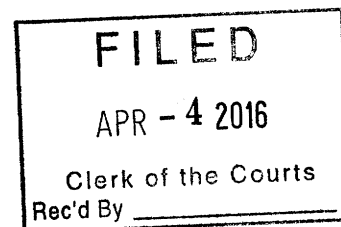


IN THE TENNESSEE BOARD OF JUDICIAL CONDUCT

IN RE: ROGER MARSH
JUDICIAL COMMISSIONER
WILSON COUNTY, TENNESSEE

Docket No. M2015-00437-BJC-DIS-FC

File No. B13-5355



AFFIDAVIT OF JUDICIAL COMMISSIONER ROGER MARSH
PURSUANT TO DEFERRED DISCIPLINARY AGREEMENT

This Affidavit is made and executed by Roger Marsh, Judicial Commissioner, Wilson County, Tennessee, pursuant to a Deferred Discipline Agreement made and entered into by and between Commissioner Marsh and the Tennessee Board of Judicial Conduct, and in accordance with the provisions of T.C.A. § 17-5-307.

1. In exchange for the stated Deferred Agreement Commissioner Roger Marsh agrees with Disciplinary Counsel and the Board of Judicial Conduct and admits the following matters set forth in the Formal Charge heretofore filed, as follows:

A. In early March, 2013, the former son-in-law of the Board of Judicial Conduct complainant in this action filed domestic assault charges against the claimant.

B. On or about March 3, 2013, Commissioner Marsh in his official capacity, signed a mittimus document designated as a "County Mittimus-Jail" which recited, *inter alia*, that the complainant in this action "Having been examined before me on a charge of Domestic Assault," and with due cause and failure to give bond, was ordered to be arrested by the Sheriff and held essentially without bond, resulting in his incarceration for some 12 hours. A copy of the "mittimus" was attached to the

original Formal Charge in this action as Exhibit "A", and is specifically incorporated herein by reference.

C. In fact, and despite the representation of Commissioner Marsh on the face of the mittimus document, the complainant alleged that he had not been examined by Commissioner and had not made any appearance before the Commissioner at all.

D. In response to an inquiry by the Board of Judicial Conduct, through its Disciplinary Counsel, to Commissioner Marsh regarding the incident that forms the basis of the Formal charge, Commissioner Marsh responded "...I have no reason to believe that (the complainant) did not appear before me on the charge of Domestic Assault on 3/13/13."

E. No written record of an appearance by the complainant before Commissioner Marsh appears in any records maintained by Wilson County, Tennessee.

F. Commissioner Marsh candidly does not specifically recall an appearance and examination before him by the complainant in this action.

G. Following the initiation of the complaint with the Board of Judicial Conduct, and as a direct result thereof, Commissioner Marsh, of his own volition implemented certain measures incident to his role as Judicial Commissioner, as follows:

- i. Wilson County has modified its "Bail Bond Questionnaire" to include the "Mittimus Number".
- ii. A Judicial Commissioner now sees only one individual at a time. Previously and during busy nights, sometimes the Jail would bring two (2), three (3) or more arrestees to the Judicial Commissioner, at one time. That practice has been eliminated.

iii. A training session was held, after this Complaint was received, with all Wilson County Judicial Commissioners, and is now a part of In-service training for Judicial Commissioners.

iv. The Wilson County Jail has been instructed not to take anyone back to the Jail until seen by a Judicial Commissioner.

2. Commissioner Marsh consents to the entry of a Deferred Discipline Agreement, as set forth in the "DEFERRED DISCIPLINE AGREEMENT" which agreement is specifically incorporated into this Affidavit as though restated verbatim and in its entirety, including but not limited to Paragraph 14 of the Agreement, which provides as follows:

14. It is agreed between the Hearing Panel and Commissioner Marsh that for and in consideration of the Investigative Panel not pursuing formal charges on the complaint, Commissioner Marsh will be on probation for a period of one (1) year commencing from the date of the execution of this agreement. Any violation of a condition of probation, as described herein, including but not limited to continuing to adhere to the requirements and practices described in Paragraphs 9 and 11, herein, the Formal Charge heretofore filed in this action may be refiled, as well as potential additional charges, in accordance with the provisions of T.C.A. § 17-5-301, *et. seq.*, arising from any additional alleged violation of the Code of Judicial Conduct or the applicable provisions of § 17-5-301, *et. seq.*

3. The consent of Commissioner Marsh is freely and voluntarily entered.

4. The facts set forth in this affidavit are true.

5. Commissioner Marsh understands and consents that the Deferred Discipline Agreement and this Affidavit shall be filed with the Board of Judicial Conduct and shall become public upon filing in accordance with the provisions of T.C.A. § 17-5-307.

6. A final Order shall be entered in the captioned case currently pending and shall be based upon the formal charges and this affidavit and admissions therein.

7. In addition to this Affidavit required by the aforementioned statute, Commissioner Marsh will execute the Deferred Discipline Agreement.

ACKNOWLEDGEMENT OF AFFIANT ROGER MARSH,
JUDICIAL COMMISSIONER

After first being duly sworn, the undersigned Roger Marsh, Judicial Commissioner, Wilson County, Tennessee makes oath that he has read the foregoing Affidavit and understands same, and that it is true and correct.

Roger T. Marsh
ROGER MARSH,
JUDICIAL COMMISSIONER,
WILSON COUNTY, TENNESSEE

STATE OF TENNESSEE
WILSON COUNTY

The undersigned Becky S. Fox Notary Public for the State of Tennessee, certifies that Roger Marsh, affiant herein, personally executed and acknowledged the forgoing as true and correct, before me this the 1st day of December, 2015.

Becky S. Fox
Notary Public
My Commission Expires 7/25/2016

