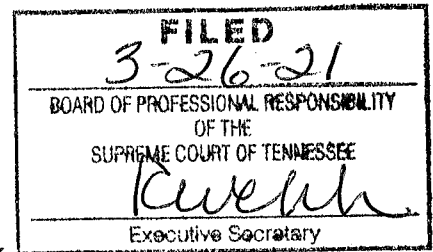


**IN DISCIPLINARY DISTRICT II  
OF THE  
BOARD OF PROFESSIONAL RESPONSIBILITY  
OF THE  
SUPREME COURT OF TENNESSEE**



**IN RE: Loring Edwin Justice,  
BPR #19446, Respondent,  
An Attorney Licensed to  
Practice Law in Tennessee  
(Knox County)**

**DOCKET NO. 2018-2811-2-WM**

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**FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT  
OF THE HEARING COMMITTEE PANEL**

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This matter came on for hearing on January 14, 2021 before a Hearing Committee Panel (the "Panel") consisting of Karen G. Crutchfield, Panel Member; R. Scott Carpenter, Panel Member; and, G. Keith Alley, Panel Chair. The Board of Professional Responsibility (the "Board") was represented by Joseph K. Byrd. The Respondent, Loring Edwin Justice, was represented by Linn Guerro.

At the hearing, numerous late filed exhibits that were not available at the hearing were moved into evidence by Respondent, subject to review and objection by the Board as to whether the late filed exhibits were complete. The Panel kept proof in the case open until January 29, 2021, to allow the parties time to submit and review all proposed late filed exhibits. After the hearing and on January 14, 2021, the Panel was provided with late filed Exhibits 32-41 by Respondent through an email link sent at 10:50 p.m. on January 14, 2021. On January 15, 2021, the Board filed the Board of Professional Responsibility's Stipulation Regarding Late Filed Exhibit 35 and Objection to Late Filed Exhibits 39 and 40, in which filing the Board stipulated that late filed Exhibit 35 as submitted by Respondent was complete, but objected to the introduction of late filed

Exhibits 39-40 into evidence on the grounds that those exhibits are not self-authenticating pursuant to Tenn. R. Evid. 902.

On January 21, 2021, Respondent filed a Response to Objection and Stipulation, in which Respondent raised concerns about the Board's stipulation regarding late filed Exhibit 35 and requested "appropriate time" to cure the objections raised by the Board to late filed Exhibits 39-40 by submitting transcripts signed by the court reporter(s). On January 22, 2021, the Board filed the Board of Professional Responsibility's Reply to Respondent's Response to Stipulation and Objection, and Objection to Respondent's Request to Admit Exhibit, in which the Board renewed its objection to the introduction of Exhibit 29 into evidence as being incomplete, and agreed that Respondent could cure the issue raised by the Board regarding the authentication of late filed Exhibits 39-40 by submitting transcripts signed by the court reporter(s) if filed timely before the close of proof on January 29, 2021. On January 29, 2021, both the Board and the Respondent filed their respective proposed findings of fact and conclusions of law. Thereafter, the Panel Chair extended the time for the Panel to submit its findings and judgment for an additional until March 31, 2021, to allow the Panel time to consider the volume of late filed exhibits and motions related thereto. This case was heard pursuant to Rule 9, Rules of the Tennessee Supreme Court, and after considering the entire file in this matter, including the late filed exhibits as filed and received by the Panel, and the post-hearing motions and objections listed above and rulings thereupon, the Panel makes the following findings of fact, conclusions of law and renders its judgment as follows.

#### **STATEMENT OF THE CASE**

1. On January 4, 2018, the Tennessee Board of Professional Responsibility filed a Petition for Discipline against the Respondent, Loring Edwin Justice ("Mr. Justice").

2. On May 24, 2018, Mr. Justice filed his Answer to the Petition for Discipline.
3. On September 17, 2018, Mr. Justice filed a Motion to Dismiss or Alternatively Motion for Summary Judgment and the motion was denied in the Panel's Order entered December 4, 2018.
4. On November 13, 2018, Mr. Justice filed a Motion for Summary Judgment which was denied by the Panel's Order entered April 29, 2020.
5. Mr. Justice filed an Amended Answer to the Petition for Discipline on April 22, 2019.
6. Mr. Justice filed a second Amended Answer to the Petition for Discipline on July 5, 2019.
7. The Final Hearing for this matter was held by video conference using ZOOM on January 14, 2021. The Board called one witness, Mr. Justice, who did not appear, and who was not subpoenaed to appear. Mr. Justice's counsel did not call any witnesses.
8. On January 15, 2021, the Board filed the Board of Professional Responsibility's Stipulation Regarding Late Filed Exhibit 35 and Objection to Late Filed Exhibits 39 and 40.
9. On January 21, 2021, Respondent filed a Response to Objection and Stipulation.
10. On January 22, 2021, the Board filed the Board of Professional Responsibility's Reply to Respondent's Response to Stipulation and Objection and Objection to Respondent's Request to Admit Exhibit.
11. On January 29, 2021, both the Board and the Respondent filed their respective proposed findings of fact and conclusions of law.

12. On February 1, 2021, the Panel Chair extended the time for the Panel to submit its findings and judgment until March 31, 2021, to allow the Panel time to consider the volume of late filed exhibits and motions related thereto.

### PENDING MOTIONS

1. On January 15, 2021, the Board filed the Board of Professional Responsibility's Stipulation Regarding Late Filed Exhibit 35 and Objection to Late Filed Exhibits 39 and 40.

2. On January 21, 2021, Respondent filed a Response to Objection and Stipulation.

3. On January 22, 2021, the Board filed the Board of Professional Responsibility's Reply to Respondent's Response to Stipulation and Objection and Objection to Respondent's Request to Admit Exhibit.

4. The Panel is of the opinion that: (a) with the Board's stipulation that late filed Exhibit 35 as submitted by Respondent is complete but objecting to the introduction of late filed Exhibits 39-40 into evidence on the grounds that those exhibits are not self-authenticating pursuant to Tenn. R. Evid. 902; (b) the January 21, 2021, Response to Objection and Stipulation filed by Respondent requesting "appropriate time" to cure the objections raised by the Board to late filed Exhibits 39-40 by submitting transcripts signed by the court reporter(s); and (c) with the Board of Professional Responsibility's Reply to Respondent's Response to Stipulation and Objection and Objection to Respondent's Request to Admit Exhibit, renewing the Board's objection to the introduction of Exhibit 29 into evidence as being incomplete, but agreeing that Respondent could cure the issue raised by the Board regarding authentication of late filed Exhibits 39-40 by submitting transcripts signed by the court reporter(s) if filed timely before the close of proof on January 29, 2021; that Respondent should have and did have until January 29, 2021 to submit any "cure" to the form of late filed Exhibits 39-40. Having received no "cure" in the form

of authentication of the transcripts signed by the court reporter(s) identified in proposed Exhibits 39-40 by January 29, 2021, the Panel is of the opinion that the Board's objection is well taken and should be granted in that late filed Exhibits 39-40 were not properly authenticated by the close of proof at the hearing and should not be admitted into evidence. The Panel sustains the Board's objection to the introduction of late filed Exhibits 39-40 into evidence.

### **INTRODUCTION**

The Petition for Discipline consists of one (1) complaint based on the report of informant, Senior Judge Don Ash which is summarized below. By its order, the Panel granted Petitioner's Motion for Sanctions for Noncompliance with Discovery Orders determining that "[f]or all further purposes in this case and at trial, it shall be deemed admitted that Respondent prepared, read, and/or approved the pleadings to which reference is made in paragraphs 12-19 of the Petition for Discipline." [Order entered October 19, 2020 as amended by Order Amending Order Entered October 19, 2020 entered on November 3, 2020; and Order Denying Motion to Alter or Amend entered on December 29, 2020].

After considering the documents introduced at the Final Hearing, the Hearing Panel makes the following findings of fact and conclusions of law:

### **FINDINGS OF FACT**

#### **File No. 52600-2-PS – Informant – Judge Don R. Ash**

1. Mr. Justice was involved in a personal contentious custody case in the Roane County Juvenile Court, styled *Kim Nelson v. Loring Justice*, Case No. 16002.

2. Senior Judge Don Ash was assigned to preside over the matter.

3. At times throughout his custody case, Mr. Justice represented himself. However, Brian Chadwick Rickman joined Mr. Justice as his co-counsel at some point during the pendency of the custody case.

4. Mr. Justice prepared, read, and/or approved four motions from which the Petition for Discipline arises.

5. On December 6, 2016, Mr. Justice prepared, read, and/or approved the Motion for Expanded Holiday Co-Parenting which contained the following statement:

“The Court repeatedly is confused or pretends that the burden of proof is on Defendant to show some change has occurred. The Court persistently articulates differing and nebulous standards for Defendant to transcend and then changes them when Defendant does.” [Trial Exhibit 2, paragraph 10 of the Motion].

6. On December 6, 2016, Mr. Justice prepared, read, and/or approved the Motion to Strike Report of Dr. James Murray which contained the following statements:

“The appearance, perhaps not the reality, but the appearance is the Court is deliberately stacking the record to assist its favored party, the plaintiff.” [Trial Exhibit 3, paragraph 6 of the Motion].

“The Court simply knows better than this as we all do and such an aberrant decision is evidence the Court has profound disdain for Defendant such the Court cannot see the best interests of Noah.” [Trial Exhibit 3, paragraph 11 of the Motion].

7. On December 15, 2016, Judge Ash instructed Mr. Rickman and Mr. Justice to cease using inflammatory and insulting languages in papers filed with the Court. [Trial Exhibit 4].

8. On December 30, 2016, Mr. Justice prepared, read, and/or approved the Defendant’s Motion for Interlocutory Appeal by Permission of the Trial Court under Tenn. R. App. 9 of the Trial Court’s December 9, 2016 Order (“Motion for Interlocutory Appeal”). [Trial Exhibit 5].

9. Mr. Justice argued the Motion for Interlocutory Appeal before Judge Ash on

February 2, 2017 and did not disavow the language or statements in the written motion at the hearing. [Trial Exhibit 9].

10. The Motion for Interlocutory Appeal contains the following statements:
  - a. “Plaintiff is holding Noah hostage for money, which is child abuse, and the Court refuses to speak to this issue to any significant degree.” [Trial Exhibit 5, page 2]
  - b. “Further, rather than adopting the posture of a neutral Judge, the Court attempts to hijack the presentation of Defendant’s case, and as discussed below, attempts to intimidate witnesses.” [Trial Exhibit 5, page 3]
  - c. **“Will even the Court contend it has met the standard of ‘detachment’ and ‘aloofness’ that are part of the American rule?”** [Trial Exhibit 5, page 4, emphasis in original]
  - d. “Respectfully, it is straight up bizarre to use Rule 403 in a bench trial and this is proof positive the Court has lost its way.” [Trial Exhibit 5, page 6]
  - e. “In these circumstances, it is not improper to describe this level of bizarreness in a case involving child welfare as a farce.” [Trial Exhibit 5, page 6]
  - f. “In these circumstances, any Judge thinking properly would insist on greater formality than normal, rather than chatting Ms. Nelson up about their mutual friend, ‘Gerald,’ among other things.” [Trial Exhibit 5, page 7]
  - g. “At this point, a reasonable outside observer would find an appearance of bias or there would be grounds for disqualification for the appearance of a lack of competence if the Court knows no better than this.” [Trial Exhibit 5, page 8]
  - h. “It would appear to a reasonable outside observer the Court is simply playing a shell game with a child.” [Trial Exhibit 5, page 9]
  - i. “The Court yelled a denial at Dr. Brown of her recommendation Noah’s mother undergo individual psychotherapy to achieve Noah’s best interests.” [Trial Exhibit 5, page 9]
  - j. “This is such a loss of judgment a reasonable outside observer would find the proceedings to have the appearance of corruption.” [Trial Exhibit 5, page 11]
  - k. “The Court’s demeanor is so hostile as to preclude a fair trial.” [Trial Exhibit 5, page 11]
  - l. “A Judge that ignores inappropriate touching of a witness while testifying is a Judge who **appears** to be in the bag.” [Trial Exhibit 5, page 12, emphasis in original]
  - m. “When a Court’s persistent demeanor is less in the nature of Learned Hand or Oliver Wendell Homes and more Yosemite Sam, particularly in a matter involving child welfare, the Court cannot continue to preside and this Court ought to allow

interlocutory appeal to determine if the appellate court can assist it is (sic) resolving this case." [Trial Exhibit 5, page 12].

- n. *"Which of the three or four inconsistent stories the Court told about this is true?"* [Trial Exhibit 5, page 13, italics in original].
- o. "This has not been compounded because during the only hearing at which Mr. Justice was not present, because he was going to get a cashier's check for \$200,000 of the \$400,000 he was to pay Ms. Nelson in hopes to have a meaningful relationship with his son and to see him unsupervised, the Court bizarrely went off the record and chatted up Mrs. Nelson." [Trial Exhibit 5, pages 13-14]
- p. "It would be no burden on the Court to change venue but the Court stubbornly refuses, fostering the appearance of corruption in a case in which we already have documented judicial corruption (former Judge Austin), Judge Brewer's 'conflict of interest' and an opiate infused witness, Dr. Nordquist." [Trial Exhibit 5, page 14]
- q. "It would appear to a reasonable outside observer that something is wrong with the Court. These are not personal attacks on the Court but recordation of the events of this bizarre proceeding necessary for interlocutory appeal." [Trial Exhibit 5, page 16]
- r. "In short, it is about appearances and here, in the words of the United States Court of Appeals, the appearances regarding the integrity of this proceeding are as pungent as 'the force of a five-week old, unrefrigerated dead fish.'" [Trial Exhibit 5, page 17]
- s. "The absurdity of this is palpable." [Trial Exhibit 5, page 20]
- t. "The Court appears as a bully who has 'issues' with the defense or relative to the Plaintiff and attempts to intimidate against zealous advocacy for Noah's welfare." [Trial Exhibit 5, page 21]
- u. "Then, the Court rudely, abruptly, and disparagingly denied Defendant's motion regarding therapy for Plaintiff, as Dr. Brown testified it would be beneficial and in the best interests of Noah." [Trial Exhibit 5, page 21]
- v. "However, the Court addressed her as one would address the Queen of England if they were ambassador to the Court of St. James. This is bizarre given her weirdly conflicting testimony and it is NOT THE ROLE OF A COURT TO PLAY MASTER OF CEREMONIES. The Court has precious little time for hearings and trial for Noah; it creates an appearance of impropriety and it wastes what time it will allow with overly effusive speeches that do not help anything and hurt when contrasted with the maltreatment of witnesses who furnish defense favorable information." [Trial Exhibit 5, pages 23-24, emphasis in original]
- w. "But, to this Court, with an opportunity for a soliloquy, Judge Humphrey is the reincarnation of Louis Brandeis." [Trial Exhibit 5, page 25]



- x. "The appearance is Mr. Justice might be the better parent; but Ms. Nelson is in with the "good old boys" and she got a very marginal Judge who was a buddy of Judge Brewer to bless her contempt and this Court is unwilling to confront the appearance or incompetence and corruption represented by Judge Brewer and Judge Humphrey, and Loring and Noah cannot be reunited because Loring crossed a line: he made a fool out of Judge Humphrey on the witness stand and Judges stick together; just read the soliloquy." [Trial Exhibit 5, page 25]
- y. "The appearance is, particularly in light of the Judge's "off the records" discussion with Ms. Nelson, that the Court is more interested in making the Roane County courthouse crowd happy and receiving their daily smiles than he is in caring for Noah's best interests." [Trial Exhibit 5, page 25].
- z. "Also, in another way, this soliloquy is problematic: to an outside observer it would appear the Court may be using this as backdoor self-glorification or for secondary gain. That is, given the situation is wholly impertinent to Noah, and given the soliloquy, before a courtroom audience glorifies the Court (took her to the shelter) [and] (his daughters helped her pick out clothes), the appearance is the Court has a secondary gain from being perceived as a 'good man' by the Roane County courthouse gallery." [Trial Exhibit 5, page 26].
- aa. "In so ruling, the Court articulated yet another, differing, nebulous and ever-shifting standard as what must be proven to achieve the normalized, unsupervised co-parenting schedule for Noah and Defendant that all expert proof indicates is needed in Noah's best interest." [Trial Exhibit 5, page 29].
- bb. "Once again, the Court uses the *ipso facto* fallacy that is the province of tyrants: *it is so because I say it is so*, without explanation." [Trial Exhibit 5, page 31].
- cc. "An interlocutory appeal is justified because to all appearances the Court runs from certain evidence as if it is the Black Plague." [Trial Exhibit 5, page 32].
- dd. "WILL THE COURT PLEASE ADDRESS THIS CASE LAW? IF IT WILL NOT, CAN THE COURT POSSIBLY CONTEND INTERLOCUTORY APPEAL IS NOT JUSTIFIED?" [Trial Exhibit 5, page 32, emphasis in original].
- ee. "The appearance of judicial misadministration and the bizarre, crawling, years-long trial structure, coupled with the corruption of Judges Austin and Humphrey (or possibly just significant incompetence by Judge Humphrey, indistinguishable from active corruption) joined with the Court chatting up Mr. Nelson off the record and attached with the fact the Court will not comment on Ms. Nelson attempting to SELL UNSUPERVISED TIME WITH NOAH, is so grave it is a violation of Noah and Loring's federal civil rights under color of state law." [Trial Exhibit 5, page 34, emphasis in original]
- ff. "Again, it does not create an appearance of objectivity when the Court runs from certain issues as if they are the Ebola virus." [Trial Exhibit 5, page 38]
- gg. "By suppressing this evidence, the Court has sanctioned child abuse in the form of

Plaintiff's leveraging her near total control of Noah to hold him hostage for money. [Trial Exhibit 5, page 43].

hh. "Also, again, the appearance is of a pungent smell. On the evidence in this brief, no party or lawyer can be intimidated by a Court into remaining silent and accepting 'gas lighting' or an 'Emperor's New Clothes,' scenario." [Trial Exhibit 5, page 45].

11. In his order regarding the Motion for Interlocutory Appeal, Judge Ash denied the

motion finding:

In his Motion for Interlocutory Appeal, Defendant recklessly or intentionally raises numerous irrelevant issues which have no connection to this Court's December 9, 2016 order. In later filings, Defendant claims this historical review is relevant to provide the Appellate Court a true picture of the proceedings. In addition to the irrelevant issues, the motion Defendant's pleading contains numerous insults and personal opinions regarding the Court despite the Court's repeated requests to refrain from such conduct. Specifically, during a December 15, 2016 hearing, the Court again asked Mr. Rickman and Mr. Justice to refrain from including negative comments about the Court in their pleadings. The Motion for Interlocutory Appeal was filed approximately two weeks later. In utter disregard of the Court's directive, Defendant's Motion for Interlocutory Appeal again includes derogatory references to the Court, and its rulings, including, in addition to numerous statements described throughout this Order, the following:

"There are numerous examples of the trial Judge belligerently hijacking the proceedings when they are going well for Defendant in contravention of the American rule." (pg. 3)

"A Judge that ignores inappropriate touching of a witness while testifying is a Judge who appears to be in the bag." (pg. 12)

"However, the Court addressed [Ms. Rowan] as one would address the Queen of England if they were ambassador to the Court of St. James." (pg. 23).

Normally, this Court would disregard improperly raised issues; however, due to the extensive misstatements contained therein and the Court's desire to present its position to any reviewing court, the Court will also address these areas.

[Trial Exhibit 8, page 3]

12. On March 8, 2017, Mr. Justice prepared, read, and/or approved the Defendant's Amended Motion to Recuse with Motions for Disclosure and other Motions Incorporated which contains the following statements:

"Again, it does not create an appearance of objectivity when the Court runs from certain

issues as if they are the Ebola virus.” [Trial Exhibit 6, page 11]

“It is yet another false claim of dishonesty by the Court, demonstrating it is inappropriate as a matter of appearance if not fact, for the Court to continue hearing this case. The strong appearance is if the Court cared as much about Noah’s mother lying about attempting to sell time with him as the Court does about falsely accusing Defendant and his counsel, Noah would be much better off. Further, it is evident or at least it would be thought by an outside onlooker, caught in apparent lies about reading the entirety of Dr. Nordquist’s deposition and on the amount of time Mr. Rickman had spent examining Ms. Guerrero, the Court is embittered and either consciously or unconsciously ‘creating’ veracity issues about Defendant and Defendant’s counsel, due to the ego injury the Court has suffered by the apparent revelation by them of its own recurrent dishonesty...” [Trial Exhibit 6, page 13]

“For the Court to suggest, it might call Noah as a witness here, given the Court’s denied, but obvious, antipathy for his Father, shows such a loss of judgment by the trial court that it ought to recuse. Noah should not be sacrificed as a means in the Court’s efforts to assist Noah’s mother against his Father. This is sick and abusive like the deliberate ignorance of the human trafficking Noah’s mother and her attorneys have attempted to broker regarding Noah.” [Trial Exhibit 6, pages 14-15].

13. In his order entered April 18, 2017 regarding the Defendant’s Amended Motion to

Recuse with Motions for Disclosure and other Motions Incorporated, Judge Ash denied the

Motion finding:

From the arguments presented by counsel, the pleadings, and the record as a whole, this Court DENIES Father’s motions and expressly finds they were brought for the improper purposes of harassment, delay and to needlessly increase litigation costs.

[Trial Exhibit 7, page 1]

14. A reasonable attorney would not believe there was a factual basis for many of the statements made in the four motions that Mr. Justice prepared, read and/or approved such as alleging that Judge Ash “sanctioned child abuse,” “runs from certain evidence as if it is the Black Plague,” “is more interested in making the Roane County courthouse crowd happy and receiving their daily smiles than he is in caring for Noah’s best interests,” or “simply playing a shell game with a child.”

15. The language used in the motions which was accusatory and designed to chastise the court was intentionally chosen and Mr. Justice was consciously aware of the nature of the motions that he prepared, read and/or approved, particularly in light of Judge Ash's admonitions to refrain from such behavior.

16. The motions that Mr. Justice prepared, read and/or approved included statements and language with no regard as to the truth or falsity concerning the integrity of Judge Ash that were published to a third party and unfairly undermined public confidence in the administration of justice.

17. A reasonable attorney would believe the statements filed in the four motions that Mr. Justice prepared, read, and/or approved were filed for the improper purposes of harassment, delay and to needlessly increase litigation costs and that they constitute abusive and obstreperous conduct which was intended to disrupt the proceeding in the Juvenile Court of Roane County, Tennessee and influence the review of the appellate court.

18. Mr. Justice's intentional acts of misconduct caused injury in disrupting the proceeding, causing delay that resulted from time taken in the proceeding to address the inappropriate statements in the motions, and undermining public confidence in the administration of justice.

### **CONCLUSIONS OF LAW**

1. The jurisdiction and authority of this Panel is derived from Tenn. Sup. Ct. R. 9, and the specific provisions prescribed therein. Attorneys admitted to practice law in Tennessee are subject to the disciplinary jurisdiction of the Supreme Court, the Board of Professional Responsibility, the Hearing Committee, hereinafter established, and the Circuit and Chancery

Courts. (Tenn. Sup. Ct. R. 9, § 8 (2014)).

2. The license to practice law in this state is a privilege, and it is the duty of every recipient of that privilege to conduct himself or herself at all times in conformity with the standards imposed upon members of the bar as conditions for the privilege to practice law. (Tenn. Sup. Ct. R. 9, § 1 (2014)).

3. Acts or omissions by an attorney, individually or in concert with any other person, which violate the Rules of Professional Conduct of the State of Tennessee constitute misconduct and grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship. (Tenn. Sup. Ct. R. 9, § 11 (2014)).

4. The Board alleges that the acts and omissions by Mr. Justice constitute ethical misconduct in violation of the relevant portions of Rules of Professional Conduct 3.5(e), 8.2(a)(1) and 8.4(a) and (d).

5. The Tennessee Supreme Court's decision in *Board of Professional Responsibility v. Parrish*, 556 S.W.3d 153, 167 (Tenn. 2018) in which the Court affirmed a Hearing Panel and Court's finding that derogatory statements in court filings violated RPC 3.5(e), 8.2(a)(1), 8.4(a) and 8.4(d) is on point and controlling in this matter.

#### **Rule 3.5(e)**

#### **IMPARTIALITY AND DECORUM OF THE TRIBUNAL**

##### **A lawyer shall not:**

##### **(e) engage in conduct intended to disrupt a tribunal.**

6. By his order entered April 18, 2017 regarding the Defendant's Amended Motion to Recuse with Motions for Disclosure and other Motions Incorporated, Judge Ash expressly found that motion was "brought for the improper purposes of harassment, delay and to needlessly increase litigation costs." [Trial Exhibit 7, page 1]. A reasonable objective person would agree.

7. Comment [5] of Rule 3.5 states, “The advocate’s function is to present evidence and argument so that the cause may be decided according to law. Refraining from abusive or obstreperous conduct is corollary of the advocate’s right to speak on behalf of litigants.”

8. Comment [5] further states, “An advocate can present the cause, protect the record for subsequent review, and preserve professional integrity by patient firmness no less effectively than by belligerence or theatrics.”

9. Mr. Justice demonstrated belligerence and theatrics in filing, and/or directing and/or approving the filing of the Motion for Interlocutory Appeal two weeks after Judge Ash ordered Mr. Justice to cease including derogatory statements about the Court, in filings and arguments presented to the Court. Mr. Justice’s intent is made even more clear by arguing the Motion for Interlocutory Appeal before Judge Ash, which contains the largest quantity of (and the most inflammatory) statements.

10. Mr. Justice’s argument that his statements were justified by Judge Ash’s unfair treatment toward him is not persuasive because even if Judge Ash could possibly be construed as abusive toward Mr. Justice, Comment [5] notes the attorney may stand firm against abuse but “should avoid reciprocation; the judge’s default is no justification for similar dereliction by an advocate.”

11. Mr. Justice’s conduct in preparing, reading and/or approving the four motions was conduct intended to disrupt a tribunal.

12. Based upon the evidence presented and the record as a whole, the Panel finds by a preponderance of the evidence, Mr. Justice violated RPC 3.5(e).

**Rule 8.2(a)(1)**

**JUDICIAL AND LEGAL OFFICIALS**

**(a) A lawyer shall not make a statement that the lawyer knows to be false or that is made with reckless disregard as to its truth or falsity concerning the qualifications or integrity of the following persons:**

**(1) a judge.**

13. RPC 8.2 prohibits an attorney from making false statements about the integrity or qualifications of a Judge because “these statements ‘unfairly undermine public confidence in the administration of justice.’” See Comment [1] of RPC 8.2 and *Hancock v. Board of Professional Responsibility*, 447 S.W.3d 844, 854 (Tenn. 2014).

14. The motions that Mr. Justice prepared, read and/or approved included statements and language with no regard as to the truth or falsity concerning the integrity of Judge Ash and that were published to a third party. See *Hancock v. Board*, 447 S.W.3d at 855.

15. Mr. Justice prepared, read and/or approved motions with statements impugning the integrity of the Court with statements such as the “appearance of corruption,” “a Judge who appears to be in the bag,” and “the Court is more interested in making the Roane County courthouse crowd happy and receiving their daily smiles than he is in caring for Noah’s best interest,” and “... the Court may be using this as backdoor self-gratification or for secondary gain.”

16. Mr. Justice prepared, read and/or approved motions with statements insulting and harassing Judge Ash such as “[w]hen a Court’s persistent demeanor is less in the nature of Learned Hand or Oliver Wendell Holmes and more Yosemite Sam . . .”

17. Like the holding in *Parrish*, 556 S.W.3d at 163 that pejorative statements made by an attorney in motions and other pleadings filed in court are not entitled to First Amendment protection, the motions that Mr. Justice prepared, read and/or approved are not entitled to First Amendment protection.

18. Even if Mr. Justice believed Judge Ash issued erroneous rulings that did not justify the “use of disrespectful, unprofessional or indecorous language to the court.” *Bailey v. Board of*

*Professional Responsibility*, 441 S.W.3d 223, 234)(Tenn. 2014)(quoting *In re Moncier*, 550 F.Supp.2d 768, 807 (E.D. Tenn. 2008).

19. Although it is appropriate for a lawyer to point out the Court's errors in a brief, "it is not acceptable for the attorney to 'insert matters which are defamatory, scandalous, impertinent and untrue' into a brief, and the court will not 'tolerate, either orally or by brief, ...abuse of the...judge..." *Ward v. Univ. of the South*, 354 S.W.2d 246, 249 (1962) (cited by *Parrish* 556 S.W.3d at 165).

20. A reasonable attorney would not believe there was a factual basis for many of the statements made in the four motions that Mr. Justice prepared, read and/or approved.

21. Mr. Justice either knew the statements in the motions were false or he made the statements with reckless disregard as to the truth or falsity concerning the qualifications or integrity of Judge Ash with the intent to deceive the appellate court and to "unfairly undermine public confidence in the administration of justice." RPC 8.2, Comment 1.

22. Based upon the evidence presented and the record as a whole, the Panel finds by a preponderance of the evidence, Mr. Justice violated RPC 8.2(a)(1).

#### **Rule 8.4(a) and (d)**

#### **MISCONDUCT**

#### **It is professional misconduct for a lawyer to:**

**(a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;**

**(d) engage in conduct that is prejudicial to the administration of justice;**

23. Violation of the aforementioned Rules of Professional Conduct constitutes a violation of RPC 8.4(a), Misconduct.



24. RPC 8.4(d) provides that conduct that is prejudicial to the administration of justice is prohibited and the statements made in the four motions that Mr. Justice prepared, read and/or approved were prejudicial to the administration of justice.

25. The statements in the four motions that Mr. Justice prepared, read and/or approved were made with reckless disregard as to the truth or falsity concerning the qualifications or integrity of a sitting Judge before whom he was appearing.

26. Based upon the evidence presented and the record as a whole, the Panel finds by a preponderance of the evidence, Mr. Justice violated RPC 8.4(a) and (d).

### **APPLICATION OF THE ABA STANDARDS**

1. Pursuant to Tenn. Sup. Ct. R. 9, § 15.4(a), “[i]f the hearing panel finds one or more grounds for discipline of the respondent attorney, the hearing panel’s judgment shall specify the type of discipline imposed: disbarment (Section 12.1), suspension (Section 12.2), or public censure (Section 12.4).”

2. In imposing a sanction after a finding of lawyer misconduct, the Panel should consider the following factors: (a) the duty violated; (b) the lawyer’s mental state; (c) the actual or potential injury caused by the lawyer’s misconduct; and d) the existence of aggravating or mitigating factors. (ABA Standard 3.0). Under the ABA Standards, intent is defined as “the conscious objective or purpose to accomplish a particular result” and knowledge is defined as “the conscious awareness of the nature or attendant circumstances of the conduct but without the conscious objective or purpose to accomplish a particular result.”

3. The ABA Standards suggest the appropriate baseline sanction, and aggravating and mitigating factors provide a basis for increasing or reducing the sanction imposed. ABA Standard

3.0. See also *Hancock v. Bd. of Prof'l Responsibility*, 447 S.W.3d 844, 857 (Tenn. 2014) (length of an attorney's suspension, however, depends in large part on the aggravating and mitigating circumstances).

4. Based upon the facts and misconduct previously cited, the Panel finds the following ABA Standards applicable and relevant to its determination of the appropriate discipline to be imposed upon Mr. Justice:

- 6.12 Suspension is generally appropriate when a lawyer knows that false statements or documents are being submitted to the court or that material information is improperly being withheld, and takes no remedial action, and causes injury or potential injury to a party to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding.
- 6.22 Suspension is generally appropriate when a lawyer knows that he or she is violating a court order or rule, and causes injury or potential injury to a client or a party, or causes interference or potential interference with a legal proceeding.
- 7.2 Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

5. Mr. Justice knowingly prepared, read, and/or approved four motions with false statements, deliberately choosing the language with intent to disrupt the proceeding and deceive the appellate court that would eventually review the matter.

6. Mr. Justice knowingly violated the Court's order on December 15, 2016 to cease from filing motions with derogatory language by filing and arguing the Motion for Interlocutory Appeal before Judge Ash which contained the most acerbic language. He further knowingly violated the Court's order by filing the Motion to Recuse which also contained pejorative statements. By filing these motions, Mr. Justice intended to interfere with the legal proceeding and obtain a benefit through securing his desired personal outcome in the proceeding.

7. By choosing the language in the four motions filed with the Court, Mr. Justice knowingly engaged in conduct that is a violation of a duty owed as a professional with the intent

to obtain personal benefit through securing his desired outcome in the proceeding. Mr. Justice's statements insulting and impugning the character of Judge Ash were so prejudicial to the administration of justice that they significantly undermine the integrity and public confidence in the administration of justice.

8. Applying the ABA Standard to the facts of this case, the Panel finds that a suspension is the appropriate baseline sanction.

### **AGGRAVATING AND MITIGATING CIRCUMSTANCES**

Having determined that suspension is the appropriate baseline sanction, the Panel must consider the existence of any aggravating or mitigating factors and their applicability to this disciplinary matter. Pursuant to ABA Standard 9.22, the following aggravating factors were considered by the Hearing Panel to determine the appropriate discipline to be imposed against Mr. Justice:

- 1) prior disciplinary offense;
- 2) a pattern of misconduct;
- 3) refusal to acknowledge wrongful nature of conduct;
- 4) substantial experience in the practice of law.

The following aggravating circumstances justify an increase in the degree of discipline to be imposed against Mr. Justice:

1. Mr. Justice was disbarred from the practice of law on July 2, 2019 and his prior disciplinary offenses justify an increase in in the degree of discipline.

2. Mr. Justice's multiple statements about a Judge within filed pleadings constitutes a pattern of misconduct and justify an increase in in the degree of discipline.

3. Mr. Justice has refused to acknowledge the wrongful nature of making accusations against a sitting Judge and justifies an increase in in the degree of discipline.

4. Mr. Justice has substantial experience in the practice of law having been first licensed in Tennessee since 1998 and justifies an increase in in the degree of discipline.

### **JUDGMENT**

Based upon the evidence presented at the Final Hearing, application of the Rules of Professional Conduct, and consideration of the applicable ABA Standards and the aggravating circumstances in this matter, the Panel finds by a preponderance of the evidence that Mr. Justice committed disciplinary misconduct and should be suspended from the practice of law for three (3) years from the date, if any, when he is reinstated to practice law, pursuant to Tenn. Sup. Ct. R. 9, § 12.2.

The Panel is of the further opinion and finds that Mr. Justice should additionally be required to attend six (6) hours of continuing legal education that qualifies for ethics education for each year after his three (3) year suspension expires for a period of six (6) years.

Finally, the Panel is of the opinion and finds that Mr. Justice should pay all costs of this disciplinary proceeding, pursuant to Tenn. Sup. Ct. R. 9 § 31.3, which shall be a condition precedent to reinstatement.

ENTERED ON THIS THE 24<sup>th</sup> DAY OF MARCH 2021.



G. KEITH ALLEY, Panel Chair



KAREN G. CRUTCHFIELD, Panel Member



R. SCOTT CARPENTER, Panel Member

**NOTICE**

This judgment may be appealed pursuant to Tenn. Sup. Ct. R. 9, § 33 (2014) by filing a Petition for Review in the Circuit or Chancery Court within sixty (60) days of the date of entry of the hearing panel's judgment.

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing has been sent to Respondent, Loring Edwin Justice, 500 Prescott Way, Knoxville, TN 37919, and to his Counsel, Linn Guerrero, 200 Prosperity Drive, Knoxville, TN 37923, by U.S. First Class Mail, and hand-delivered to Joseph K. Byrd, Disciplinary Counsel, on this the 26<sup>th</sup> day of March 2021.



Rita Webb  
Executive Secretary

**NOTICE**

**This judgment may be appealed by filing a Petition for Review in the appropriate Circuit or Chancery Court in accordance with Tenn. Sup. Ct. R. 9, § 33.**