

STATE OF MICHIGAN

BEFORE THE MICHIGAN JUDICIAL TENURE COMMISSION

COMPLAINT AGAINST:

Hon. Wade H. McCree
Wayne County Circuit Court
Frank Murphy Hall of Justice
1421 St. Antoine, Room 202
Detroit, MI 48226

Formal Complaint No. 93

**THE HONORABLE WADE H. MCCREE ANSWER
TO THE JUDICIAL TENURE COMMISSION'S COMPLAINT**

The Hon. Wade H. McCree, by and through his attorneys, Collins Einhorn Farrell, and in response to the Michigan Judicial Tenure Commission's complaint states as follows

1. Respondent is, and at all material times was, a judge of the 3rd Circuit Court, County of Wayne, State of Michigan.

ANSWER: Answering paragraph 1, Judge McCree admits. Judge McCree has served as a judge in the Third Circuit Court since 2004.

2. As a judge, Respondent is subject to all the duties and responsibilities imposed on him by the Michigan Supreme Court, and is subject to the standards for discipline set forth in **MCR 9.104 and MCR 9.205.**

ANSWER: Answering paragraph 2, Judge McCree admits.

**COUNT I
IMPROPER CONDUCT - PEOPLE V. KING**

3. On March 12, 2012, pursuant to MCL 750.165, a felony warrant was issued against Robert King ("King") for failing to pay child support, under 36th District Court Case No. 2012-57181.

ANSWER: Answering paragraph 3, and on information and belief, Judge McCree admits. In further answer and to the extent it is alleged that Judge McCree had a

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relationship with the complaining witness/custodial parent in *People v. King* (Geniene LaShay Mott) at the time the felony warrant was issued, this allegation is denied as untrue.

4. The complaining witness/custodial parent in *People v. King* was Geniene LaShay Mott ("Mott").

ANSWER: Answering paragraph 4, Judge McCree admits.

5. Following a March 21, 2012 arraignment before 36th District Court Magistrate Renee R. McDuffee, the case was transferred to Respondent's docket under Circuit Court Case No. 12-003141-01-FH.

ANSWER: Answering paragraph 5, and on information and belief, Judge McCree admits.

6. On March 28, 2012, the case was scheduled for arraignment on the information, preliminary examination and-dispositional conference before Respondent.

ANSWER: Answering paragraph 6, Judge McCree admits that Mr. King was scheduled to appear before him on March 28, 2012 for an arraignment on the information and a preliminary examination. The court file does not reference that a "dispositional conference" (a term with which Judge McCree is not familiar) was scheduled for March 28th and, therefore, that portion of paragraph 6 is denied as being untrue.

7. On March 28, 2012, with King and Mott present before him, Respondent conducted an arraignment and accepted defendant's waiver of the preliminary examination.

ANSWER: Answering paragraph 7, Judge McCree admits that Mr. King was present before him on March 28, 2012, but neither admits nor denies whether Ms. Mott was also present at the hearing as he has no memory of Ms. Mott being present and the transcript does not reflect that Ms. Mott was present. Judge McCree further admits

that he conducted an arraignment on March 28, 2012 and following the arraignment accepted Mr. King's waiver of the preliminary examination. To the extent paragraph 7 alleges that Judge McCree had a relationship with Ms. Mott at the time of the March 28, 2012 hearing, this allegation is denied as being untrue.

8. On March 28, 2012, Respondent also conducted a dispositional conference, thereafter adjourning *People v. King* to May 21, 2012 for a pre-trial.

ANSWER: Answering paragraph 8, Judge McCree admits that, after Mr. King waived his preliminary examination on March 28, 2012, his case was set for a May 21, 2012 pre-trial. Judge McCree is not familiar with the term "dispositional conference" and unless a "dispositional conference" is waiver of a preliminary exam – Judge McCree denies the balance of paragraph 8 for the reason that it is untrue.

9. On May 21, 2012, with Mott and King present before him, Respondent accepted King's guilty plea to the charge of failing to pay child support, MCL 750.165.

ANSWER: Answering paragraph 9, Judge McCree admits, but in further answer, and to the extent paragraph 9 asserts that Judge McCree has a relationship with Ms. Mott at the time he conducted the May 21, 2012 hearing and accepted Mr. King's guilty plea, the allegation is denied because it is untrue.

10. King's plea was pursuant to MCL 771.1(1), Michigan's delayed sentence statute.

ANSWER: Answering paragraph 10, Judge McCree admits.

11. Under the terms of the plea agreement, King was obligated to make timely payments of \$280.50 per month in child support and \$50.00 per month in arrearages.

ANSWER: Answering paragraph 11, Judge McCree admits.

12. Under the terms of the plea agreement, King was also ordered to make a \$400.00 payment at the time of the plea and a \$1,000.00 payment by April 19, 2013.

ANSWER: Answering paragraph 12, Judge McCree admits and by way of further response, states that if Mr. King complies with the terms of the plea agreement, his guilty plea will be withdrawn and his case will be dismissed.

13. Following King's guilty plea, Respondent scheduled the case for review hearings on August 16, 2012 and November 15, 2012.

ANSWER: Answering paragraph 13, Judge McCree admits. By way of further response, such review hearings are scheduled in all felony non-support cases involving a delayed sentence to ensure that the defendant is complying with the terms of the agreement. In addition to the review hearings, a delayed sentencing date of April 19, 2013 was also scheduled. If Mr. King is in compliance with the terms of the plea agreement on April 19, 2013, his guilty plea will be withdrawn and his case will be dismissed.

14. On or about May 21, 2012, Respondent reviewed the Friend of the Court as well as the Prosecutor's file on *People v. King* and obtained Mott's personal information, including her personal phone number.

ANSWER: Answering paragraph 14, and in the form and manner alleged, Judge McCree denies the allegation because it is untrue. Judge McCree's present recollection is that he obtained Ms. Mott's business card from his courtroom deputy, although it is possible that he may have looked at the Friend of the Court File and/or Prosecutor's file to confirm the spelling of Ms. Mott's name.

15. At the conclusion of the May 21, 2012 proceedings, Respondent provided Mott with his judicial business card and requested that she contact him.

ANSWER: Answering paragraph 15, and in the form and manner alleged, Judge McCree denies the allegation because it is untrue. Judge McCree's present recollection is that Ms. Mott obtained his business card from his courtroom deputy.

16. On or about May 22, 2012, Mott called Respondent's court and left a message for Respondent to return her call.

ANSWER: Answering paragraph 16, Judge McCree admits that Ms. Mott called his chambers on a date after the May 21, 2012 hearing, but does not know the date Ms. Mott made the call and, therefore, the balance of paragraph 16 is neither admitted nor denied for lack of sufficient information.

17. On or about May 22, 2012, Respondent contacted Mott by phone and made plans to meet her for lunch on May 30, 2012.

ANSWER: Answering paragraph 17, Judge McCree admits that he called Ms. Mott to schedule a lunch for May 30, 2012, but in further answer, he does not recall whether his call was placed on May 22, 2012 and, therefore, the allegation is neither admitted nor denied for lack of sufficient information.

18. On May 30, 2012, Respondent accompanied Mott to lunch.

ANSWER: Answering paragraph 18, Judge McCree admits.

19. On May 30, 2012, Respondent and Mott exchanged cell phone text messages in which Respondent suggested that they "get their calendars together..."and meet again.

ANSWER: Answering paragraph 19, Judge McCree has been unable to retrieve the cited text message. The Commission has provided Judge McCree's counsel with a number of text messages, including the text message cited in paragraph 19. On information and belief, the Commission apparently obtained the cited text messages referenced in their complaint from Ms. Mott. These text messages forwarded by the JTC appear to be incomplete, are arranged in a fashion that makes them difficult to decipher, and in some cases include information that has been "blacked out" (per the Commission apparently by Ms. Mott). Judge McCree cannot therefore confirm whether the text messages provided by the Commission are accurate. However, and in

further answer, he admits that the text messages provided by the Commission include a message from May 30, 2012 referencing a statement that Judge McCree and Ms. Mott should coordinate their calendars together. This message appears to have been sent in response to a message Ms. Mott sent to Judge McCree on the same date telling Judge McCree that she would like to see him.

20. Beginning on May 30, 2012, and until mid-November of 2012, Respondent remained in contact with Mott in person, by e-mail, by telephone or by cell phone text messages.

ANSWER: Answering paragraph 20, Judge McCree admits that he remained in contact with Ms. Mott through November 2012, but in further response the contact with Ms. Mott after October 31, 2012 was made for purposes of resolving issues relating to Ms. Mott's claimed pregnancy and Ms. Mott's intentions regarding same.

21. Between May and mid-November of 2012, Respondent exchanged numerous cell phone text messages with Mott.

ANSWER: Answering paragraph 21, Judge McCree admits, but in further response, states that any text messages exchanged after October 31, 2012 were for the purposes set forth in response to paragraph 20.

22. Between May and mid-November of 2012, Respondent exchanged numerous computer email messages with Mott.

ANSWER: Answering paragraph 22, Judge McCree admits that he exchanged some email messages with Ms. Mott, but in further response believes his last email message to Ms. Mott occurred in October 2012. Ms. Mott did send Judge McCree an email message on December 3, 2012, and Judge McCree did not respond to that email.

23. Between May and mid-November of 2012, Respondent repeatedly discussed the merits of *People v. King* with Mott.

ANSWER: Answering paragraph 23, and in the form and manner alleged, Judge McCree denies the allegation because it is untrue. In further response, Judge McCree exchanged text messages with Ms. Mott a day or two before Mr. King's August 16, 2012 review hearing. In his texts with Ms. Mott, Judge McCree explained the potential actions he could take in the event Mr. King was not in compliance with the terms of the delayed sentencing agreement. Ms. Mott made a number of "suggestions" in her text messages, some of which involved requiring Mr. King to pay more than he was obligated to pay by the terms of the order of delayed sentence. Judge McCree advised Ms. Mott that he could not order Mr. King to pay more than the consent order required nor could he order Mr. King to pay any quicker than the order required. Judge McCree advised Ms. Mott that his options were to send Mr. King to jail or order that he be placed on a tether until a payment was made. The statements Judge McCree made to Ms. Mott were similar to what Judge McCree has told other complaining witnesses in felony non-support cases.

24. Between May, 2012 and mid-November, 2012, Respondent became involved in a sexual affair with Mott.

ANSWER: Answering paragraph 24, Judge McCree admits that he became involved in a sexual relationship with Ms. Mott that began in mid-June 2012. This relationship did not impact any of Judge McCree's decisions as Mr. King had plead guilty and been placed on a delayed sentenced before Judge McCree met Ms. Mott and began his relationship with Ms. Mott.

25. The sexual acts between Respondent and Mott took place at various locations, including Respondent's judicial chambers.

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ANSWER: Answering paragraph 25, Judge McCree admits that he made the unfortunate decision to engage in a sexual relationship with Ms. Mott and also admits that on a few occasions, the relationship took place in his chambers.

26. On numerous occasions, Respondent escorted Mott into the courthouse through the building's back entrance, reserved for judges, court employees and members of the Wayne County Sheriff's Department.

ANSWER: Answering paragraph 26, Judge McCree admits that he occasionally brought Ms. Mott into the courthouse through the building's back entrance, but further states that Ms. Mott did not have uninhibited access to the courthouse and that the safety of the judges, court employees, and members of the Wayne County Sheriff's Department who typically use the building's back entrance was never compromised. In further response, none of the Wayne County Circuit Court judges have been precluded from escorting friends and family into the court building via the building's back entrance.

27. On numerous occasions, Respondent escorted Mott into his judicial chambers.

ANSWER: Answering paragraph 27, Judge McCree admits.

28. On numerous occasions between May and mid-November of 2012, Respondent permitted Mott to remain in his judicial chambers while he was on the bench adjudicating his criminal docket.

ANSWER: Answering paragraph 28, and in the form and manner alleged, Judge McCree denies the allegation because it is untrue. On information and belief there were two occasions Judge McCree did allow Ms. Mott to remain in his chambers while he was on the bench adjudicating cases and on both occasions Ms. Mott was accompanied by her six-year old daughter.

29. Respondent instructed Mott to keep him informed whether King was complying with his delayed sentence agreement by making timely child support payments.

ANSWER: Answering paragraph 29, Judge McCree denies same for the reason that it is untrue. Although Ms. Mott probably told Judge McCree whether Mr. King was in compliance with his delayed sentence agreement, Judge McCree did not “instruct” Ms. Mott to keep him so informed.

30. On August 16, 2012, *People v. King* was scheduled for a review hearing to determine whether King complied with the terms of his delayed sentence plea agreement.

ANSWER: Answering paragraph 30, Judge McCree admits that the review hearing was scheduled to occur on August 16th. This hearing was set on the date when Mr. King agreed to plead guilty. The purpose of the review hearing was to determine whether Mr. King was in compliance with the terms of the delayed sentence agreement. If Mr. King was in compliance on August 16, 2012, he would not have needed to appear before Judge McCree. The August 16, 2012 hearing date was in place before Judge McCree began his relationship with Ms. Mott.

31. Prior to the August 16, 2012 review hearing Mott advised Respondent that King was not in compliance with his delayed sentence agreement.

ANSWER: Answering paragraph 31, and in the form and manner alleged, Judge McCree denies the allegation because it is untrue. In further answer Judge McCree acknowledges that Ms. Mott informed him shortly before the August 16, 2012 review hearing that Mr. King was behind on his child support payments.

32. On August 12, 2012, in response to Mott's texted suggestion to impose a jail sentence until or unless King paid \$2500.00 in cash, Respondent stated, via text message, that:

I figured if hasn't come current by his courtdade, he gets jail 2 pay.
If he says he can bring me the \$\$, I'll put him on a tether till he
brings the receipt 2 FOC or do 'double time'.

ANSWER: Answering paragraph 32, Judge McCree has been unable to retrieve the cited text message. Text messages have been provided to his counsel by the Commission but Judge McCree cannot confirm the authenticity or accuracy of the messages including the message quoted above in paragraph 32. Via the message, Judge McCree explained to Ms. Mott that he could not order Mr. King to pay \$2,500 as that was more than the probation order would have required. He also told Ms. Mott that his options included sentencing Mr. King to jail or ordering that he be placed on a tether until a payment was made which are the same options available to Judge McCree in all cases in which a defendant has failed to comply with the terms of a sentence agreement.

33. On August 12, 2012, Respondent exchanged additional text messages with Mott discussing King's sentence.

ANSWER: Answering paragraph 33, Judge McCree has been unable to retrieve his text messages with Ms. Mott from August 12, 2012, but admits that the text messages provided to his counsel by the Commission include messages from August 12. In those messages, Ms. Mott made a number of "suggestions," many of which involved requiring Mr. King to pay more than he was obligated to pay by the terms of the delayed sentence order. Judge McCree advised Ms. Mott that he could not order Mr. King to pay more than the consent order required him to pay and he could not order Mr. King to pay any quicker than the delayed sentence order required. None of the text messages exchanged suggested that Ms. Mott "called the shots" regarding Mr. King's case. To the contrary, the text messages demonstrate that Judge McCree told Ms. Mott that he could not do what she wanted him to do.

34. Respondent engaged in other discussions of *People v. King* with Mott, including on, but not limited to the following dates:

- a. August 16,2012
- b. September 18,2012
- c. November 15,2012

ANSWER: Answering paragraph 34, Judge McCree has been unable to retrieve any of his text messages with Ms. Mott from August 16, 2012, September 18, 2012 or November 15, 2012, but admits that the text messages provided to his counsel by the Commission include messages from those dates. Judge McCree denies as untrue that the text messages constituted “discussions” of the *King* case. For example, Ms. Mott sent Judge McCree a text message on September 18, 2012 stating “BTW check on this Friday.” Judge McCree did not respond to this message.

35. Prior to the review hearing Respondent also engaged in ex parte discussions of *People v. King* with the Assistant Prosecuting Attorney ("APA") Sharon Grier.

ANSWER: Answering paragraph 35, and in the form and manner alleged, Judge McCree denies the allegation because it is untrue. Judge McCree typically conducts “planning” conversations before his docket call with the prosecutors assigned to his courtroom regarding the cases on his docket in an effort to insure that his docket moves efficiently. Judge McCree does not recall but likely would have had such a conversation with Ms. Grier regarding the *King* case (as well as the other cases on his August 16, 2012 docket).

36. At least as early as August 12, 2012, Respondent was aware that King was on probation to Oakland County Circuit Court.

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ANSWER: Answering paragraph 36, Judge McCree denies the allegation as he does not recall ever being aware that Mr. King was on probation to the Oakland County Circuit Court.

37. At least as early as August 12, 2012, Respondent was aware that a felony conviction or a jail sentence imposed in his court would be a violation of King's probationary status in Oakland County, exposing King to a ten-year prison sentence.

ANSWER: Answering paragraph 37, Judge McCree does not recall knowing that Mr. King was on probation in Oakland County, but in further answer, he is aware that criminal defendants who appear before him and who violate the terms of an existing probation could be sentenced to jail or convicted of a felony. Mr. King was not sentenced to jail or convicted of a felony by Judge McCree.

38. On August 16, 2012, Respondent assisted Mott in bringing her cell phone into his courtroom, in violation of a "no cell phones" security policy of the Frank Murphy Hall of Justice.

ANSWER: Answering paragraph 38, Judge McCree admits.

39. On August 16, 2012, Respondent sentenced King to a tether until the amount of \$672.00, outstanding under the delayed sentence agreement, was paid in full.

ANSWER: Answering paragraph 39, Judge McCree admits. Judge McCree's decision to place Mr. King on a tether until he paid the money he owed under the delayed sentence agreement was the same decision that he has made in any of the hundreds (if not thousands) of felony non-support cases over which he has presided when a defendant is not in compliance with the terms of a delayed sentence agreement.

40. As part of the sentence, Respondent ordered that failure to pay the \$672.00 by August 29, 2012 shall result in the cancellation of King's delayed sentence agreement and the entry of a felony conviction.

ANSWER: Answering paragraph 40, Judge McCree denies same for the reason that it is untrue. The transcript of the August 16, 2012 review hearing reflects that Judge McCree told Mr. King that if he failed to pay the \$672 by August 29, 2012 “we may have to withdraw the delayed sentence and look to have the felony conviction with the 60 month term of probation.” (August 16, 2012 Transcript, p 8, emphasis added).

41. Respondent then adjourned the case until August 29, 2012.

ANSWER: Answering paragraph 41, Judge McCree admits that Mr. King’s next court date was scheduled for August 29, 2012. However, Mr. King did not need to appear on that date if he paid the \$672 that was outstanding under the delayed sentence agreement.

42. The sentence Respondent imposed on the defendant in *People v. King* on August 16, 2012 was consistent with Respondent’s prior discussions with Mott on August 12, 2012, August 15, 2012 and August 16, 2012.

ANSWER: Answering paragraph 42, Judge McCree denies same for the reason that it is untrue. Ms. Mott’s text messages of August 12, 2012 reflect that she wanted Judge McCree to sentence Mr. King to jail and order that he pay more than what was owed under the delayed sentence agreement. Judge McCree did neither. Judge McCree’s order, as it relates to Mr. King was similar (if not identical) to orders he has entered in any of the hundreds of other felony non-support cases over which he has presided.

43. Respondent continued to engage in ex parte discussions of *People v. King* with Mott after the August 16, 2012 review hearing.

ANSWER: Answering paragraph 43, and in the form and manner alleged, Judge McCree denies the allegation because it is untrue. Ms. Mott may have mentioned Mr. King after August 16, 2012, but Judge McCree does not recall any “discussions”

regarding the *King* case. If there were any discussions, the “discussions” would have been initiated by Ms. Mott.

44. Respondent failed to disqualify himself from *People v. King* and/or failed to have the case transferred to another judge until September 18, 2012.

ANSWER: Answering paragraph 44, Judge McCree admits. Judge McCree acknowledges that he should have transferred the *King* case before the August 16, 2012 hearing. The August 16th hearing was the only hearing that Judge McCree presided over in the *King* case during the course of his relationship with Ms. Mott. Judge McCree acknowledges that it was wrong for him not to transfer the case to another judge before the August 16, 2012 hearing. Unfortunately, it did not dawn on Judge McCree until just prior to Mr. King actually appearing in front of him on August 16, 2012 that a hearing involving Mr. King was actually going to take place. Judge McCree had thought Mr. King would pay the outstanding amount owed under the delayed sentence agreement on the eve of the court date as had been Mr. King’s usual practice in the past and if Mr. King had paid the amounts he owed under the delayed sentence agreement, he would not have appeared before Judge McCree.

45. On September 18, 2012, at approximately 8:46 am, Respondent sent the following text message to Mott regarding the transfer of *People v. King* to the docket of the Hon. James Callahan:

Running upstairs 2 C if Judge Callahan will 'take'
Brother King's case. I'll B N touch w/a quickness:-)

ANSWER: Answering paragraph 45, Judge McCree has been unable to retrieve the cited text message, but admits that the text messages provided to his counsel by the Commission (which he cannot confirm the authenticity or accuracy of) include the message quoted above in paragraph 45.

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46. On September 18, 2012, at approximately 9:48 am, Respondent sent the following text message to Mott regarding the transfer of *People v. King* to the docket of the Hon. James Callahan:

DONE DEAL!!!:-). I told a story so well, I had me believing it!!
Brother King is on his way 2 'hangin' Judge Callahan.
He fuck up Once (sic) & he's through!!

ANSWER: Answering paragraph 46, Judge McCree has been unable to retrieve the cited text message, but admits that the text messages provided to his counsel by the Commission (which he cannot confirm the authenticity or accuracy of) include the message quoted in paragraph 46.

47. In the process of transferring *People v. King* to the docket of the Hon. James Callahan, Respondent provided false information to APA Grier as well as to the Chief Judge Timothy Kenney.

ANSWER: Answering paragraph 47, Judge McCree denies same for the reason that it is untrue. Judge McCree told Sharon Grier that he was transferring the case because his son and Ms. Mott's son attended a social event together. This representation is true as the boys attended a football game together at Wayne State University. Judge McCree knew he needed to transfer the case and he did so, and did not think it was necessary to admit his affair with Ms. Mott to Ms. Grier.

48. On November 15, 2012, *People v. King* was scheduled for another review hearing before the Hon. James Callahan.

ANSWER: Answering paragraph 48, Judge McCree admits same.

49. On November 15, 2012, Respondent engaged in additional discussions of *People v. King* with Mott, via cell phone text messaging.

ANSWER: Answering paragraph 49, Judge McCree has been unable to retrieve any text messages from November 15, 2012, but admits that the text messages provided to his counsel by the Commission (which he cannot confirm the authenticity or accuracy of) include messages from that date. To the extent that it is alleged that these text messages concern the merit of the *King* case, this allegation is denied as untrue. The text messages of November 15, 2012 reflect that Ms. Mott inquired why Mr. King's review hearing in front of Judge Callahan had been adjourned. Judge McCree did not answer Ms. Mott's question and Ms. Mott later advised Judge McCree that the hearing had been adjourned to April 19, 2013, which is the date Mr. King's case will be dismissed if he has met the terms of the delayed sentence agreement. The register of actions from the *King* case reflects that the November 15, 2012 hearing did not take place because Mr. King was in compliance with the terms of his delayed sentence agreement.

50. Based on Mott's requests, Respondent discussed *People v. King* with the prosecuting attorney, Sharon Grier, and then conveyed that information to Mott.

ANSWER: Answering paragraph 50, and in the form and manner alleged, Judge McCree denies the allegation because it is untrue. The text messages of November 15, 2012 provided by the Commission (which Judge McCree cannot confirm the authenticity or accuracy of) indicate that Ms. Mott wanted to know why the November 15, 2012 court date was adjourned. Judge McCree indicated that he would ask Ms. Grier. Judge McCree does not recall speaking with Ms. Grier regarding Mr. King's November 15, 2012 court date, but if he did, the discussion likely involved nothing more

than the fact that the November 15, 2012 hearing did not take place because Mr. King was in compliance with the terms of his delayed sentencing agreement.

51. Between May and November of 2012, Respondent discussed with Mott the pending JTC investigation into his conduct of texting a photograph of himself, nude from the pubic region up, to a female deputy of the Wayne County Sheriff's Department.

ANSWER: Answering paragraph 51, and in the form and manner alleged, Judge McCree denies the allegation because it is untrue. The JTC investigation of Judge McCree's interview with a Fox 2 reporter was a significant event in Judge McCree's life and, therefore, he likely discussed the investigation with Ms. Mott during the course of their relationship. Judge McCree denies the characterization that the photograph was "nude" as the image was no more "nude" than the photos of Olympic swimmers Michael Phelps and Ryan Lochte which appeared in the media worldwide on an almost daily basis during the summer of 2012. As set forth by Judge McCree and as attested to by the deputy, Judge McCree sent the photograph at the deputy's request or after he and the deputy discussed the image. The deputy attested to the fact that she then retained the image as inspiration to motivate her to improve her workouts and eating habits.

52. Respondent repeatedly requested, via text messages and emails, that Mott keep their relationship "quiet" in light of her case pending before him and the pending JTC investigation.

ANSWER: Answering paragraph 52, and in the form and manner alleged, Judge McCree denies the allegation because it is untrue. Although Judge McCree may have mentioned the *King* case and the pending JTC investigation when he asked Ms. Mott for discretion regarding their relationship, he obviously made these requests because he was concerned about his wife and family discovering the relationship.

53. As early as June 20, 2012, Respondent sent an email to Mott in which he stated:

My Judicial Tenure Commission matter has me nervous, as you might expect. I have to be **real** careful until this matter is put to rest. I can only ask humbly for your indulgence. Sorry. Second, you are the complaining witness in a case that is before me. Naturally if it got out that we were seeing each other before your B.D.'s case closed, everybody could be in deep shit. (emphasis in original)

ANSWER: Answering paragraph 53, Judge McCree has been unable to retrieve the cited email, but admits that materials provided to his counsel by the Commission (which he cannot confirm the authenticity or accuracy of) include the quoted email set forth in paragraph 53.

54. On or about November 1, 2012, Mott informed Respondent that she was pregnant with his child.

ANSWER: Answering paragraph 54, and in the form and manner alleged, Judge McCree denies the allegation because it is untrue. Ms. Mott told Judge McCree she was pregnant when Judge McCree told Ms. Mott that he no longer wanted to continue their relationship. Judge McCree believes that this conversation took place on October 31, 2012.

55. On or about December 6, 2012, Mott disclosed the details of her affair with Respondent, including her pregnancy, to Fox 2 News reporter Charlie LeDuff.

ANSWER: Answering paragraph 55, Judge McCree admits. In further response, Mr. LeDuff's story contained a number of misstatements, including 1) that Judge McCree had a relationship with Ms. Mott during the entire pendency of the *King* case, 2) that Mr. King was sentenced to jail, and 3) that Ms. Mott influenced Judge McCree to send Mr. King to jail.

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56. On or about December 6, 2012, Fox 2 News broadcast a report, in which Respondent's text messages discussing King's sentence with Mott, were displayed.

ANSWER: Answering paragraph 56, Judge McCree admits that the Fox 2 News broadcast purported to display some text messages, but Judge McCree cannot confirm whether those messages were complete or accurate. In further response, Judge McCree knows that not all of the text messages with Ms. Mott were displayed. For example, Judge McCree's text message telling Ms. Mott that he could not do what she wanted (i.e., ordering Mr. King to pay more than was required under the delayed sentence agreement) were not displayed in the story. The Fox 2 News story also did not report the fact that Mr. King's sentence was the same, if not identical, to the sentence that Judge McCree has imposed in many of the hundreds of other felony non-support cases where the defendant has not complied with the terms of the delayed sentence agreement.

COUNT II
FALSE REPORT OF A FELONY

57. On or about November 20, 2012, Respondent made a "stalking/extortion" complaint against Mott with the Wayne County Prosecutor's Office.

ANSWER: Answering paragraph 57, Judge McCree admits. Judge McCree made a complaint of stalking and extortion against Ms. Mott because he thought he was a victim of stalking and extortion by Ms. Mott. Prior to contacting the Wayne County Prosecutor's Office, Judge McCree contacted the U.S. Attorney's Office and was advised to call the local prosecutor's office. Judge McCree's complaints were based on many events, including the fact that Ms. Mott had confronted him at his house (which led Judge McCree's wife to contact the police) and at Belle Isle during an afternoon run and that she also confronted him in the judge's parking lot demanding both money and

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his time. Ms. Mott also attempted to contact Judge McCree on his daughter's cell phone, which lead to Judge McCree placing a "block" on his daughter's phone.

58. During the investigation into the above allegations, Respondent provided false information to the investigative team of the Prosecutor's Office, including but not limited to:

ANSWER: Answering paragraph 58, Judge McCree denies that he provided false information to the investigative team of the prosecutor's office and states as follows regarding subparagraphs (a) and (b):

- a. That he had transferred *People v. King* immediately upon starting his relationship with Mott.

ANSWER: Judge McCree does not recall saying or implying that he transferred the *King* case "immediately" after his relationship with Ms. Mott began. To the best of Judge McCree's recollection, he told the investigative team that he had a relationship with Ms. Mott and that he transferred the case to Judge Callahan. The transfer of the *King* case did not become necessary until just prior to the August 16, 2012 review hearing.

- b. That Mott demanded ten thousand dollars in return for terminating the pregnancy and for not revealing Respondent's affair with her to Respondent's wife.

ANSWER: Judge McCree does not recall the exact words he used during his conversation with the investigative team, but he recalls telling the investigators that Ms. Mott wanted money from him for an abortion and for keeping their relationship quiet.

COUNT III
IMPROPER CONDUCT - PEOPLE V. TILLMAN

59. On January 4, 2012, pursuant to MCL 750.165, a felony warrant was issued against Damone Tillman ("Tillman") for failing to pay child support, under 36th District Court Case Number 2012-055049.

ANSWER: Answering paragraph 59, and on information and belief, Judge McCree admits.

60. The defendant in *People v. Tillman* is Mott's cousin.

ANSWER: Answering paragraph 60, Judge McCree admits that he became aware at some point of a relationship between Ms. Mott and Mr. Tillman, but does not recall being aware that he was Ms. Mott's cousin. However, Judge McCree's relationship with Ms. Mott did not impact any of the decisions made in the *Tillman* case. Judge McCree did not preside over any court hearings in the *Tillman* case after he began his relationship with Ms. Mott. The register of actions from the *Tillman* case reflects that there were two court hearings (November 8, 2012 and December 19, 2012) after Judge McCree's relationship with Ms. Mott began (and ended). Judge Kevin Robbins presided over both of these hearings.

61. Following an arraignment on the warrant, conducted on January 11, 2012 by the 36th District Court Magistrate Charles W. Anderson III, *People v. Tillman* was transferred to Respondent's docket and assigned Circuit Court Case No. 12-000686-01-FH.

ANSWER: Answering paragraph 61, and on information and belief, Judge McCree admits. Judge McCree did not have a relationship with Ms. Mott at the time the *Tillman* case was assigned to his docket.

62. On January 18, 2012, Respondent accepted Tillman's guilty plea to failure to pay child support and scheduled the sentencing for April 17, 2012.

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ANSWER: Answering paragraph 62, Judge McCree admits. Judge McCree did not have a relationship with Ms. Mott on the date he accepted Mr. Tillman's guilty plea.

63. On April 17, 2012, Respondent issued an arrest warrant for Tillman's failure to appear.

ANSWER: Answering paragraph 63, Judge McCree admits. Judge McCree did not have a relationship with Ms. Mott when he issued the arrest warrant.

64. On April 19, 2012, Respondent sentenced Tillman to probation, conditioned on timely payment of his child support and arrearage obligations.

ANSWER: Answering paragraph 64, Judge McCree admits. Judge McCree did not have a relationship with Ms. Mott when he sentenced Mr. Tillman.

65. On October 31, 2012, Respondent issued a bench warrant against Tillman for violation of probation.

ANSWER: Answering paragraph 65, Judge McCree admits. The bench warrant was issued because Mr. Tillman was not making timely payment of his child support and arrearage obligations as required by the terms of his probation.

66. On November 8, 2012, the Hon. Kevin Robbins, in Respondent's absence, set a \$500.00 cash or surety bond for Tillman.

ANSWER: Answering paragraph 66, Judge McCree admits.

67. Tillman was incarcerated at the Wayne County Jail - Dickerson facility under an erroneous designation of "remand," which prohibited his release on bond.

ANSWER: Answering paragraph 67, Judge McCree neither admits nor denies same for the lack of sufficient information and knowledge so as which to form a belief as to the truth of allegations. But if Mr. Tillman was incarcerated with a designation of

“remand” this was contrary to Judge Robbins’ decision on November 8, 2012 to set a \$500 cash or surety bond for Mr. Tillman.

68. On November 13, 2013, the *People v. Tillman* case was not scheduled on Respondent's docket.

ANSWER: Answering paragraph 68, Judge McCree admits.

69. On November 13, 2012, Mott advised Respondent that she and her family "will be in [Respondent's] courtroom shortly on Damone Tillma case..." (sic)

ANSWER: Answering paragraph 69, Judge McCree has been unable to retrieve a text message from November 13, 2012, but admits that the text messages provided to his counsel by the Commission (which he cannot confirm the authenticity or accuracy of) include the quoted message set forth in paragraph 69. To the best of Judge McCree's recollection, Judge McCree was not aware in advance of November 13, 2012 that Ms. Mott planned to appear in his courtroom on the *Tillman* case.

70. On November 13, 2012, Mott and her family appeared in Respondent's courtroom.

ANSWER: Answering paragraph 70, Judge McCree neither admits nor denies same for the lack of sufficient information and knowledge so as which to form a belief as to the truth of allegations.

71. Based on his ex parte communications with Mott, on November 13, 2012, Respondent signed an Order for Reduction of Bond.

ANSWER: Answering paragraph 71, and in the form and manner alleged, Judge McCree denies the allegation because it is untrue. If Judge McCree signed an order on November 13, 2012 the order was intended to memorialize Judge Robbins' decision on November 8, 2012 to set a \$500 cash or surety bond for Mr. Tillman.

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72. Respondent issued the Order for Reduction of Bond without any motions having been made.

ANSWER: Answering paragraph 72, and in the form and manner alleged, Judge McCree denies the allegation because it is untrue. Judge Robbins had decided on November 8, 2012 to set a \$500 cash or surety bond for Mr. Tillman.

73. Respondent's issuance of the "Order for Reduction of Bond" was not conducted on the record.

ANSWER: Answering paragraph 73, and in the form and manner alleged, Judge McCree denies the allegation because it is untrue. Judge Robbins had already decided to set a \$500 cash or surety bond for Mr. Tillman, a decision on information and belief that was made on the record.

COUNT IV
IMPROPER BENCH CONDUCT AND DEMEANOR

74. Between May and November of 2012, Respondent transmitted numerous text messages to Mott while adjudicating the cases on his docket.

ANSWER: Answering paragraph 74, Judge McCree admits that he sent text messages to Ms. Mott while on the bench, but in further answer the messages were not sent when his court was in session or while he was on the record.

75. Respondent transmitted to Mott text messages containing inappropriate and sexually explicit comments, including, but not limited to the message Respondent transmitted to Mott on June 20, 2012:

Oh yeah, I text from the bench. After last nite, its all I can do not 2 jerk off 'under' the bench:-).

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ANSWER: Answering paragraph 75, and in the form and manner alleged, Judge McCree denies the allegation because it is untrue. Judge McCree has been unable to retrieve the cited text message, but admits that text messages provided to his counsel by the Commission (which he cannot confirm the authenticity or accuracy of) include the message quoted in paragraph 75. Assuming it is confirmed that Judge McCree sent the quoted message, he obviously regrets doing so and further states that the overwhelming majority of his text messages with Ms. Mott were not of a similar nature.

76. On June 30, 2012, Respondent transmitted to Mott a cell phone message from the bench in which he stated:

C'mon, U'r talking about the 'docket from hell', filled w/tatted up, overweight, half-ass English speaking, gap tooth skank hoes ... and then you walk in.

ANSWER: Answering paragraph 76, Judge McCree denies same for the reason that it is untrue. Judge McCree has not been able to retrieve the cited text message, but the messages provided by the Commission reveal that a message may have been sent on May 30, 2012 (not June 30, 2012 as is alleged) at 5:24 p.m. Judge McCree would not have been on the bench when the message was sent. The text message was sent in an effort to flatter Ms. Mott and was not intended to demean any person who had appeared in his courtroom.

77. Numerous text messages Respondent transmitted from the bench contained inappropriate and/or derogatory references to defendants, litigants, or witnesses appearing before him, including, but not limited to the following text message transmitted to Mott on September 10, 2012:

... funny, I just had Monica Conyers' nephew B4 me (ignorant shit. .. as usual).

ANSWER: Answering paragraph 77, and in the form and manner alleged, Judge McCree denies the allegation because it is untrue. Although the Commission has alleged that Judge McCree sent “numerous” text messages from the bench containing inappropriate and/or derogatory references to defendants, litigants, or witnesses, the Commission has cited only one text message from September 10, 2012. Judge McCree has not been able to retrieve the message, but admits that it was included in the messages provided by the Commission to his counsel. The message, if accurately quoted, was not intended to refer to Monica Conyers’ nephew but rather the circumstances that led to the proceeding itself. The overwhelming majority of his text messages with Ms. Mott were not of a similar nature.

78. Respondent transmitted text messages to Mott from the bench during court proceedings in which he made inappropriate and derogatory references to other members of the bench and/or employees of the court.

ANSWER: Answering paragraph 76, Judge McCree denies same for the reason that it is untrue. Judge McCree does not recall sending any text messages to Ms. Mott from the bench or otherwise in which he made inappropriate and derogatory references to other members of the bench and/or employees of the court and there are no such messages included in the 140 pages of text messages provided to Judge McCree’s counsel by the Commission.

79. Additional dates on which Respondent transmitted cell phone text messages from the bench to Mott discussing his cases and/or parties include, but are not limited to the following:

- a. June 21,2012
- b. September 4,2012
- c. September 10,2012
- d. September 19, 201~
- e. September 26,2012
- f. October 3,2012
- g. October 9, 2012

- h. October 16,2012
- i. October 25,2012
- j. October 30,2012
- k. November 1,2012
- l. November 2,2012
- m. November 5, 2012
- n. November 6,2012
- o. November 13,2012

ANSWER: Answering paragraph 79, including subparagraphs (a)-(o), Judge McCree has not been able to retrieve the cited messages, but admit that the messages provided by the Commission include messages from these dates. Judge McCree denies that these messages were “discussing his cases and/or parties.” The text messages (with one exception regarding a reference pertaining to Monica Conyers’ nephew cited in paragraph 77 of this complaint - although Judge McCree does not know whether the nephew was a litigant in a case in front of him) do not include names or other identifying case information and on many occasions were sent in order to inform Ms. Mott of the status of Judge McCree’s docket. For example, on September 4, 2012, Ms. Mott texted Judge McCree inquiring whether he was still available to meet at 1:00 or 1:30 p.m. Judge McCree responded yes as he had “finished the child support cases and winding down my violators.” Judge McCree sent Ms. Mott similar text messages on many of the other dates cited, including on October 3, 2012 (noting that his remaining dozen cases were “relatively simple, but 4 the fact that some of my lawyers R MIA”), on October 16, 2012 (stating that he was “zooming through the docket” and hoped to be out by 1:00 p.m.), and on October 30, 2012 (stating that “docket moving, but its long.”).

COUNT V
MISREPRESENTATIONS TO THE COMMISSION

80. In his answers to the Commission, dated February 22, 2013, Respondent stated that he had "irrevocably" terminated his relationship with Mott on October 31,2012.

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ANSWER: Answering paragraph 80, and in the form and manner alleged, Judge McCree denies the allegation because it is untrue. Judge McCree's February 22, 2013 response to the Commission stated that he "attempted to end his relationship with Ms. Mott on two occasions before October 31, 2012 and irrevocably ended the relationship on October 31st." (Response 10).

81. That representation was false as Respondent actually continued his affair with Mott into November of 2012 as evidenced by various text messages between the parties, including but not limited to the following texts Respondent transmitted to Mott:

- a. November 2, 2012:

Why is it that ALWAYS when I'm the slightest bit delinquent responding D 'conclude' that I don't want D."
- b. November 6, 2012 (referring to his wife):

What she wants may change, but I'll bet she'd really C me 'crumble' if I have the kid AND no \$\$ after she gets hers. Gameplan has 2 B that Consent Judgment.
- c. November 8, 2012

I'LL C U 2MORROW, & WE'LL 'HAVE FUN":-)

ANSWER: Answering paragraph 81, Judge McCree denies same for the reason that it is untrue. Judge McCree acknowledges that he exchanged text messages with Ms. Mott after October 31, 2012, in an effort to placate Ms. Mott and to determine her intentions with respect to her claimed pregnancy. Judge McCree's wife (Laverne McCree) was aware that he was continuing to communicate with Ms. Mott after October 31, 2012 as Judge McCree would update Mrs. McCree on his contacts with Ms. Mott. Indeed, a text message (which detailed Judge McCree's recent contact with Ms. Mott) was erroneously sent to Ms. Mott and was meant for Judge McCree's wife. Ms. Mott

responded on November 13, 2012 that Judge McCree “must have meant to send that text to your wife” and further indicated that now she did not “believe you at all about this divorce.”

82. In his answers to the Commission, dated February 22, 2013, Respondent stated that he told Mott to keep their affair confidential only to keep his wife and family from learning of it.

ANSWER: Answering paragraph 82, Judge McCree denies same for the reason that it is untrue. Although Judge McCree did state in his February 22, 2013 response to the Commission that he wanted his relationship with Ms. Mott kept secret from his wife, he did not indicate that this was the “only” reason that he wanted Ms. Mott to keep their relationship confidential. (Response 40).

83. That representation was false as Respondent in fact instructed Mott to keep their affair secret on several occasions because of a pending 2012 JTC investigation into his conduct of texting what appeared to be a nude photograph of himself to a female member of the Wayne County Sheriff's Department.

ANSWER: Answering paragraph 83, Judge McCree denies that he made a false representation to the Commission. As indicated in his answer to paragraph 82, Judge McCree's response to the Commission did not state that the only reason he wanted Ms. Mott to keep their affair confidential was to keep his wife and family from learning of it.

84. In his answers to the Commission, dated February 22, 2013, Respondent stated that he filed for a divorce from his wife to keep Mott from disclosing their affair to his wife and family and to persuade Mott to terminate her pregnancy.

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ANSWER: Answering paragraph 84, Judge McCree denies same for the reason that it is untrue. In his February 22, 2013 response to the Commission, Judge McCree stated that the divorce complaint was filed “to keep Ms. Mott from disclosing the relationship to his family and continued in the hope that Ms. Mott would agree to terminate her supposed pregnancy.” (Response 46, emphasis added).

85. That representation was false, in that at the time Respondent filed the divorce complaint on October 11, 2012, Respondent was not aware of Mott's pregnancy.

ANSWER: Answering paragraph 85, Judge McCree denies same for the reason that it is untrue. As set forth in response to paragraph 84, Judge McCree's response to the Commission indicated that he “continued” the divorce complaint in the hope that Ms. Mott would agree to terminate her pregnancy.

86. In his answers to the Commission, dated February 22, 2013, Respondent stated that he did not take any action on *People v. Tillman* in November or December of 2012.

ANSWER: Answering paragraph 86, Judge McCree denies same for the reason that it is untrue. Judge McCree's answer to the Commission did not state that he “did not take any action” on the *Tillman* case in November or December of 2012. Judge McCree's answer stated that he “did not participate in any decisions” regarding the *Tillman* case during or after his relationship with Ms. Mott (Response, page 2) and that he did not “preside over any court hearings” in the *Tillman* case after he began his relationship with Ms. Mott (Response 19).

87. That representation was false, in that on November 13, 2012, Respondent, sua sponte, signed an "Order for Reduction of Bond." There was no motion filed to reduce bond, nor were there any on-the-record proceedings.

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ANSWER: Answering paragraph 87, Judge McCree denies same for the reason that it is untrue. Judge McCree does not recall signing an order on November 13, 2012, but if he did, such an order merely reflected Judge Robbins' November 8, 2012 decision to grant Mr. Tillman a \$500 cash or surety bond.

88. In his answers to the Commission, dated February 22, 2013, Respondent stated that he did not know of any familial relationship between Tillman and Mott.

ANSWER: Answering paragraph 88, Judge McCree denies same for the reason that it is untrue. Judge McCree's February 22, 2013 answer to the Commission states that he "does not know the nature of Ms. Mott's relationship with Mr. Tillman." (Response 20-21).

89. That representation was false, as Respondent was informed by Mott that Tillman was her cousin.

ANSWER: Answering paragraph 89, Judge McCree denies same for the reason that it is untrue. Judge McCree acknowledges that he was aware of a relationship between Ms. Mott and Mr. Tillman at some point, but as indicated in his answer to the Commission, he simply did not know the nature of the relationship.

The conduct described above constitutes:

- (a) Misconduct in office, as defined by the Michigan Constitution of 1963, as amended, Article 6, Section 30, and MCR 9.205.

ANSWER: Although the Michigan Constitution does not define "misconduct in the office" as is alleged, Judge McCree admits that his failure to recuse himself from participating in the *King* case after he began his relationship with Ms. Mott constituted misconduct in the office.

- (b) Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution of 1963, as amended, Article 6, Section 30 and MCR 9.205.

ANSWER: The Michigan Constitution does not define conduct clearly prejudicial to the administration of justice, nor does MCR 9.205. Judge McCree denies that his conduct was “clearly prejudicial to the administration of justice” as his relationship with Ms. Mott did not impact his decisions in the *King* case nor did it impact anything that occurred in the *Tillman* case.

(c) Conduct which is prejudicial to the proper administration of justice, in violation of MCR 9.104 (1).

ANSWER: Judge McCree denies that his conduct was prejudicial to the proper administration of justice. As detailed in his above answers, Judge McCree’s relationship with Ms. Mott did not impact his judicial decisions.

(d) Conduct which exposes the legal profession or the courts to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(2).

ANSWER: Judge McCree admits that the media attention about his relationship with Ms. Mott has exposed the legal profession or the courts to obloquy, contempt, censure or reproach.

(e) Conduct which is contrary to justice, ethics, honesty or good morals, in violation of MCR 9.104(3).

ANSWER: Although Judge McCree acknowledges that his decision to engage in an extramarital affair was not an example of “good morals,” he denies that this is the type of conduct which is intended to be encompassed in MCR 9.104(3).

(f) Conduct that violates the standards or rules of professional responsibility adopted by the Supreme Court, contrary to MCR 9.104(4).

ANSWER: Judge McCree admits that he likely violated MCR 9.104(4) as he should have transferred the *King* case to another judge rather than conduct the August 16, 2012 review hearing.

(g) Lack of personal responsibility for your own behavior and for the proper conduct and administration of the court in which you preside, contrary to MCR 9.205(A).

ANSWER: Judge McCree admits that he has violated MCR 9.205(A) and accepts responsibility for his behavior and thinks that he should be sanctioned for his failure to transfer the *King* case to another judge before the August 16, 2012 hearing. In further answer, Judge McCree denies that his conduct had a detrimental impact on the administration of the court as his ultimate decision in the *King* case was no different than those he has made in any of the hundreds of other felony non-support cases over which he has presided.

(h) Failure to establish, maintain, enforce and personally observe high standards of conduct so that the integrity and independence of the judiciary may be preserved, contrary to the Code of Judicial Conduct, Canon 1.

ANSWER: Judge McCree denies that his conduct has violated Canon 1 as his relationship with Ms. Mott did not interfere with the integrity and independence of the judiciary.

(i) Irresponsible or improper conduct which erodes public confidence in the judiciary, in violation of the Code of Judicial Conduct, Canon 2A.

ANSWER: Judge McCree admits that the (mostly wrong) Fox 2 News story about his affair with Ms. Mott likely eroded public confidence in the judiciary.

(j) Conduct involving impropriety and the appearance of impropriety, in violation of the Code of Judicial Conduct, Canon 2A.

ANSWER: Judge McCree admits that his conduct involved impropriety and/or the appearance of impropriety.

(k) Failure to respect and observe the law and to conduct yourself at all times in a manner which would enhance the public's confidence in the integrity and impartiality of the judiciary, contrary to the Code of Judicial Conduct, Canon 2B.

ANSWER: Judge McCree denies that he failed to respect and observe the law.

(l) Conduct in violation of the Code of Judicial Conduct, Canon 2C that a judge should not allow family, social, or other relationships to influence judicial conduct or judgment.

ANSWER: Judge McCree denies that he allowed his relationship with Ms. Mott to influence his judicial conduct or judgment. To the contrary, Judge McCree's decisions in the *King* case were the same as in the many other like cases that have come before him.

(m) Conduct in violation of the Code of Judicial Conduct, Canon 2C that a judge should not use the prestige of office to advance personal business interest or those of others.

ANSWER: Judge McCree denies that he was attempting to use the prestige of his office to advance his personal business interest or those of others.

(n) Failure to be faithful to the law, contrary to the Code of Judicial Conduct, Canon 3A(1).

ANSWER: Judge McCree acknowledges that his failure to transfer the *King* case prior to the August 16, 2012 review hearing may constitute a failure to be faithful to the law contrary to the Code of Judicial Conduct, Canon 3A(1).

(o) Conduct in violation of Code of Judicial Conduct, Canon 3A(3) that a judge should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity.

ANSWER: Judge McCree denies that his conduct evidenced any lack of patience or courtesy to litigants, jurors, witnesses or lawyers.

(p) Conduct in violation of Code of Judicial Conduct, Canon 3A(4) that a judge shall not initiate, permit, or consider ex parte communications.

ANSWER: Judge McCree denies that he “considered” any communications he may have had with Ms. Mott in making his decisions in the *King* case.

(q) Conduct in violation of Code of Judicial Conduct, Canon 3B(I) that a judge should diligently discharge administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials.

ANSWER: Judge McCree denies that he failed to diligently discharge his administrative responsibilities or maintain professional competence in judicial administration as none of the complained of conduct involved or pertained to judicial administrative matters.

(r) Conduct in violation of Code of Judicial Conduct, Canon 3C that a judge should raise the issue of disqualification whenever the judge has cause to believe that grounds for disqualification may exist by MCR 2.003(B).

ANSWER: Judge McCree acknowledges that he violated Canon 3C by failing to disqualify himself from the *King* case prior to August 16, 2012.

(s) Conduct in violation of MCR 2.003.

ANSWER: Judge McCree acknowledges that he likely violated MCR 2.003 by not disqualifying himself from the *King* case prior to August 16, 2012.

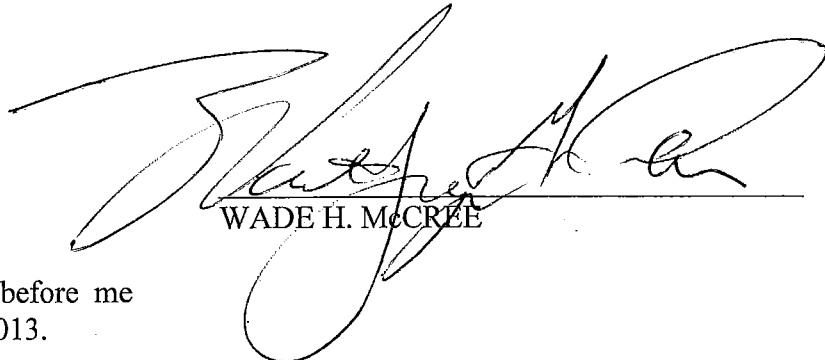
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(t) Conduct in violation of MCL 750.505.

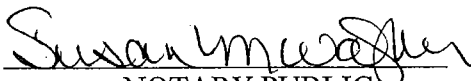
ANSWER: Judge McCree denies the legal conclusion that his conduct constituted a violation of MCL 750.505. Judge McCree's relationship with Ms. Mott did not constitute an obstruction of justice as the relationship did not impact any of his decisions in the *King* or *Tillman* cases.

(u) Conduct in violation of MCL 750.411a

ANSWER: Judge McCree denies the legal conclusion that his conduct violated MCL 750.411a. Judge McCree believed (and still believes) that he was a victim of stalking and extortion (or perhaps blackmail) by Ms. Mott and appropriately reported the matter to the Wayne County Prosecutor's Office after contacting the U.S. Attorney's Office.


WADE H. McCREE

Subscribed and sworn to before me this 24th day of March, 2013.


NOTARY PUBLIC

Oakland County, Michigan
My commission expires: 3-30-13

SUSAN M. WAGNER
Notary Public, State of Michigan
County of Oakland
My Commission Expires Mar. 30, 2013
Acting in the County of

COLLINS EINHORN FARRELL P.C.

By: 

BRIAN D. EINHORN (P13130)
Attorney for the Honorable Wade McCree
4000 Town Center, Suite 909
Southfield, MI 48075
(248) 355-4141

STATE OF MICHIGAN

BEFORE THE MICHIGAN JUDICIAL TENURE COMMISSION

COMPLAINT AGAINST:

Hon. Wade H. McCree
Wayne County Circuit Court
Frank Murphy Hall of Justice
1421 St. Antoine, Room 202
Detroit, MI 48226

Formal Complaint No. 93


THE HONORABLE WADE H. MCCREE AFFIRMATIVE DEFENSES

The Hon. Wade H. McCree, by and through his attorneys, Collins Einhorn Farrell, and for his affirmative defenses states as follows:

1. The Judicial Tenure Commission's unitary structure of investigation, prosecution, and adjudication violates Judge McCree's right to due process.
2. The Judicial Tenure Commission has violated the notice provisions of MCR 9.207(D)(1) and is barred from proceeding on any claims and/or allegations which were not specified in the notice, including but not limited to, Count IV of the complaint.

COLLINS EINHORN FARRELL P.C.

By:


BRIAN D. EINHORN (P13130)
Attorney for the Honorable Wade McCree
4000 Town Center, Suite 909
Southfield, MI 48075
(248) 355-4141

STATE OF MICHIGAN

BEFORE THE MICHIGAN JUDICIAL TENURE COMMISSION

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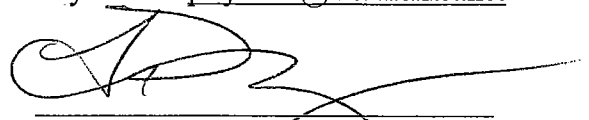
Formal Complaint No. 93

PROOF OF SERVICE

Tammie Dejaeghere being sworn, states that on March 26, 2013, I served original and nine copies Respondent's Answer to Complaint, and Affirmative Defenses and this Proof of Service by hand delivery upon:

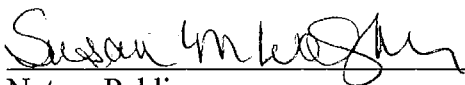
Paul J. Fisher
Executive Director and General Counsel
Michigan Judicial Tenure Commission
3034 W. Grand Blvd., Ste. 8-450
Cadillac Place
Detroit, Michigan 48201

and served one copy to Honorable Charles A. Nelson by email: patjaxmi@frontiernet.net



Tammie DeJaeghere

Subscribed and sworn to me this 26th
day of March, 2013



Notary Public

County of

Expires:

SUSAN M. WAGNER
Notary Public, State of Michigan
County of Oakland
My Commission Expires Mar. 30, 2013
Acting in the County of

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