

NEWS FROM:

Supreme Court of Tennessee
Administrative Office of the Courts

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Elizabeth Sykes, Director
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FOR IMMEDIATE RELEASE
May 1, 2009

Today at 12:00 noon, CDT, the Tennessee Court of the Judiciary issued the following:

PUBLIC CENSURE

May 1, 2009

The Honorable Durwood G. Moore
Dickson County General Sessions Judge
Post Office Box 217
Charlotte, Tennessee 37036

In re: Complaint of Benjamin J. Marchant vs.
Judge Durwood G. Moore

Dear Judge Moore:

This shall serve as a public censure pursuant to your agreement with the Investigative Panel of this Court. This censure relates to your conduct as General Sessions Court Judge on January 2, 2009. On this date at approximately 1:30 p.m. Mr. Marchant was a spectator in your courtroom. He had come to observe the court proceedings as he had a friend who had court business and he was there to provide that individual a ride at the conclusion of your court proceedings. While he sat in your court you observed him and ordered your bailiff or police officers in the courtroom to take Mr. Marchant into custody and to administer a drug test on his person. Mr. Marchant was neither a litigant, a defendant or a person who had business before the Court and was a citizen observer. Mr. Marchant at your direction was seized by police officials and required to provide a urine sample which was drug tested. When the drug test was revealed to be negative Mr. Marchant was released. The ordering of the seizure of Mr. Marchant and this testing were illegal and neither statutory nor constitutional basis existed for your conduct. Your conduct in

ordering a spectator to submit to a drug screen violated Canon 2A which requires a judge “to 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.” This conduct also violates Canon 3B(2) which requires a judge to be “faithful to the law and maintain professional competence in it.” The conduct also violated Canon 3B(4) which requires a judge to be “patient, dignified and courteous with litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity.” This conduct also violates the due process rights of Mr. Marchant to privacy and freedom under both the United States Constitution and the Tennessee Constitution. Your conduct in this matter has detrimentally affected the integrity of the Tennessee Judiciary and undermines public confidence in the administration of justice.

This public censure represents the highest degree of judicial discipline authorized by law short of the Court seeking a judgment recommending your removal as a judge from office. In the future you are to accord all citizens who appear in your court their constitutional rights and they shall not be seized on your suspicion for unauthorized drug tests. Each individual who appears before you shall be afforded their due process rights and shall be properly charged and noticed before any adverse action is taken against them.

Sincerely yours,

Don R. Ash
Presiding Judge
Court of the Judiciary

DRA/mpm
cc: Investigative Panel
Disciplinary Counsel