

# FREEDOM FROM RELIGION *foundation*

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August 14, 2013

Timothy R. Discenza  
Disciplinary Counsel  
Tennessee Board of Judicial Conduct  
PO Box 50356  
Nashville, TN 37205

Re: Complaint Against Magistrate Lu Ann Ballew

Dear Mr. Discenza:

I am writing on behalf of the Freedom From Religion Foundation (“FFRF”) to alert you to a serious violation of the Code of Judicial Conduct by Child Magistrate Lu Ann Ballew of the Fourth District. A concerned Tennessee resident contacted FFRF regarding this matter along with other FFRF members from across the country. FFRF is a national nonprofit organization with over 19,000 members across the country, including nearly 300 in Tennessee. FFRF’s purpose is to protect the constitutional principle of separation between state and church.

It is our information and understanding that Ms. Lu Ann Ballew is a Child Support Magistrate<sup>1</sup> with the Fourth Judicial District of Tennessee, which serves Cocke, Grainger, Jefferson and Sevier Counties. Our complainants inform us that on or about August 8, 2013, Magistrate Ballew presided over a child support hearing in Cocke County Chancery Court. We understand the hearing was held in part to resolve a conflict regarding a child’s *last* name. During that hearing, Magistrate Ballew took it upon herself to also address the baby’s first name, which is Messiah. She thus ordered that the baby’s name be changed from “Messiah DeShawn Martin” to “Martin DeShawn McCullough.”<sup>2</sup> According to an interview Magistrate Ballew gave to WBIR-TV in Knoxville, TN, the first name change was warranted because “[t]he word Messiah is a title and it’s a title that has only been earned by one person and that one person is Jesus Christ.”<sup>3</sup> She further explained that a child named Messiah would have a hard time

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<sup>1</sup> The Tennessee Code of Judicial Conduct extends to magistrates: “A judge, within the meaning of this Code, is anyone who is authorized to perform judicial functions, including but not limited to an officer such as a magistrate, referee, court commissioner, judicial commissioner, special master, or an administrative judge or hearing officer.”

<sup>2</sup> Alexis Shaw, *Critics Cry Foul Over Judge’s Decision to Change Baby Messiah’s Name*, ABC News, August 13, 2013, <http://abcnews.go.com/US/baby-messiah-critics-parents-judge-select-child/story?id=19940421>.

<sup>3</sup> WBIR-TV, *Tennessee judge orders baby’s name be changed from “Messiah,”* August 11, 2013, <http://www.wbir.com/news/article/283997/2/Judge-orders-babys-name-be-changed-from-Messiah>.

growing up in a county with a large Christian population: “It could put him at odds with a lot of people and at this point he has had no choice in what his name is.”<sup>4</sup>

Magistrate Ballew’s conduct in this matter sends a clear message to nonbelievers and those who practice minority religions that she is not neutral and that she will abuse her position to advance her own Christian views. Ms. Jaleesa Martin, the child’s mother, stated “I was shocked. I never intended on naming my son Messiah because it means God and I didn’t think a judge could make me change my baby’s name because of her religious beliefs.”<sup>5</sup>

Magistrate Ballew violated Canons 1 and 2 of the Tennessee Code of Judicial Conduct through her actions in this case. Her statements regarding her decision to change the child’s name imposed her own personal religious beliefs upon parties coming before her thus calling into question her ability to conduct herself in a manner that “promotes public confidence in the independence and impartiality of the judiciary.”<sup>6</sup> Her actions further demonstrate a bias on the basis of religion.<sup>7</sup> Her decision — based on her own religious beliefs — signal to the public that she is incapable of offering justice to those who espouse a different view or who practice a different religion or no religion. She’s further shown a lack of respect and compliance with the law by using her position as a child support magistrate to endorse a Christian viewpoint in violation of the Establishment Clause of the First Amendment.

Magistrate Ballew’s behavior displays a lack of impartiality and grace that is expected of a judicial officer. By her statements, she appears to rule based on her own personal religious beliefs instead of from the laws of the State of Tennessee and the United States, which she has sworn to uphold.

We ask that you investigate the actions of Lu Ann Ballew in this case for violations of the Code of Judicial Conduct and that you issue proper sanctions or disciplinary actions to prevent future misconduct. Thank you in advance for your time and attention to this matter.

Sincerely,



Rebecca S. Markert

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<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Tenn. Code of Judicial Conduct, Canon 1, Rule 1.2 (“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.”)

<sup>7</sup> Tenn. Code of Judicial Conduct, Canon 2, Rule 2.3 (“**A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, including but not limited to, bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, and shall not permit court staff, court officials, or others subject to the judge’s direction and control to do so.**”) (emphasis added).