



THE TENNESSEE BOARD OF JUDICIAL CONDUCT

511 Union Street
Suite 600
Nashville, TN 37219

November 15, 2019

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100 Supreme Court Building
401 Seventh Avenue, North
Nashville, TN 37219-1407
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BOARD OF JUDICIAL CONDUCT

FOR PUBLIC RELEASE

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The Honorable James M. Lammey
Criminal Court Judge
Shelby County Justice Complex
201 Poplar Avenue, Suite 519
Memphis, Tennessee 38103

RE: Board of Judicial Conduct Complaints
File Nos. B19-7753 and B19-7777

Dear Judge Lammey:

This letter shall serve as a public letter of reprimand pursuant to your agreement with an investigative panel of the Board of Judicial Conduct ("Board").

This reprimand concerns your actions relating to a series of Facebook posts from 2016 and an interview with you by a local reporter to discuss your policy of requiring illegal aliens to report to the United States Immigration and Customs Enforcement as a part of probation to adhere to the requirement that all individuals obey the laws of the United States. The resulting article, "Memphis Judge Posts Facebook link to Holocaust denier's Essay calling Immigrants 'Foreign Mud'" discusses your probation policy and references a Facebook article you shared, inadvertently made public by you, by a Jewish author, David Cole, titled "Stop with the Golems, Already." It is abundantly clear that you did not author this article and your only comments simply described Mr. Cole's article as an "interesting read . . . some four-letter words though." Your comment also did not endorse all of the article's contents. The basic premise of the article is that Jewish Americans have enough to worry about in the present to dwell on the past. Specifically, that Jewish American's should not bring in

people who want to do them harm. Mr. Cole did not describe all immigrants as “mud” just those who want to do them harm, the Golems. However, the language used by the author was crude in saying, “In a perfect world, these rabbinical Rain Men would finally get the f*** over the Holocaust and end their war of hostility against the west.” The investigation revealed that the author is not a Holocaust denier.

After the local article was published, Latino Memphis cited the local article as their authority and filed a complaint with this Board alleging that you have “demonstrated an extreme level of bias and prejudice in [your] statements towards Jewish people, immigrants, Muslims, and non-U.S. citizens.” Latino Memphis also included sixteen screen shots of images that you shared on your Facebook page which were originally posted prior to the 2016 Presidential election.

A second complaint was lodged against you by the Memphis Bar Association as a result of the “widespread reports in the mainstream print, radio and television regarding alleged posting by [you] on social media and [your] methods of dealing with immigrants appearing before [you] on criminal charges[.]” Any issues concerning your treatment of illegal aliens are legal issues that will be resolved by the Tennessee Court of Criminal Appeals.

After a complete and thorough investigation and under the limited and specific facts of this case, the Board acknowledges that there is no proof that you made any statements that were anti-Semitic, racist, or anti-immigration. However, during the investigation it appears that some of your Facebook posts were partisan in nature, which is a clear violation of the Code of Judicial Conduct.

Specifically, those images that you “shared” on your Facebook account reflects among other things, a concern for the credibility of certain federal agencies, a strong position on professional athletes kneeling during the national anthem, the effect of illegal aliens on the economy, opposition to certain democrat platform principles, opposing support for then-presidential candidate Hillary Clinton, a position on black lives matter and the double standard of the news media, a position on the controversial issue of shooting deaths by police officers and the media bias, anti-Jihadist sentiment, a position on the controversial issue of transgender bathrooms and boys in girl’s locker rooms, concern for illegal aliens voting in Virginia, and an expression of bias in favor of then-presidential candidate Donald Trump.

The Canons or rules violated by the above-described conduct are therefore the following, as they were in effect at the time of the conduct:

CANON 1 — A JUDGE SHALL UPHOLD AND PROMOTE THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY OF THE JUDICIARY, AND SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY.

RULE 1.2 Promoting Confidence in the Judiciary

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety. [Emphasis added.]

Comment 5

. . . The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge's honesty, impartiality, temperament, or fitness to serve as a judge.

CANON 2 – A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY, COMPETENTLY, AND DILIGENTLY.

RULE 2.3 BIAS, PREJUDICE, AND HARASSMENT

Comment 2

. . . A judge must avoid conduct that may reasonably be perceived as prejudiced or biased.

Upon receiving notice from Interim Disciplinary Counsel in this matter, you promptly and with candor responded and have fully cooperated with the Board of Judicial Conduct. You have in your meeting with Interim Disciplinary Counsel, acknowledged that you fully recognized your errors in “sharing” these types of social media posts. You have acknowledged that the public’s confidence in the judiciary is undermined when a judge’s conduct simply creates the perception that cases have been prejudiced or that there is a political bias against a party, regardless of whether the perceived bias or prejudice exists. Furthermore, you are acutely aware that the dissemination of these types of articles and images on your social media platform, could have easily been perceived by reasonable minds to undermine the impartiality of the judiciary or be perceived as prejudice or bias.

After a complete and thorough investigation and under the limited and specific facts of this case, the Board acknowledges that there is no proof that you displayed any actual bias, prejudice, or impartiality toward any litigant that appeared before you in an official capacity as a Criminal Court Judge of Shelby County, Tennessee. Similarly, there is no evidence that you authored the above-mentioned article or any of the social media posts.

As a condition of this public reprimand you have agreed, with the Board of Judicial Conduct, through its investigative panel, to complete, either in person or online, a judicial ethics program or other educational program, approved by the Board of Judicial Conduct, through the investigative panel, addressing ethical issues and the use of social media platforms. In further mitigation of the conduct, you have agreed with the Board

that you will refrain from making any future comments or disseminate any substantially similar social media posts on any social media platform that may be reasonably be perceived as prejudiced or biased. Finally, you have agreed that your social media platforms shall remain “private.”

You have served as a Criminal Court Judge of Shelby County, Tennessee since 2006 and have no prior negative history with the Board or with the Board of Professional Responsibility as an Assistant District Attorney for sixteen years prior. Accordingly, this letter constitutes a Public Reprimand for your actions in violation of these Canons and Rules in the above matters, pursuant to Tenn. Code Ann. § 17-5-301.

Sincerely,

Dee David Gay
Board Chair

A handwritten signature in blue ink, appearing to read "Dee David Gay", is written over the typed name and title. The signature is stylized and cursive.