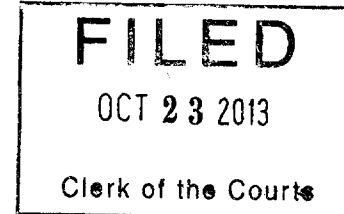


**IN THE TENNESSEE BOARD OF JUDICIAL CONDUCT**

**IN RE: THE HONORABLE LU ANN BALLEW  
CHILD SUPPORT MAGISTRATE  
FOURTH JUDICIAL DISTRICT  
COCKE COUNTY, TENNESSEE**



**Docket No.** M2013-02345-BJC-DIS-FC

**File No.** B13-5426

**FORMAL CHARGES**

Timothy Discenza, Disciplinary Counsel for the Tennessee Board of Judicial Conduct, at the direction of an investigative panel of three members of the Board of Judicial Conduct, in accordance with Tennessee Code Annotated § 17-5-301, *et. seq.*, hereby files formal charges against the Honorable Lu Ann Ballew, Child Support Magistrate, of the Fourth Judicial District, Cocke County, Tennessee.

**Jurisdiction**

1. Following a full investigation authorized under the provisions of Tennessee Code Annotated § 17-5-304(b)(3)(2009 Repl.) the three member investigative panel composed of the Honorable Timothy Easter, the Honorable Joe Fowlkes, and Mr. Thomas Lawless found, pursuant to Tennessee Code Annotated § 17-5-304(d)(2)(A), that there is reasonable cause to believe that the Honorable Lu Ann Ballew has committed judicial offenses alleged herein in violation of Tennessee Code Annotated § 17-5-302, and directed Disciplinary Counsel to file formal charges pursuant to Tennessee Code Annotated § 17-5-304(d)(2)(A).

2. The Honorable Lu Ann Ballew, at times relevant herein, was a Child Support Magistrate, of the Fourth Judicial District, Cocke County, Tennessee, having been appointed to that position. Therefore, Magistrate Ballew is subject to judicial discipline by the Board of Judicial Conduct pursuant to Tennessee Code Annotated § 17-5-102.

### **Charges**

Disciplinary Counsel charges the Honorable Lu Ann Ballew as follows:

#### **Count I**

3. On or about May 29, 2013, a Petition to Establish Paternity was filed in the Chancery Court of Cocke County Tennessee in which Jaleesa Martin was named as petitioner and Jawaan P. McCullough was named as Respondent. This petition alleged that the Respondent was the natural father of Messiah D. Martin, a child born on January 9, 2013. The petition asked that the Respondent be found to be the natural father of the child, asked for a determination of various matters concerning child support, and asked that the child's surname be determined. The petition did not address any matter concerning the child's first name.

4. On or about July 18, 2013 the parties appeared before Child Support Magistrate Lu Ann Ballew who conducted a hearing, and entered an Agreed Order on or about July 29, 2013 addressing all matters but the name change requested in the original petition. The matter was continued until August 8, 2013, to be again heard by Child Support Magistrate Ballew.

5. On or about August 8, 2013, the parties again appeared before Child Support Magistrate Lu Ann Ballew who conducted a hearing concerning the name of the child. During this hearing, both parents expressed that they did not want the first name or middle name of the child to be changed. At the conclusion of the hearing, Child Support Magistrate Lu Ann Ballew ordered that the child's name be change to Martin Deshawn McCullough, expressing in the Statement of Facts and Reasons Supporting Name Change filed by her with the order on August 13, 2013 that “ *This court finds that it is not in the child's best interest to keep the first name, “Messiah”. “Messiah” means Savior, Deliverer, the One who will restore God's Kingdom. “Messiah” is a title held only by Jesus Christ.*”

6. On or about August 13, 2013, Child Support Magistrate Lu Ann Ballew gave an interview in her office to WBIR-TV, a local television station, that was broadcast on that date in which she stated that the reason that she had ordered Messiah DeShawn Martin's name changed to Martin Deshawn McCullough was that “*The 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.*”

7. Subsequent to the hearing of August 8, 2013 both the petitioner Jaleesa Martin, and the respondent, Jawaan P. McCullough, filed Requests for a Hearing by the Judge indicating their dissatisfaction with the decision of the Child Support Magistrate Lu Ann Ballew in connection with the hearing of August 8, 2013.

8. At all times described in the preceding paragraphs, the said Lu Ann Ballew, as a Child Support Magistrate, was subject to the Code of Judicial Conduct, as set out in Rule

10, Rules of the Supreme Court of Tennessee, that were then in effect. In pertinent part, the Code of Judicial Conduct, by and through its Canons, provided as follows:

**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 1.1 Compliance with the Law**

A judge shall comply with the law, including the Code of Judicial Conduct.

**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.

**Comment**

[1] Public confidence in the judiciary is eroded by improper conduct and conduct that creates the appearance of impropriety. This principle applies to both the professional and personal conduct of a judge.

[2] A judge should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens, and must accept the restrictions imposed by the Code.

[3] Conduct that compromises or appears to compromise the independence, integrity, and impartiality of a judge undermines public confidence in the judiciary. Because it is not practicable to list all such conduct, the Rule is necessarily cast in general terms.

[4] Judges should participate in activities that promote ethical conduct among judges and lawyers, support professionalism within the judiciary and the legal profession, and promote access to justice for all.

[5] Actual improprieties include violations of law, court rules or provisions of this Code. 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 2.2 Impartiality and Fairness**

A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

**Comment**

[1] To ensure impartiality and fairness to all parties, a judge must be objective and open-minded.

[2] Although each judge comes to the bench with a unique background and personal philosophy, a judge must interpret and apply the law without regard to whether the judge approves or disapproves of the law in question.

**RULE 2.3 Bias, Prejudice, and Harassment**

(A) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.

(B) 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.

(C) A judge shall require lawyers in proceedings before the court to refrain from manifesting bias or prejudice, or engaging in harassment, based upon attributes including but not limited to race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, against parties, witnesses, lawyers, or others.

(D) The restrictions of paragraphs (B) and (C) do not preclude judges or lawyers from making legitimate reference to the listed factors, or similar factors, when they are relevant to an issue in a proceeding.

**Comment**

[1] A judge who manifests bias or prejudice in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute...

**Rule 2.10 Judicial Statements on Pending and Impending Cases**

(A) A judge shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court, or make any nonpublic statement that might substantially interfere with a fair trial or hearing.

(B) A judge shall not, in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

9. The above-described conduct and actions of Child Support Magistrate Lu Ann Ballew set forth herein in paragraphs 3 through 7 constitute a violation of the Code of Judicial Conduct as set forth in the preceding paragraph 8, and as such, subject her to the sanctions provided by the provisions of Tennessee Code Annotated § 17-5-301.

**NOTICE**

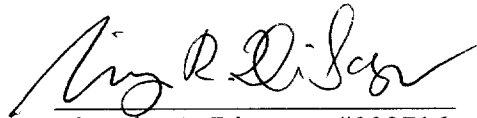
The Honorable Child Support Magistrate Lu Ann Ballew is hereby given written notice of the details of the Formal Charges brought against her pursuant to Tenn. Code Ann. § 17-5-307.

Pursuant to Tenn. Code Ann. § 17-5-307(c), Magistrate Ballew shall have thirty (30) days from and after the date of receipt of these Formal Charges to file an Answer with the Court by filing the same at the Office of the Clerk of the Supreme Court, 100 Supreme Court Building, 401 Seventh Avenue North, Nashville, Tennessee 37219 and by serving a copy on Disciplinary Counsel at P.O. Box 50356, Nashville, Tennessee 37205.

Failure to answer these Formal Charges shall constitute an admission of the factual allegations not answered.

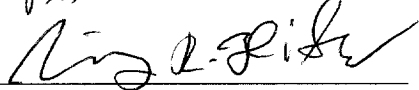
WHEREFORE, Disciplinary Counsel moves the Board to set this matter for hearing before a Hearing Panel of the Board of Judicial Conduct at such location where the Board of Judicial Conduct may convene by law, within sixty (60) days from and after the date the Answer is filed by Magistrate Ballew as required by Tenn. Code Annotated § 17-5-308(a), or, in the event no Answer is filed, to set the matter within ninety (90) days of the date these Formal Charges are filed with the Clerk of the Court, in order to comply with the statutory time limit, and upon the hearing of this action, to impose just and proper sanctions as provided by law, including the costs and discretionary costs as provided by law.

This the 23 day of October, 2013.



Timothy R. Discenza #008716  
Disciplinary Counsel  
Tennessee Board of Judicial Conduct  
P.O. Box 50356  
Nashville, Tennessee 37205

Patrick McHale by



Patrick J. McHale, # 004643  
Assistant Disciplinary Counsel  
Tennessee Board of Judicial Conduct

APPROVED BY THE INVESTIGATIVE PANEL  
IN ACCORDANCE WITH RULE 6, SECTION 4  
OF THE RULES OF PRACTICE AND PROCEDURE  
OF THE TENNESSEE BOARD OF JUDICIAL CONDUCT:

BY: Timothy Easter by  
[Signature]  
Timothy Easter  
Investigative Panel Member

BY: Joe Fowlkes by  
[Signature]  
Joe Fowlkes  
Investigative Panel Member

BY: Thomas Lawless by  
[Signature]  
Thomas Lawless  
Investigative Panel Member