

Frazier, Veronica (Human Resources)

From: Blackburn, Judge Melissa (G.S. Court)
Sent: Monday, November 10, 2014 9:54 AM
To: Dalton, Judge Angellita Blackshear (G.S. Court); Turner, Judge Dianne (G.S. Court); Mondelli, Judge Michael (G.S. Court); Higgins, Judge William (G.S. Court); [REDACTED]; Jones, Judge Lynda (G.S. Court); Moreland, Judge Casey (G.S. Court); Holt, Judge John Aaron (G.S. Court); Walker, Judge Allegra (G.S. Court); Robinson, Judge Gale (G.S. Court)
Cc: Frazier, Veronica (Human Resources); Hassell, Warner (G.S. Court); Solomon, Saul (Legal)
Subject: Judicial Conduct

Dear Colleagues,

It is my unfortunate duty to report to you an incident involving Judge Casey Moreland which occurred mid-day on Friday, November 7, 2014 within the Ben West suite of offices that house the staff of and provides services for the Mental Health Court. Because of the unseemly nature of this event and the number of persons who are aware of it, substantial publicity is probable and I thought it appropriate for you to learn of this directly from me.

In addition, I have made a direct inquiry to the Board of Judicial Conduct. I have been advised that I have a duty to report which I am professionally not at liberty to shirk. You are entitled to hear this first from me.

THE INCIDENT

At 11:46 on Friday I was handling the Citation Docket in Courtroom 1A. Approximately 100 persons were present, including an assistant district attorney, an assistant public defender, an interpreter, a representative from traffic school, and dozens of citizens.

I received a text message from a female Mental Health staff member that said: "Hey, Moreland is down here yelling and tearing up stuff."

I sent one of my court officers to the suite to see what was happening. My administrative assistant and one of my new Veterans Court staff members came into my courtroom to report that a female staff member had called in tears. I asked them to ask Gina Fox to accompany them to the suite while I finished taking the pleas which were already in progress. Once those pleas were complete I reluctantly recessed my court. Over 50 persons remained, their cases incomplete.

As I approached the suite, one of my male court officers told me that Judge Moreland had left, that Gina Fox was present, and that the matter was under control. I then went to the administrative offices, having asked to meet with Judge Rachel Bell, presiding Judge.

A meeting was held which Judge Rachel Bell, Judge Casey Moreland, Gina Fox and I attended. My administrator Steven Murff arrived during the meeting.

I told Judge Moreland that I would not tolerate his behavior, that it was unacceptable, particularly for a judge. I excused myself to return to my court and finish my docket. After I left Mr. Murff told Mrs. Fox that the women in the suite were in tears and some had threatened to resign. Mrs. Fox replied that she had been employed by the court for 27 years, and these women needed to "grow a set of balls."

After finishing my work I asked that the women prepare statements for me explaining what had occurred. Their accounts are disturbing.

Judge Moreland loudly entered the suite in a rage, claiming personal entitlement to certain empty offices. Two of these offices were used for staff to prepare for the imminent expansion of the Veterans Court in light of new funding expected on the 15th of this month. One was in use to store baby items collected for a Mental Health Court client about to give birth to twins.

According to staff, Judge Moreland or his assistant had called and had learned that Mr. Murff was out of the office with his father at a local hospital. If correct he knew that only women were present. Judge Moreland was described as having stormed into the suite "yelling" and "screaming." He had with him his personal assistant but also one of his court officers. In his rage, Judge Moreland began ripping names off doors wadding them up and throwing them. He entered offices and began tossing the contents into the hallway. He took papers from the desk of a new Veterans Court Coordinator and threw them out

the door. He tried to remove his desk top computer by grabbing it from the desk. It had been installed by Metro I.T. ,however, and he had failed to disconnect it first. He then tried unsuccessfully to access the computer. Judge Moreland then tossed the baby bed mattresses, which had been donated , out into the hallway.

When one of my staff protested, Judge Moreland's court officer signaled her to be silent by swiping a finger across his lips.

Staff has told me that this is not the first occasion in which female employees have felt bullied by Judge Moreland. The shocking comment attributed to Mrs. Fox suggested that her services in human resources could not be depended upon with regard to Judge Moreland. This was confirmed when I learned she was apparently following his ultra vires instructions to rekey my Mental Health Court suite of offices!

Consequently, on Friday afternoon I contacted the Metro Nashville Human Resources Department and requested an investigation into this unseemly incident as well as any history which might demonstrate failure to protect employees in the past. I anticipate that H.R. will respond to my request in person on Monday morning, November, 10, 2014.

WE CANNOT PROFESSIONALLY TOLERATE THIS BEHAVIOR

As colleagues in the judiciary we cannot tolerate bullying, harassment and intimidation of any of our staff, but in particular of female staff. My duty to report, I was informed by the Board, begins with T.C.A. section 19-5-101, which describes the purpose of the Board as providing "an orderly and efficient method for making inquiry into:

(1) The physical, mental and /or moral fitness of any Tennessee judge;

(3) The Judge's commission of any act calculated to reflect unfavorably upon the judiciary of the state or bring the judiciary into disrepute or which may adversely affect the administration of justice in the state.

I take no pleasure in this. If Judge Moreland will review his conduct he will see that it was inappropriate. I wish only the best for him and urge him to seek whatever treatment may be necessary to address his needs.

But we cannot , and I will not, shirk my duty in this matter.

THE PRIMORDIAL CONCERN

Professional concerns aside, these events are troubling on many levels.

- 1) Judge Moreland involved a court officer, who presumed to instruct my staff to remain silent in the face of outrageous behavior. This suggested to them the threat of arrest. Court officers are not personal, private enforcement agents of judges. Because Judge Moreland was not in a duly opened court and no order was being violated, he had no power of contempt whatsoever. The use of a deputy to intimidate employees while Judge Moreland engaged in the disruption of the Mental Health Court work, attempted destruction of property, and sought to intimidate staff can be seen as a criminal violation, specifically official oppression under T.C.A. section 39-16-403. Because Judge Moreland and his deputy acted under color of law, but outside any judicial function, both may be exposed to personal civil liability for constitutional deprivations, actionable under 42 U.S.C. section 1983.
- 2) This behavior , particularly when directed toward female employees, can be viewed as creating an objectively hostile work environment based on gender, and may expose the Metropolitan Government to expensive and avoidable litigation, especially, if this is not an isolated episode.
- 3) The exposure of the Metropolitan Government is enhanced if the words and acts of Mrs. Fox are considered. This displays a text book example of deliberate indifference to unlawful activity. If accurate, Mrs. Fox may no longer be reliably employed in any human resources capacity involving discretion.
- 4) The functioning of my court was interrupted and citizens and official personnel inconvenienced.
- 5) And alarmingly, the suite where Judge Moreland acted out is routinely used to interview, assess and manage mentally ill people. The yelling, violent gestures, the tossing of objects and the like could have been severe triggering events, endangering these clients, staff and even Judge Moreland. Fortunately, no client was present. Judge Moreland did not know that, but he certainly understood the work of the staff he intimidated.

CONCLUSION

I regret being the bearer of bad tidings, but I did not create this situation and I will not ignore it. We have sworn duties to the law and the public.

The complaint before the Board of the Judiciary will be filed the morning of November 10th.

Judge Melissa Blackburn
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Division II

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