Ann. §17-5-201(e)(2). Neither the statutes nor the Court's internal rules specify any procedure for presenting the motions to the panel.

The exparte procurement of an order to appear before the presiding judge of the court for the purpose of disposing of disciplinary counsel's motions, therefore, is an arbitrary act taken without any authority to do so and is also calculated to harass Judge Dumas.

Counsel for Judge Dumas, however, will appear at the time specified in the notice.

C. Prior Negotiations and Subsequent Actions of Disciplinary Counsel

For a considerable period of time in the late fall, disciplinary counsel was away from his office because of illness. When he got back on his feet, the parties entered into negotiations about how to narrow the scope of the discovery requests to take into account the extensive, good faith facts disclosed by Judge Dumas during the long course of this investigation. When those negotiations proved to be fruitless, counsel for Judge Dumas

emailed disciplinary counsel on January 25 that she would respond to the discovery requests by the end of the week of February 5.

Disciplinary counsel ignored that voluntary resolution and filed his motion to compel on February 1st.

During the week of the 1st, disciplinary counsel also dispatched his investigator to Nashville without notice to opposing counsel to attempt to interview personnel working in the General Sessions Court of Davidson County, including the employees in Judge Dumas' office.

In addition, disciplinary counsel has, without notice to opposing counsel, issued subpoenas to various departments of the Metropolitan Government and has obtained records that are the subject of this motion. These records include the employment records of Judge Dumas' daughter and her private personnel files. Disciplinary counsel has refused to allow the Metro legal department to redact the personal and confidential information in the records.

Judge Dumas voluntarily disclosed to disciplinary counsel during the course of this investigation that she had hired her daughter as her court officer for a short period of time in 2005-2006 and that she reversed the action when she became aware that it violated the anti-nepotism rules. She admitted the fact in her answer filed to disciplinary counsel's charges. Therefore, her daughter's personnel records are not relevant to any issue raised in the pleadings. Disciplinary counsel continues to attempt to harass Judge Dumas and her family in violation of Rule 4.4 of the Rules of Professional Conduct.

Rule 45.02 Tenn. R. Civ. Pro. requires counsel to serve all subpoenas on opposing counsel. Rule 45.04 incorporates Rule 32.02's requirement of five days notice if the

subpoena seeks evidence to be used at trial. Disciplinary counsel has procured and served the subpoenas in violation of the rules and the subpoenas should be quashed.

Judge Dumas prays for an order quashing the subpoenas and requiring disciplinary counsel to surrender all records obtained through his unauthorized acts.

In addition, Judge Dumas prays for an order setting some guidelines for the orderly preparation of this case for trial.

Respectfully submitted this 18th day of February, 2010.

Ben H. Cantrell

Ben H. Cantrell, BPR #3160
Tune, Entekin & White, P.C.
Suite 1700, Regions Center
315 Deaderick Street
Nashville, TN 37238-1700
(615) 244-2770

William H. Farmer / by ~~W.H.F.~~ W/ Permission

William H. Farmer
Jones Hawkins & Farmer PLC
One Nashville Place
150 4th Avenue North, Suite 1820
Nashville, Tennessee 37219
(615) 726-0050

Attorneys for Gloria Dumas

CERTIFICATE OF SERVICE

This is to certify that I have served a true and correct copy of the foregoing document upon the following by depositing same in the U.S. Mail along with sufficient postage thereon to insure delivery.

This 18th day of February, 2010.

Ben H. Cantrell

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The Honorable J. S. "Steve" Daniel
Disciplinary Counsel
The Tennessee Court of the Judiciary
503 North Maple Street
Murfreesboro, TN 37130

Hon. Don R. Ash
20 Public Square, Suite 409
Murfreesboro, TN 37130

David M. Cook, Esq.
119 Main Street
Suite 800
Memphis, TN 38103

Hon. Chris Craft
201 Poplar Ave., Suite 519
Memphis, TN 38103

Hon. Joe F. Fowlkes
109 Madison Street
Pulaski, TN 38478

Hon. Christy R. Little
Madison Co. Juvenile Court
Walter Baker Harris Juvenile Court Bldg.
110 Irby Street
Jackson, TN 38301

Dr. Richard A. Manahan
East Tennessee State Univ.
P. O. Box 70575
Johnson City, TN 37614-1708

Kathy McMahan
114 Liberty Avenue
Suite 300
Covington, TN 38019

Paul Neely
P. O. Box 11526
Chattanooga, TN 37401

Hon. J. Steven Stafford
100 Main Avenue N., Suite 4
P.O. Box 1103
Dyersburg, TN 38025

Hon. D. Michael Swiney
505 Main St., Suite 200
P.O. Box 444
Knoxville, TN 37901-0444

Hon. Thomas T. Woodall
103 Sylvia St.
P.O. Box 1075
Dickson, TN 37056