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2014 SEP 19 AM 9:56

APPELLATE COURT CLERK
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IN THE TENNESSEE BOARD OF JUDICIAL CONDUCT

**IN RE: THE HONORABLE JOHN A. DONALD
GENERAL SESSIONS JUDGE
SHELBY COUNTY, TENNESSEE**

Docket No. M2013-02204-BJC-DIS-FC

File No. 11-4762

**MOTION OF DISCIPLINARY COUNSEL TO DEEM ADMITTED AT THE
TRIA/HEARING OF THIS ACTION FACTS SET FORTH IN THE REQUEST
FOR ADMISSIONS HERETOFORE FILED AND SERVED BY DISCIPLINARY
COUNSEL ON JUDGE JOHN A. DONALD**

Timothy Discenza, Disciplinary Counsel for the Tennessee Court of the Judiciary, pursuant to Tennessee Rules of Civil Procedure, Rule 36, and would respectfully move the Board to enter an Order deeming admitted certain facts at the trial, said facts being described in the Requests for Admission to Honorable John A. Donald heretofore filed on August 11, 2014, and as grounds therefore would state as follows:

1. On August 11, 2014, Disciplinary Counsel filed and caused to be served upon Judge John A. Donald Requests for Admission.
2. Judge John A. Donald has failed to respond in any manner to the aforementioned Requests.
3. Pursuant to Rule 36.02, Tennessee Rules of Civil Procedure, the effect of the failure of John A. Donald to answer or respond shall be that said facts or matters are

“conclusively established.” The facts or matters to be therefore conclusively established are as follows:

1. That you (Judge John A. Donald) were at all times relevant herein (as described in the original Complaint in this action), a full time judge of the General Sessions Court of Shelby County, Tennessee, as described in TCA Section 16-15-502.

2. That at all times relevant to the Complaint filed in this action, the Judicial Canons of Ethics or Code of Judicial Conduct applied to you (Judge John A. Donald).

3. That at all times relevant to the Complaint filed in this action, you (Judge John A. Donald) were subject to judicial discipline by the Board of Judicial Conduct pursuant to Tennessee Code Annotated § 17-5-102.

4. That on or about October 17, 2011, David Gold, an attorney practicing in Shelby County, Tennessee filed a complaint with the Tennessee Court of the Judiciary, the predecessor agency of the Tennessee Board of Judicial Conduct, against you (Judge John A. Donald), alleging violations by you of the Tennessee Code of Judicial Conduct that was then in effect. This complaint was attached as exhibit A to the formal charge or complaint filed in this action.

5. That on or about October 23, 2011, Judge Donald was sent a copy of the complaint of David Gold referenced in the previous Request No. 4 and asked to respond to the complaint, and that you (Judge John A. Donald) received the complaint and letter of Disciplinary Counsel seeking your response prior to November 15, 2011.

6. That on or about December 2nd, 2011, you (Judge John A. Donald) responded to Mr. Gold’s complaint by letter to the Disciplinary Counsel to the Tennessee Court of the Judiciary.

7. That on or about December 7, 2011, you (Judge John A. Donald) wrote a letter of complaint to the Tennessee Board of Professional Responsibility, making a complaint against David Gold, and asking the Board to investigate another attorney who had been associated with David Gold and who was listed by David Gold as a witness to Mr. Gold’s complaint against you.

8. (Omitted due to error in dates set forth in original Request No. 8)

9. That on December 7, 2011, the letter that you (Judge John A. Donald) wrote to the Board of Professional Responsibility referenced in previous Request No. 7, designated as Exhibit No. 2 to your deposition November 26, 2013 is a true and exact copy of the letter that you wrote to the Board of Professional Responsibility concerning David Gold.

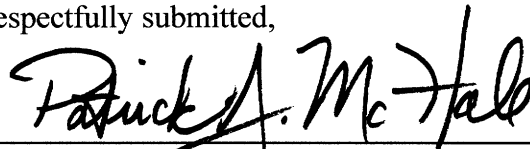
10. That on January 26, 2012, you (Judge John A. Donald) wrote another letter to the Board of Professional Responsibility suggesting to that Board another area of investigation against Mr. Gold by that Board, and that such letter, designated as Exhibit No. 4 to your deposition November 26, 2013 is a true and exact copy of the letter that you wrote to the Board of Professional Responsibility concerning David Gold

11. That the Board of Professional Responsibility dismissed your complaint against David Gold and that you (Judge John A. Donald) received written communication from the Board of Professional Responsibility stating that your complaint has been dismissed.

4. That the facts set forth above as conclusively established be permitted to be read to the Hearing Panel during the presentation of direct proof by Disciplinary Counsel at the trial/hearing of this action.

Dated: September 19, 2014

Respectfully submitted,



TIMOTHY R. DISCENZA #008716

Disciplinary Counsel

PATRICK J. McHALE, #004643

Assistant Disciplinary Counsel

Tennessee Board of Judicial Conduct

P.O. Box 50356

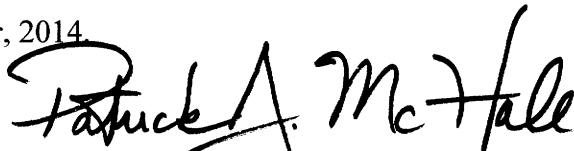
Nashville, TN 37205

Certificate of Service

I hereby certify that a true and exact copy of the foregoing was mailed, sent by email or delivered to the following:

Hon. John A. Donald
General Sessions Judge
140 Adams Avenue, Suite 110
Memphis, Tennessee 38103

This the 19th day of September, 2014.



Patrick J. McHale, Assistant Disciplinary Counsel