

COMMONWEALTH OF KENTUCKY
SUPREME COURT OF KENTUCKY
FILE NO. 2022-SC-0496
Appeal From Judicial Conduct Commission

JAMES T. JAMESON

APPELLANT

VS.

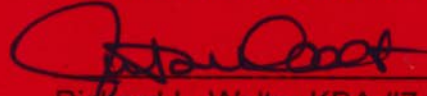
JUDICIAL CONDUCT COMMISSION

APPELLEE

BRIEF FOR APPELLANT JAMES T. JAMESON

Respectfully submitted,

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CERTIFICATE REQUIRED BY CR 76.12(6)

This is to certify that the original and nine copies of the within Brief for Appellant were sent, via Registered Mail, to Ms. Kelly Stephens, Clerk, Kentucky Supreme Court, State Capitol, Room 235, 700 Capitol Avenue, Frankfort, KY 40601; and a true copy of the same was served by electronic transmission on Hon. Michael Sullivan, Chair of the Judicial Conduct Commission; Hon. Jimmy Shaffer, Executive Secretary; & Hon. Jeffrey Mando, Counsel for the Commission on this the 16 day of December 2022. I further certify that the record on appeal was not withdrawn


Richard L. Walter

INTRODUCTION

After a more than year-long back and forth of more than 2,000 documents and other information to and from each party, the Judicial Conduct Commission (Hereinafter Appellee), filed formal proceedings as set out in SCR 4.180 against Appellant James T. Jameson, Circuit Judge of the 42nd Judicial Circuit, Division I. Appellant believes the Commission violated multiple Rules and Sections of the United States and Kentucky Constitutions by how it conducted its informal and formal proceedings, particular the Temporary Removal Hearing conducted August 12, 2022, and the Final Hearing conducted October 17, 2022. Appellant also believes the Commission has ignored its own rules of procedure as set out by this Honorable Court, and, as a result, has repeatedly inflicted improper and unjustifiable sanctions against him. Appellant has been fully cooperative with Appellee regarding all questions and providing all requested documentation, which consisted of thousands of pages of documents. The Commission even credited Judge Jameson with admitting many of the facts but faulted him for not admitting these facts amounted to a violation of the canons.

STATEMENT REGARDING ORAL ARGUMENT

There are a wide variety of legal issues raised regarding the operations and methods of the Commission that Appellant requests be ruled upon and clarified. Appellant requests oral argument, particularly if it will aid a full and fair adjudication of these matters. Many matters regarding the jurisdiction and authority limits of the Commission are at issue.

CITATION TO THE RECORD

The record consists of proceedings occurring August 12, 2022, and all exhibits and other documents and records associated with that hearing, as well as a “Motion to Alter, Amend or

Vacate” filed by Appellant after the hearing in question, the Order denying said motion, and all proceedings and evidence regarding the final hearing of the matters *sub judice* beginning October 17, 2022. Electronic video files are cited consistent with CR 98(4)(a) as (VR: date stamp; time stamp).

PRESERVATION

All Constitutional claims were not raised before the Commission for two reasons: (1) In the pre-hearing meeting in chambers, the Chair of the Commission Overruled Appellant’s motions concerning all legal challenges stating that such issues should be raised at the final hearing (although the video proceedings provided to Appellant do not contain video coverage of this prehearing discussion outside of court for some reason); and, (2) as is discussed below, under Kentucky law, agencies are not permitted to decide the constitutionality of any matter whether the challenge be on its face or as applied. All other issues were preserved in the written and video record including Appellant’s Motion to Alter Amend or Vacate filed after Appellee improperly temporarily suspended Appellant, including the corresponding Order Denying, the exhibits and testimony taken into evidence during the Temporary Suspension Hearing on August 12, 2022, and the final hearing beginning October 17, 2022, and concluding October 20, 2022.

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STANDARD OF REVIEW

Charges are required to be proven by clear and convincing evidence at any hearing held by the Commission for the purpose of sanctioning him or her. SCR 4.160. On appeal to this Court, the Court “must accept the findings and conclusions of the commission unless they are clearly erroneous; that is to say, unreasonable.” *Wilson v. Judicial Ret. & Removal Comm'n*, 673 S.W.2d 426, 427–28 (Ky. 1984); However, matters of construction & interpretation are matters of law subject to *de novo* review. *Halls Hardwood Floor Co. v. Stapleton*, 16 S.W.3d 327, 330 (Ky. App. 2000). Constitutional challenges are raised for the first time in this Court.

STATEMENT OF THE CASE

I. LEGAL ERRORS TO BE REVIEWED *DE NOVO*

A. Limited Power of Commission

The Kentucky Judicial Conduct Commission is an agency born into existence by Kentucky Constitution Section 121.

The Judicial Retirement and Removal Commission, an independent agency, is established by Section 121 of the Kentucky Constitution. It has the power, in its discretion, to remove from office a sitting judge for good cause. The evidence to sustain the charges must be clear and convincing. The commission, charged with the discipline of justices and judges of the Court of Justice is the finder of facts in any particular case and may make reasonable conclusions based upon the facts.

Wilson v. Judicial Conduct Retirement & Removal Comm., 673 S.W.2d 426, 427-28 (Ky. 1984) (citing SCR 4.160; *Nicholson v. Judicial Retirement and Removal Commission*, 573 S.W.2d 642 (Ky. 1978)). “A review by the Supreme Court may be had by appeal, but on appeal this court must accept the findings and conclusions of the commission unless they are clearly erroneous; that is to say, unreasonable.” *Id.* (citing *Long v. Judicial Retirement and Removal Commission*, 610 S.W.2d 614 (Ky. 1980))

Given that it is an agency of sorts, its powers are given to it by the source of its existence, *viz.*, Section 121, which, by its terms, states that the commission is “[s]ubject to rules of procedure established by the Supreme Court[.]” In short, unless Section 121 or a Rule of the Supreme Court says the Commission may or shall take some action, it has no authority to take that action. Thus, if the Commission takes action where there is no authority conferred upon the Commission to take that action, the Commission will have acted clearly erroneously and unreasonably. *See Wilson*, 673 S.W.2d at 427-28.

B. The Commission Violated Its Own Rules in temporarily suspending Appellant.

SCR 4.260. In its order Denying Appellant's Motion to Alter, Amend, or Vacate regarding Appellant's temporary suspension, that was later voided by this Court, Appellee did not address the majority of the arguments made by Appellant and did not enter an order with Findings of Fact or Conclusions of Law as required by SCR 4.260.

SCR 4.120. As has already been decided by *writ of prohibition* issued by this Court, Appellee violated SCR 4.120 by suspending Appellant with only 3 of 5 members voting "yea" on the question (67% required). It has been rare, generally, for the JCC to attempt to suspend a Judge prior to a final hearing.¹ Certainly, this rule should not be used lightly, and the Commission must comply with the requirements of SCR 4.120.

SCR 4.270. In its order of temporary suspension, Appellee also failed to address Appellant's argument that the Commission did not have the authority to immediately suspend pursuant to SCR 4.270, as this rule requires the passing of ten days prior to any Commission order of suspension taking effect.

And, lastly, Appellee's order denying Appellant's motion to alter, amend, or vacate, issued on August 15, 2022, did not address in full Appellant's argument that, in order to reach any conclusion on an ultimate issue of an action, there must be a proof standard that complies with Due Process. The only standard stated in Rule 4 is clear and convincing evidence. Here, the proof standard was showing by clear and convincing evidence that temporary removal was "in the best interest of justice." This standard was not met.

¹ Examples such as *Gentry* and *Alred*, *supra* deal with current and ongoing severe conduct by the Judge in question. Nothing of that sort has even been suggested as an allegation against this Appellant.

Appellee only directly addressed one issue in its order of Temporary Suspension: not providing to Appellant all information the JCC received as part of both the informal and formal investigations. It appears the JCC is taking the stance that it must only provide to Appellant evidence it intends to proffer as evidence in a formal hearing. Appellant's "basis" for this claim comes from Appellee's own legal counsel who, within days of the August 12 hearing, informed counsel for Appellant he had some things he should "probably" provide by ultimately did not because, as he indicated at the time, he may not use that evidence. In addition, at the "informal hearing" in October of 2021, the Commission clearly was aware of a large amount of information from some complainant familiar with the workings of the nonprofit Appellant helped start. In fact, almost the entire informal meeting was spent discussing these matters. Facts of which the Commission had been made aware were never provided in any form to Appellant prior to or during the "informal hearing" nor have the source(s) of that information *ever* been made known to Appellant. Such violates SCR 4.170(4). This is especially true where the neutrality of one or more of the members of the Commission has been brought into question.²

C. The Commission's Jurisdiction is Questionable in light of Insufficient Evidence.

Conduct that amounts to erroneous decisions made in good faith are not within the purview of the Commission. SCR 4.020(2). Stated differently, for Commission to even have jurisdiction over an act allegedly committed by a judge, the judge must have done

² Appellant challenged the neutrality of Judge Mitch Perry of Louisville due to his long-time personal relationship with one of the main complainants in this action, Commonwealth's Attorney Dennis Foust. However, Judge Perry only replied with a simple sentence that did not address the concerns raised by Appellant in his motion to recuse Judge Perry. As Appellant stated in his motion to recuse, he is aware that significant foundation for a recusal motion exists, and those concerns were not addressed directly. Nor does it appear that the commission reviewed the recusal motion after Judge Perry's refusal to recuse, which is required by rule SCR 4.090(c).

something erroneous in *bad faith*. See SCR 4.020(2). It is the Appellant's carefully considered position that the Commission never believed Judge Jameson did anything in *bad faith*, a point expressed in the JCC's final order, specifically noting that Jameson had good intentions.

Black's Law Dictionary defines "bad faith" as, "dishonesty of belief, purpose, or motive." *Bad faith*, Black's Law Dictionary (11th ed. 2019). Nothing that comes near to this definition was brought up during either hearing.³ In fact, quite the opposite. Christine Picket testified she had never seen Judge Jameson do anything even remotely corrupt. (VR: 10-18-22; 04:36:00.) Sheriff Eddie McGuire testified positively about Appellant's character. Many others testified consistent with these statements and opinions. The Assistant Commonwealth Attorney for Calloway County, James Burkeen, said many positive things about Judge Jameson in the final hearing including that things run very well and need no improvement. (VR: 10-19-22; 04:20:00.) Mr. Burkeen testified that Judge Jameson often remains calm in situations that Mr. Burkeen believes he would not be able to, were he judge. (VR: 10-19-22; 04:20:30). Appellee's counsel and Commission member Judge Acree made it clear that Judge Jameson was never accused of any bad faith regarding money or the like. (VR: 10-17-22; 02:58:30.) Further, Linda Avery, head of the Kentucky Circuit Court Clerk's Association, testified that Judge Jameson is the best judge she has ever worked with, that he treats everyone professionally and with the utmost respect and courtesy, is hard working, calm, has the best interest of the people he serves at heart, and that he should not have been removed, even temporarily, from office. (VR: 08-12-22; 01:52:45-01:57:00.) Not a *single witness* during either hearing ever said *anything*

³ Judge Jameson raised this issue after the close of the Commission's case.

inconsistent with Ms. Avery's assessment, not even Commission witness Lisa DeRenard⁴ or any other Commission witness.

If dismissal is not available under SCR 4.020(2), then all counts should be dismissed for the reasons addressed by Appellant in his motion for directed verdict made at the close of the Commission's case. (VR: 10-19-22; 08:33:00.) *None* of these issues were directly addressed by the Commission in its final order.

Should this Court believe dismissal is not required for the previously stated reasons, it should conclude that removal of Judge Jameson was and is unjustified, especially when considering other Commission investigations. Appellant respectfully requests this Court consider the following examples:

1. *Nicholson*, 573 S.W.2d 642 (Ky. 1978):
 - a. Facts: Judge twice entered purported RCr 11.42 order circumventing statute requiring consecutive sentences.
 - b. Result: No bad faith, so no jurisdiction.
2. *Wilson*, 673 S.W.2d 426 (Ky. 1984):
 - a. Facts: District Judge intervened on behalf of close friend by signing Circuit Court injunction without certifying Circuit Judge out of town, threatened county attorney he would be sued if he didn't issue arrest warrants for police officers who were carrying out lawful duties causing warrants to be issued improperly, and dismissed another defendant's multiple misdemeanors without consulting Commonwealth.
 - b. Result: Bad faith clearly existed; removal.
3. *Long*, 610 S.W.2d 614 (Ky. 1980):
 - a. Facts: Judge used his office to hide and facilitate bootlegging business in his jurisdiction.
 - b. Result: Bad faith present; but *only suspended* 180 days.
4. *Thomas*, 77 S.W.3d 578 (Ky. 2002):
 - a. Facts: Judge had *ex parte* communications with criminal defendant and his attorney, used his influence to obtain assistance of a state trooper in moving woman from home of her former boyfriend into judge's home, threatened to report that former boyfriend to law enforcement authorities for illegal business practices, and lied to Commission regarding his relationship with

⁴ In fact, Ms. DeRenard was very complimentary of Judge Jameson, even still saying he is the best jurist she has every practiced in front of.

- the woman.
- b. Result: Bad faith present; *only* 180 day suspension
5. *Alred*, 395 S.W.3d 417 (Ky. 2012)
 - a. Facts: Judge appeared before Fiscal Court without invitation and advocated the use of \$500,000, a sum donated by criminal defendants under a guilty-plea agreement in a court case he presided over, to fund a water park the judge wanted built. Judge issued an order allowing a criminal defendant to make a \$250,000 donation through the Fiscal Court to alleviate drug abuse, with use of the funds “subject to the approval of the Circuit Court Judge (him).” Judge also issued order to convene special grand jury to “investigate illegal drug trafficking” by Judge Executive close to election in retaliation for Judge Executive supporting a motion for the judge to recuse in a case. The Judge Executive’s opponent was also cousin to the judge. And the list goes on.
 - b. Result: Bad faith clearly existed throughout; removal
 6. *Gentry*, 612 S.W.3d 832 (Ky. 2020):
 - a. Facts: removing an attorney from the GAL Panel because he did not support her judicial campaign; having staff work on her campaign during office hours; requiring Meredith Smith to resign to make way for Stephen Penrose, a person with whom she had a romantic relationship; approving timesheets for numerous employees when [Judge Gentry] knew they were either working on her campaign or out of the office with her on personal matters; And the list goes on.
 - b. Result: Horrible facts with clear bad faith; removal after temporary suspension (justified due to large number and severity of *ongoing* violations that were unquestionably severe ethics violations).
 7. *In re Gregory Popovich*:
 - a. Facts: For many years, judge belittled defendants, public defenders, and even juveniles, threatening them if they did not plead guilty, making fun of anyone “different” such as deaf, Spanish speaking, or from a Middle Eastern country, even calling a Lebanese attorney a “lesbian.” Judge Jameson personally spent two years at the mercy of this judge being humiliated in front of clients, seeing a ten-year old be verbally torn down to just emotional pieces, listening to him make fun of defendants that were physically impaired or did not speak English, constantly threatening him and others with contempt, and the list goes on.
 - b. Result: Bad faith present; Multiple separate actions against judge with initial resulting in public reprimand, then a short suspension, then, finally encouraged to retire.

The examples set out in *Gentry*, *Alred*, and *Popovich*, *supra*, are the sort of factual circumstances and conduct that brought shame to the judiciary and posed a serious danger justifying removal. The accusations against Judge Jameson do not come even as high as

the tailcoat of these other investigations. Judge Jameson has an Equal Protection right to be treated similarly to others similarly situated. The law is clear that the JCC has overreached.

[I]t is not the role of the Commission to stigmatize or punish judges. The Commission's role is to improve the quality of justice by hearing specific complaints of judicial misconduct and taking *the least severe action necessary* to remedy the situation.

Kentucky Jud. Conduct Comm'n v. Woods, 25 S.W.3d 470, 473 (Ky. 2000). (Emphasis added.)

D. Proof by Clear & Convincing Evidence Was Required to Even Temporarily Suspend Appellant; A Burden Not Met

It seems common sensical that the standard of proof necessary to suspend a Judge prior to a final hearing on the allegations should be a standard *at least* as high as is required to conclude misconduct has occurred based on the evidence presented at the final hearing.⁵ The Commission *removed an elected official from his Constitutional duties*, just a few months prior to an election.⁶ This is a very serious matter. Three members of the Commission essentially circumvented the election process and decided which candidate they would not vote for if they resided in the 42nd Circuit (Judge Jameson). However, they do not reside in the 42nd Circuit, and, therefore, should not be able to remove a sitting Judge simply because these three members do not approve of the way Judge Jameson handled his courtroom *in years past*.⁷

⁵ Whether the temporary suspension standard should be a higher standard than that utilized at a final hearing is something left for another day.

⁶ All of the Commission's actions occurring since August 12, 2022 have had *great* impact on Appellant and his ability to be the successful incumbent for the seat he currently still holds. This is something that, unfortunately, seems to have been intentional on the part of the Commission. Any other conclusion seems naive at best.

⁷ Almost all of the allegations were from years ago; thus no timely need could reasonably be articulated.

For any governmental body to take action against the life, liberty, or property of a citizen, a proof standard commiserate with the situation at hand must be employed. The minimum proof standard required in Kentucky for any agency or quasi-agency such as the Commission to take negative action is determined via application of *Mathews v. Eldridge*, 424 U.S. 319, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976). *See also Smith v. O'Dea*, 939 S.W.2d 353, 358 (Ky.App. 1997) and its progeny. The standard of review for most agency action is “substantial evidence.”⁸ However, under the *Matthews*’ Due Process analysis, the right to continue as an *elected* Circuit Court Judge without interruption from the “government” is certainly deserving of more protection than any run-of-the-mill protected interest.⁹ And, indeed, the *only* proof standard mentioned in SCR 4 is that of “clear and convincing” evidence. SCR 4.160.

E. The Commission Violated the Spirit of SCR 4.120 & Appellant’s Constitutional Rights When it Suspended Him Prior to The Final Hearing Without the Existence of Some Urgent Concern, Even if Allegations Had Been Proven True

While no such requirement is stated outright in SCR 4.120, Appellant argues that, in order to suspend a judge in a temporary removal hearing such as the August 12 hearing, there should be some legitimate current or imminent concern regarding the Judge’s behavior, mental competency, physical health, etc.¹⁰ In the matter *sub judice*, the latest piece of evidence was from 2021. The Commission certainly cannot justify the majority’s

⁸ As discussed in *O’Dea, supra*, and cited as the minimum proof standard required for a typical Kentucky agency action that deprives a citizen of some lower-level protected interest (e.g. suspension of a driver’s license by the Dept. of Transportation).

⁹ Appellant would proffer that any time an elected official is suspended or otherwise put in a status that does not permit him to carry out his elected duties, more protection of that “property interest” is required by Due Process. Circumventing the will of thousands of citizens without significant proof of a sufficient justification goes against the very core founding principles of our country.

¹⁰ Clear examples of this can be found in *Alred v. JCC*, 395 S.W.3d 417 (Ky. 2012) and *Gentry*, 612 S.W.3d 832 (Ky. 2020).

decision to suspend Judge Jameson prior to a final hearing with no imminent concern it could articulate.¹¹

F. Permitting Lay Persons an Equal Vote to Attorneys or Judges on the Commission Violates the United States & Kentucky Constitutions, Particularly Given a 3-2 Vote for Temporary Suspension or Suspension as a Sanction

As previously mentioned, the Constitutional issues raised in this appeal were not permitted to be raised at the August 12, 2022, hearing due to the Chair of the Commission denying Appellant's motion to argue the issues. However, even if these issues had been raised at the August 12 hearing, agencies do not have the authority to decide Constitutionality.¹² Therefore, Appellant raises the following Constitutional arguments.

To prevent a violation of Due Process or Separation of Powers, any agency or quasi-agency must have appropriately experienced individuals making decisions that affect the "property" of citizens. *See TECO Mech. Contractor, Inc. v. Com.*, 366 S.W.3d 386, 397-98 (Ky. 2012), as corrected (June 27, 2012). Judge Jameson clearly has a property interest¹³ in his position as Circuit Court Judge. As such, permitting laypersons to serve as part of the decision-making arm of the Judicial Conduct Commission regarding suspension of judges, especially under the circumstances that existed here, violates Due Process, Section

¹¹ No such immediate or imminent concern was ever alleged or even raised by the Commission. Further, the Commission's inappropriate remark concerning some "deep seeded" issue was unprofessional and insulting.

¹² "When an administrative agency applies a statute [or rule] unconstitutionally, it acts beyond the bounds of the constitution, rather than passing on a constitutional question. In other words, until a statute [or rule] has been applied, there can be no unconstitutional application...Thus, exhaustion of administrative remedies is not futile to an as-applied challenge to a statute. Quite the contrary, it is the administrative action which determines the extent, if any, of the constitutional injury." *Com. v. DLX, Inc.*, 42 S.W.3d 624, 626 (Ky. 2001).

¹³ *Perry v. Sindermann*, 408 U.S. 593, 92 S.Ct. 2694, 33 L.Ed.2d 570 (1972) (finding a protected interest in continued government employment). *TECO Mech. Contractor, Inc. v. Com.*, 366 S.W.3d 386, 394 (Ky. 2012), as corrected (June 27, 2012).

2 of Kentucky's Constitution, and the Separation of Powers doctrine. This is particularly true where the one vote of a non-lawyer quite possibly decided the matter at issue on August 12, 2022.

While there is no way to know at this time which voting members of the Commission ruled in favor of or against Judge Jameson at the August 12 hearing, it is known that three voted against, and two voted in favor of his position. Ms. Janet Lively McCauley was the only lay member of the Commission that took part in the vote. All others voting were Judges or lawyers. During the temporary suspension hearing, Ms. McCauley stated, "I don't do this every day like you guys," and then went on to say that she "didn't like" what she perceived as she watched and listened to the video regarding Ms. Anesthesia Deans wherein Judge Jameson told Ms. Deans' grandfather that, "If [he could] not take care of the baby, [he would] need to turn it over to the state." (VR: 08-12-22; 11:31:50.) This was simply an accurate statement of the law.

Looking more closely at what occurred through the eyes of a lay person, such as Ms. McCauley, all of what happens in a modern courtroom may be surprising. In fact, most people have no reference regarding just how much time and resources addiction consumes in our area or how many lives it is tearing apart. Having a lay person with no legal training or experience for context in a position to make or break a judicial suspension hearing is unfair to say the least.

Appellant believes there is no reason not to apply the measure of Constitutionality of the decisions of agencies who receive their power via statute to the matter *sub judice* or one similar. That standard is set out in *TECO Mech. Contractor, Inc. v. Com.*, 366 S.W.3d 386, 397–98 (Ky. 2012), as corrected (June 27, 2012).

The focus is on three factors: (1) the experience of the agency (including its members) that has been designated the authority of (in this case) the Judicial branch, (2) the subject matter of the law, (3) availability of judicial review, and (4) consideration of these three factors is intended to prevent a runaway agency from acting as if it has unfettered discretion and to confirm the prohibited conduct has been adequately defined so the agency may ascertain the facts and administer the law.

Another serious concern is the appearance of impropriety from the Commission's overall handling of the matter, including: (1) taking over a year to process and resolve the complaints; (2) conducting the final hearing less than a month before an election, which the Commission knew or had reason to know would be impacted by its decision; and, (3) entering its hurried final order *the Friday before an election*, which gave the appearance of punishing Judge Jameson for filing an appeal and successfully applying for a *writ of prohibition* that placed him back on the bench.¹⁴ The timing of the publication of the Commission's final order cannot be coincidence, especially given the tenor of the Commission's final order in teaching Judge Jameson a lesson and essentially making an example of him. It would seem that, by definition, the Commission is an agency currently exercising unfettered discretion; a fact that makes their decisions improper, unfair, and unconstitutional. It is inconceivable that the impact of the Commission's final decision on the election was not discussed or considered by the voting members of the Commission, two of which are long-time elected officials themselves.

¹⁴ The timing, conclusions, and wording of this order *no doubt* cost Judge Jameson the election. Judge Jameson was contacted by dozens of voters that certainly perceived that the JCC, by issuing its final order when and how it did, was punishing him for "fighting back."

In the matter *sub judice*, the “agency” is made up of the members of the Commission. One Commission member is a lay person who participated in the vote yielding the 3-2 tally that resulted in Appellant’s unlawful temporary suspension. As Ms. McCauley admitted, she has no context regarding how a modern circuit courtroom operates. In the record of the final hearing, during the questioning of James Burkeen, the entire panel believed a hearing was required by Due Process before a judge may issue a bench warrant for a bond violation in Kentucky.¹⁵ Considerable time was spent *having to seemingly educate the Commission on the basics of criminal law* during that segment.¹⁶ At this point, it became readily apparent that some, if not all, of the commission members assumed the law required something that it does not.

G. The Commission’s Misuse of the Informal Hearing and the Potential Settlement Process Violated Appellant’s Due Process, Equal Protection Rights, and the Spirit of SCR 4.179(2).

“[A] judge is entitled to one informal conference at the beginning of an investigation.” SCR 4.170. The purpose of the rule is to permit the Commission and judge to discuss and resolve the matter without the initiation of contested Formal Proceedings.” *Maze v. JCC*, 612 S.W.3d 793 at 802 (Ky. 2020). The Commission improperly utilized the informal hearing process as an opportunity to carry out a sabotage-style interrogation,

¹⁵ Mr. Burkeen had to educate the Chairman and others on the basics of violations of bond or probation (VR: 10-19-22; 04:46:30-05:04:40) & (05:09:00-05:34:00). Much discussion was had on the preferred practices in the 42nd Circuit Judge Jameson has tried to implement, verses actual requirements of the law. The inexperience of the attorney member, the Chairman, and Judge Acree caused much confusion. Appellant was allowed to submit an exhibit on the law of these issues but that should not be required.

¹⁶ The Commission even references in its final order that it held Judge Jameson responsible for not reading Mr. Hoefle or Mr. Goard their rights and asking them about an attorney when the first incident was “Direct” contempt and thus no such warnings were required. Secondly, Judge Jameson did comply with waiting for Mr. Goard’s attorney after informing him he was charged with civil contempt and explaining what that meant generally. The Commission has an incorrect understanding of the law on these matters and should not be holding Judges responsible for incorrect legal assessments by inexperienced Commission members. Further, the Chairman acknowledged he does not practice criminal law (VR: 10-19-22; 04:57:45).

rather than the legal and fair purpose for which it exists: to discuss resolving the matter *without* initiating formal proceedings. Judge Jameson came to that October 2021 meeting in good faith but was met by a Commission with an apparent agenda. At the time, the only issue addressed by the Commission was a relatively minor matter of what appeared to be a defendant (Amber Fralix) that was upset because she was rearrested when she attempted to remove her GPS device, *a fact she admitted at the subsequent hearing on the matter*. However, the matter was barely discussed and was clearly a rouse. Judge Jameson did not even finish his short opening statement before Judge David Bowles angrily and loudly cut him off, stating something to the effect of, “Judge Jameson why don’t you just cut the crap and talk about why we’re really here,” and later stomping out of the room.

As Judge Jeff Taylor and others conducted what can only be described as an interrogation, Judge Jameson and Mr. Moore, his counsel at that time, were dumb-founded. Based on the Commission’s inquiry, the Commission had clearly received a complaint or complaints concerning Judge Jameson’s role in a nonprofit he helped form and operate. Complaints Judge Jameson knew *nothing* about at that time. As the months went by, Judge Jameson, through counsel, supplied document after document in response to the Commission’s written requests (over 2,000 pages). Judge Jameson fully cooperated with the Commission. He did not yet know what it was the Commission suspected, but he cooperated because he knew he had nothing to hide.¹⁷

¹⁷ The Commission referenced a few times that it appeared Judge Jameson was not being fully cooperative with it. However, the Commission mistakes advocacy for one’s legal position for noncooperation. Judge Jameson had no duty to just lay down and take his beating over something that had not been proven. He was permitted to disagree with and litigate the allegations against him without fear of reprisal. However, he did not at all feel he was so permitted.

Judge Jameson believed, and still believes, that a sitting judge can also act as an officer for a nonprofit concerned with the administration of justice under the new rules of judicial ethics published in 2018. Jameson also believed, and still believes, that his appearance before the Marshall and Calloway fiscal courts was permitted by rule as well (1) because he was invited by both fiscal courts, and (2) the rules permit such under the circumstances that existed. Jameson was there to alert the fiscal courts that the continued use of GPS equipment was not possible unless it complied with the relevant statutes in KRS 67, which require one provider of such equipment to be selected by public bid. However, to show that he was willing to cooperate, he resigned his position as an officer of the nonprofit in January of 2022 of his own accord.

The Commission's final order mentions the term "bid rigging" multiple times. The colloquial term is not specifically defined in the order; however, its contextual use in the final order suggests the Commission faulted Jameson for (1) notifying the fiscal courts of the problem he was alerted to by AOC; (2) suggesting a possible solution that would reduce costs; (3) gathering a team of justice partners including 911 dispatch, sheriffs, jails, pretrial, and all others needed, to see if the cost of the equipment could be reduced;¹⁸ and, (4) signing a bid that was prepared on behalf of the nonprofit and submitted by a volunteer. As he testified and argued at the close of the JCC's case, Judge Jameson believed all of this was permitted based on his research, a plain reading of the new 2018 ethics rules, and

¹⁸ All of the 'justice partners' were very excited about this possibility. This was NOT something Judge Jameson "forced" on anyone in any way. Out of dozens and dozens of conversations Judge had with Ky. Judges, legal counsel for AOC, judges that participated in similar organizations and still do, both the Marshall and Calloway bar associations, and many others, not a single person raised a concern about Judge's involvement based on his actual participation that occurred. In fact, ALL thought it was a very good idea that could save defendants and the counties a considerable amount of money and get more people out of jail safely.

the fact that the matters had been discussed with many judges and legal counsel for the Administrative Office of the Courts with no hint of concern other than a recommendation regarding the Circuit Court Clerks not accepting GPS fees.

To this day, Appellant believes the Commission has not been forthcoming with evidence against him. However, the circumstances known to Appellant, certainly create a strong appearance of impropriety on behalf of several witnesses and other individuals identified during the investigation and hearings. This is an opinion long held by Appellant, and even further confirmed by the Commission, *yet again*, not supplying sufficient “Facts” in its final order regarding what complaints it received, what was in those complaints, and who submitted those complaints. The final order only says, “received complaints.” *See* Item 2 in the “Procedural Background” of the final order. The Commission should be required to specify *and produce to this Court* any and all complaints provided to it whether in writing, verbal, or otherwise, even if it was not considered by all Commission members.¹⁹ This approach is inconsistent with how the Commission has customarily conducted itself, and inconsistent with the permitted purpose of the Commission, which does not include punishment or stigmatizing a judge as has occurred here, and requires the Commission to take the least severe action necessary to remedy the situation reported in specific complaints.²⁰

¹⁹ Again, the Commission is withholding information regarding what complaints it received as far back as August of 2021. The October 2021 “informal hearing” had all but nothing to do with the small issue of which Judge Jameson had notice. Instead, the informal hearing was all about information provided by someone who is part of a limited few that would have had the information available to the board and that would be politically at odds with Judge Jameson.

²⁰ Throughout the final hearing, members of the Commission took a very liberal approach, questioning Appellant and witnesses about matters not complained of in any specific complaint such as whether Jameson should set more ROR bonds (something Judge Perry brought up during Judge Jameson’s examination, questioning of Christine Pickett and other spots in testimony), that Jameson did not give credit to his nephew for a ‘pipedream’ (something stated by the lay member during Judge Jameson’s examination), and many other irrelevant, confusing, and improper issues.

Denying Settlement Offer until Last Minute and Then Far Exceeding Sanction Offered due to Judge Jameson Choosing to Have Hearing to which he was Entitled was improper. Throughout the process of this action, the Commission communicated to all three of Appellant's attorneys, Hon. Charlie Moore, Hon. Buzz English, and Hon. Rick Walter that it no longer made "offers" of settlement due to being burned by some previous decision of the Supreme Court or some similar reason.²¹ However, in the months prior to the final hearing, counsel for Appellee indicated to Appellant's counsel that some form of suspension around 60 days would likely resolve the matter. Then, on October 17, 2022, the morning of the final hearing, the Commission, through counsel, made a last-second formal oral offer of settlement of a 180 day suspension. This was wholly improper.

H. The Commission Exceeded its Authority by Claiming it Has Impeachment Power, Which is Reserved for the Legislature

The Commission's conduct violated Appellant's Constitutional rights guaranteed by section 2 of the Kentucky Constitution, his right to Due Process guaranteed by the 5th & 14th Amendments to the United States Constitution, and Separation of Powers by, in effect, taking on the impeachment powers given only to the legislature.²² See Ky.

²¹ It appears the Commission has attempted to punish judges for exercising their right to a hearing more than once and this practice was previously called into question.

²² "The removal of a public official from office to the process of impeachment is a grave matter, as it represents a repeal of the will of the people who have elected an individual to an office of public interest. Because it is a reversal of the inherent power of the people in a democratic society, to choose those who govern, it is a power rarely exercised. I am one which has fortunately been required human services in Kentucky's history...". *Impeachment in Kentucky*, Information Bulletin 176, Ky. Legislative Research Commission, 1991, p.5. What the Commission has done is tantamount to impeachment of Appellant; a power it does not hold with respect to preventing a judge from seeking re-election *in a term that is beyond the term in which the sanction of the Commission is imposed*. See Ky. *Judicial Conduct Com'n v. Woods*, 25 S.W.3d 470 (Ky. 2000). While *Woods*' majority opinion held that a suspension of a judge is for at least the term the judge was serving when his sanction was imposed, and thus he may not seek to be a candidate in a special election initiated by his removal from office by the Commission, it held for another day the question of whether the Commission's power may go beyond that term and, in effect, deprive a citizen of the basic purposes of democracy itself. As stated previously, such power rests *only* in the legislature. A process carried out only five times since 1991 for a reason.

Constitution Sections 66-68. No reasonable person could conclude that the additional evidence submitted by the Commission after the August 12 temporary suspension hearing justified going from an offer of 180 days suspension to, not only removal from office, but unjustifiable conclusions that Judge Jameson could *not take the bench for a second term if he won the ongoing election.*

As if this were not enough, the Commission *exceeded its authority* by concluding, in its final order, that it has the authority to prevent Judge Jameson from *ever holding public office again.* One cannot imagine a more obvious *intentional* effort by a government agency to interfere with an ongoing election, particularly given the timing of the final order's release – the Friday before the election. The Commission's actions were beyond their authority, unjustifiable, and clearly intentional regarding the impact to the election.

II. Complaint Timing Compared to Dates of Alleged Misconduct

All of the complaints alleging misconduct were untimely to say the least. A core requirement of behavior correction is the *timely* correction of that behavior. Given the Commission's core purpose: to render the least amount of intervention needed to essentially correct a Judge's behavior, nothing about the JCC's conduct here can be justified. This information was clearly intentionally collected over years by persons at political odds with Judge Jameson with the specific intent of releasing it during the 2022 Circuit Judge campaign. It is not the job of the JCC to involve itself in politics.

III. DISCUSSION OF HEARING PROOF AT AUGUST 12 HEARING

(A) Witness Testimony

(i) The Commission's case fell apart when Lisa DeRenard significantly changed her testimony from what she originally told the Commission's investigator. Only calling two

witnesses, the Commission or its counsel clearly believed Ms. DeRenard was going to win the day. And, she did, but not for the Commission. Ms. DeRenard retracted the most egregious of the allegations she made against Judge Jameson previously made in her interview with the JCC investigator. Although she did not say it directly, in effect she admitted she fabricated the worst parts of her original statement by testifying to a completely different rendition of the facts. *See* VR [08-12-22; 08:55:29-10:17:28]. In her original statement to the JCC, Ms. DeRenard stated that, out of the blue, she received a call from Judge Jameson in January of 2022, as if she had never communicated with him before. Ms. DeRenard described this phone call as awkward and pushy, but in reality Ms. DeRenard was an avid supporter of Judge Jameson in 2015 and even donated to the campaign that year and had a sign in her yard. *See* (VR 08-12-22; 03:12:19-03-03:26:00).

The reality about the call early this year was that Jenny Jameson mentioned to Appellant that he should call Ms. DeRenard because she was such an avid supporter in the 2015 campaign. *See* VR (VR: 08-12-22; 03:15:00-03:15:23). Judge Jameson then called Ms. DeRenard, again, as he did several others for the purpose of announcing his candidacy. (VR: 08-12-22; 03:44:00-03:45:51). The conversation was very cordial. In fact, as soon as the Judge mentioned he was running again, Ms. DeRenard *immediately* stated that she was very happy to support the campaign and that she wanted to contribute financially.²³ (VR: 08-12-22; 03:50:00- 03:52:23) & (VR 08-12-22; 09:47:50-09:51:00). She even stated, during the call, that she wanted to give “the max” financial contribution over a span of time. (VR: 08-12-22; 03:50:00-03:52:23). As she testified, Ms. DeRenard told Judge

²³ DeRenard eventually testified to this during the hearing after being pushed for the answer on cross examination

Jameson that he was the best jurist she had practiced before and even agreed to be on his campaign committee for the 2022 election cycle. (VR: 08-12-22; 09:51:08-09:51:25). There was *no* hint of anything but an excited supporter being happy to once again support Judge Jameson's election campaign.

A neutral perspective of the text messages between Jenny Jameson, Appellant, and Ms. DeRenard, entered into evidence by Appellant, suggests they are from a person willing to support Appellant's campaign. *See Jameson Hearing Exhibits 2-3, Ex. 4-Appendix I.* In her original statement to the JCC, Ms. DeRenard stated that she did not want a campaign sign; that a sign just "showed up" at her office leaning against the door. And, as no reasonable person would do, she told the Commission that she took the sign's presence as a hint that she had better put up Judge Jameson's 16 inch sign "or else!" No reasonable person would conclude such just from a sign being placed against an office door.

A look at the text messages that came into Respondent's exhibits entered during the August 12 hearing, quickly reveals that Ms. DeRenard *specifically asked for a sign* for her office via text. *See Jameson Hearing Ex. 4-Appendix I.* And then, she (not the judge) sends more than one follow up message asking when the sign will arrive. Even if Ms. DeRenard's first text asking for a sign could be seen as a reaction to Judge Jameson telling her she needed a sign "or else" (which is, at best, unreasonable), the follow up messages make no sense if you believe someone forced a sign on her or threatened her to put up a sign.

As reflected in the text messages between Ms. DeRenard and Jenny/Jamie Jameson, Ms. DeRenard was the one that approached her landlord about Judge Jameson putting a sign outside of her office. *See Jameson Hearing Ex. 4-Appendix I.* While he is always appreciative of supporters, Judge Jameson had no need for a sign at that location because

he had already paid for a billboard just outside of DeRenard's office building that is ten times the size of any sign Judge Jameson could have provided Ms. DeRenard.

None of the complainants of which Appellant is aware had a legitimate issue with how Judge Jameson operated his court. If there was a true, legitimate concern, the complaints should have been timely, instead of complaining about conduct from 2016, 2017 & 2019 in late 2021, which, of course, was just before the 2022 general election. As was testified to under oath by Ms. DeRenard, the underlying motive behind the filing of the complaints was 100% political. (VR: 08-12-22; 09:54:50-10:01:17). DeRenard even called the conduct by public defender, Amy Harwood-Jackson, one of those who plotted to misuse the JCC as a tool to swing votes in a judicial election, "reprehensible and evil." Stating further, "that's not something that you should go around saying about people unless you've got proof." (VR: 08-12-22; 09:59:06-09:59:45.)

(III)(A)(ii). Sheriff Testimony in both hearings. The testimony given by Sheriff Eddie McGuire was all but irrelevant with regard to a violation of the Code of Judicial Conduct. Two issues were raised. First, AOC's own employee investigated a matter regarding Deputy Jeff Daniel improperly copying a security video that he had no authority to copy without AOC's approval. *See Jameson Hearing Ex. 5*. When AOC learned of this, their employees took action to intervene and discover why this happened and who did it. (VR: 08-12-22; 04:58:05-04:59:40). Even though he had reasons for concern, Judge Jameson had no obligation to have a particular reason to request the transfer of Deputy Daniel. As Chief Circuit Judge, the security of the building is his legitimate concern per AOC policies and procedures.

As was discussed in the Sheriff's testimony, Judge Jameson had told Sheriff McGuire multiple times that other members of court security had informed Judge Jameson "not to trust" Sergeant Daniel because of his disapproval of Judge Jameson. (08-12-22; 11:11:39-11:11:58). Sergeant Daniel, frankly, was close to retirement and did not appear to be alert and attentive. It appeared as if he was no longer giving his full efforts. Then, Deputy Daniel copied security footage and held it specifically so the Commonwealth attorney (one of the complainants and supporter of Judge Jameson's opponent), could take the video into his personal custody. *See Comm'n Hearing Ex. 16*. Mr. Daniel knew of the political situation between Judge Jameson and the County and Commonwealth's Attorneys and did this anyway without even reporting it to the Chief Circuit Judge, Judge Jameson.

While the matter involved political intentions on behalf of others, Judge Jameson did not order anyone to do anything, did not get upset with anyone, did not do anything except act on what he had been concerned about for some time based on the Deputy's behavior. The Deputy knew or should have known that the security video was the property of AOC, not his own personal equipment, and certainly knew or should have known the motives behind copying the video were political. Deputy Daniel stated in his interview to the AOC investigator that followed up on the complaint, that a deputy circuit court clerk in Marshall County had come up to him and told him the video existed (later revealed as Lacey Cavitt, a circuit court clerk who, as part of the political scheme against Judge Jameson, filed a baseless complaint that was dismissed outright). *See Jameson Hearing Ex. 5*. That is when the Deputy reviewed the footage, even though he was aware this deputy clerk was an avid supporter of Judge Jameson's opponent.

The second issue Sheriff McGuire was subpoenaed to discuss involved a claim that Judge Jameson somehow acted improperly when he, as a concerned citizen, called his long-time friend, the Sheriff, and reported what he believed to be unprotected vile speech waving from a flag on a truck touring around during Tater Day 2022. This account is short and was covered only in the Sheriff's testimony at the final hearing. Judge Jameson did not order the Sheriff to do anything at all and did not even suggest what, if anything, law enforcement should do about his concern. He simply reported a concern like any other citizen may.

III(B) Four Court Videos:

(i) The 1st video, regarding Danny Dale, is from 2019 but was not reported until 2021. The facts of this matter concern egregious examples of contemptable behavior that occurred during defendant's sentencing hearing. (This was a specific incident testified to by Asst. Com. Attorney James Burkeen (VR: 10-19-22; 05:33:00). At the beginning of the sentencing, Judge Jameson permitted Mr. Dale to talk for quite some time. Judge Jameson was very calm and wanted him to be heard. (VR: 08-12-22; 01:08:00-01:19:15). However, Mr. Dale refused to accept the ruling of the Court based on his failure to comply with instructions the court had given him during a previous court appearance, including Mr. Dale's serious criminal history. Judge Jameson never lost his temper.

Something you do not see on the video is the fact that Mr. Dale **ran away from the podium** during his sentencing in an attempt to avoid going to jail. He made it out of the courthouse and officers had to taze him in order to secure him and bring him back before the court for the remainder of his sentencing. (VR: 08-12-22; 01:18:05-01:18:40 & 01:19:50-01:21:40). Once deputies had him back in custody, Mr. Dale was brought back

in front of the Court. Judge Jameson remained calm. Once Mr. Dale was finally sentenced, including a contempt sentence for running away during sentencing, he began to engage Judge Jameson in argument. (VR 08-12-22; 01:25:30-01:26:41). He yelled and was warned he could be held in contempt. (VR: 08-12-22; 01:25:30-01:26:41). He then began to call Judge Jameson “bitch” and told the Judge “fuck you” and began a lengthy improper rant where he even threatened the Judge. (VR: 08-12-22; 01:26:10-01:27:39). *See also* Appendix A hereto [Court Documents Related to Dale Sentencing]. Mr. Dale was warned and then held in contempt again for his continued extremely inappropriate and threatening behavior. Sometime later, Judge Jameson, at the defendant’s request, eliminated one of the contempt convictions and changed his sentence on the other two so that his total sentence was 180 days. *See* Appendix A. All of this was very appropriate given Mr. Dale’s behavior.

(III)(B)(ii) The 2nd video, regarding Anastasia Deans was about addressing her addiction and was from approximately four years ago. When Ms. Deans came into court that day, pregnant and carrying a newborn, she was clearly under the influence of something.²⁴ As it was a condition of her bond, Ms. Deans was drug tested and found to be using methamphetamine while pregnant and on bond. (VR: 08-12-22; 11:25:00-11:28:00). Judge Jameson had Ms. Deans taken into custody with the intention of setting a bond later that would permit her to go to a recovery assistance program of her choosing. (VR: 08-12-22; 11:28:00-11:31:43).

²⁴ With 17 years of experience working with SUD sufferers, Judge Jameson, similar to many law enforcement members, defense attorneys, and others who work with those suffering from addiction can often spot when someone is in the courtroom under the influence.

Ms. Deans was very cooperative. However, her grandfather, who Judge Jameson knew had been caring for Ms. Deans' newborn while she was using drugs, interrupted quickly and said out loud across the courtroom, *inter alia* "What am I supposed to do with this baby?" (VR: 08-12-22; 11:31:40-11:32:17). As this Court is aware, standing up and yelling during Court for no valid reason is contemptuous behavior within itself. Shortly after simply informing the grandfather the Commonwealth would be required to care for the baby if he could not (simply an accurate statement of the law), the grandfather continued to loudly engage Judge Jameson in open court during a very busy docket. (VR: 08-12-22; 11:31:50-11:32:14); (VR: 08-12-22; 11:32:20-11:33:08). Even after Judge Jameson had answered his question, the grandfather stood up vigorously, turned around toward the courtroom exit doors, flailed his hands in the air and yelled something, although Judge Jameson could not hear what was said due to being deaf in his left ear, the gentlemen being turned away from him, and the distance between them. Judge Jameson spoke up before the gentlemen could get his full statement out and, only then, ordered deputies to bring him to the podium due *specifically* to his continued disruption of court. During this process, something else the camera does not show, is that the grandfather then began to resist deputies slightly.

Although not audible on the video record, as he was being seated by deputies on the jail line, the grandfather called Judge Jameson a "son-of-a-bitch." In response, Judge Jameson held the grandfather in direct contempt again. (VR: 08-12-22; 11:33:10-11:33:30).

At the end of the docket that day, Appellant called the gentleman back out and released him with only one condition: that he not disrupt court again. The two men had a

very cordial exchange for several minutes and the matter concluded. (VR: 08-12-22; 11:35:00-11:43:25). The gentlemen never sought any dismissal or expungement of the contempt charges.

Another thing that is not in the video is, shortly after this docket, Ms. Deans was accepted into Drug Court by Judge Jameson, a program from which she then graduated two years later. Still today, the grandfather Judge Jameson held in contempt thanks him for doing so because, in his words, he “needed to see the light” regarding his granddaughter’s addiction.

(III)(B)(iii) The Third Video is From a Case Handled a Little Over a Year After Judge Jameson Became Judge (Over 5 years ago) (McAlpin case). This video was presented at the August 12 hearing. (VR: 08-12-22; 11:43:55-12:03:00.) In this matter, Ms. Andrea Moore, who was recently Judge Jameson’s political opponent in the 2022 general election, and one of the people Lisa DeRenard testified was involved in the political plot against Judge Jameson, represented a mentally ill client who had been in special education courses in school and received only a GED. (VR: 08-12-22; 11:45:50-11:47:00). The client had been in jail for several months waiting on his attorney to secure an expert to review his competency to stand trial. (VR: 08-12-22; 11:48:25-11:49:56). The case had been continued multiple times at the request of defense counsel with nothing to show in regard to progress.

Once the matter resolved, Judge Jameson accepted McAlpin’s guilty plea after a detailed colloquy. Considerable time was spent on the legal question of whether defendant’s sentence could, by law, be served concurrently with cases in McCracken and

Graves Counties.²⁵ (VR: 08-12-22; 11:52:23-11:55:45). Within the offer was a guarantee that defendant's sentences, both in Marshall County and other jurisdictions, would be served concurrently. As had been the habit of both the Public Defenders and the Commonwealth's Attorney at the time, no one had reviewed this offer to see if the sentences from other jurisdictions could indeed, by law, be served concurrently with one another and the Marshall sentence. (VR: 08-12-22; 11:53:00-11:55:46). This issue was originally brought up during the entering of the plea, but carried on for multiple appearances for Ms. Moore to find an answer to the issue. These continuances were not made part of the record at the August 12 hearing. However, a quick review of the file shows multiple continuances occurred. *Appellant requests this Court take judicial notice of and review all of the videos that are part of that action from guilty plea forward.*

After multiple continuances, Ms. Moore was finally held to task for not doing as the court had instructed. For some reason, every time Judge Jameson would conclude his comments to her, Ms. Moore would say something to the effect of "we just thought this would just go through Judge." (VR: 08-12-22; 11:53:13-11:57:50). No matter what Judge Jameson said to Ms. Moore, such was her response, multiple times, during a very busy docket. Judge Jameson informed her she was asking him to ignore the law, but even so, she continued to ask the Judge to "make it happen." The fact was that Ms. Moore was either unfamiliar with the law on the issue or had not been attentive in her representation. No reasonable lawyer should take multiple continuances to figure out, while their client is sitting in jail, whether his sentence may be served concurrently with other sentences, especially an attorney with over a decade of experience. At the end of the hearing, Judge

²⁵ As this Court is aware, crimes committed while "awaiting trial" cannot be served concurrently.

Jameson called Ms. Moore to task on her failure to take action in spite of multiple opportunities to do so. The pretrial officer in the courtroom informed Judge Jameson of what she believed to be the arrest date on one of the defendant's out of jurisdiction actions. (VR: 08-12-22; 11:54:00-11:55:20). Based on that inaccurate factual information, Judge Jameson concluded in that moment that it appeared as if that one out of jurisdiction action could not be served concurrently with McAlpin's Marshall County conviction. However, upon later review of the file, off the record, the date given by the pretrial officer was found to be incorrect.

During the last appearance regarding this action, after Judge Jameson felt like he needed to issue a written order setting out specifically what needed to be done, Judge Jameson intentionally tried to take a lighter approach to the situation and give Ms. Moore the opportunity to redeem herself. Ms. Moore informed the court at sentencing that she (via assistance with other counsel from her office) had come to a conclusion regarding the legal issue of whether Mr. McAlpin's sentences could be served concurrently. (VR: 08-12-22; 11:59:10-12:01:25). Judge Jameson and his staff did the same research and came to the same conclusion: that the sentences could be served concurrently. This fact, however, is irrelevant to the matter at issue. This issue was not the ultimate problem. The problem was that Ms. Moore did not do the "awaiting trial" analysis up front, and then refused to do the necessary work to find out the answer until her client had sat in jail many weeks.

Judge Jameson had no ill will toward Ms. Moore or anyone else involved in that action. He simply required, as he should, that the question of whether Mr. McAlpin's various cases could be served concurrently be answered *prior* to McAlpin being sentenced.

This issue could have drastically impacted Mr. McAlpin, post-DOC classification, if it turned out that any case could not be served concurrently with any other action to which he had pled guilty. Ms. Moore was not put in jail, was not fined, and not charged with contempt. She was only verbally reprimanded for her clear failure to zealously represent her potentially mentally ill and undereducated client. This had become a consistent issue she and the other public defenders and the prosecutors created that was causing damage to defendants and eating up valuable court time unnecessarily. (VR: 08-12-22; 11:59:50-12:02:48).

Judge Jameson realizes perhaps he could have had his discussion with Ms. Moore in chambers or otherwise modified how he dealt with the matter. For context, this occurred about a month after Judge Jameson had undergone double-bypass surgery, and was still distraught by discomfort which, no doubt, affected him. But whatever he may have done less than perfect is certainly not enough to remove a sitting judge either prior to or after a final hearing with the JCC.

(III)(B)(iv) Fourth Video: Shawn Goard. Mr. Goard is the Chief Deputy jailer for Marshall County, and long-time friend and colleague of Judge Jameson. The video in question shows an incident wherein Mr. Goard, during a busy criminal court docket, violated a direct court order requiring him to contact the Judge's office *prior to* refusing an inmate sent to jail from court because they claimed to have COVID-19 symptoms – a practice dozens of defendant's had been trying to use as an excuse to stay out of jail after testing positive for drugs in court. During that busy court docket, Mr. Goard began refusing inmates sent by Judge Jameson from court.

Prior to this court docket, Mr. Goard and Judge Jameson had agreed that the jail would not refuse anymore inmates sent directly from court without first contacting the Judge's office so that a fully informed decision could be made about what to do with that person. Judge Jameson then gave an order to Mr. Goard consistent with their agreement. This particular defendant, after first claiming she had COVID-19 symptoms, later admitted that day in court that she had no symptoms, did not have COVID-19, and lied to keep from going to jail because she had been using methamphetamine.

After all of this occurred in court, Judge Jameson remanded the defendant to custody. However, without first talking to the Judge's office, Mr. Goard refused to accept the defendant into the jail or even in a holding cell. If Mr. Goard had complied with Judge Jameson's order to contact someone in his office prior to refusing defendants coming from active court, he would have learned that there was no reason for concern regarding COVID. However, since he did not do that, the bailiffs had to carry the defendant back to the courtroom where they told Judge Jameson that the jail refused her. This was not the first time this had occurred. Judge Jameson then told his bailiff to "go get" Mr. Goard after he could not be reached by telephone at the jail nor his cellular phone.²⁶

Once in the courtroom, Mr. Goard informed Judge Jameson that he had a private attorney on the way. Judge Jameson explained that Mr. Goard was charged with indirect civil contempt and that to resolve such a charge, he had only to comply with the court order in question, namely, to call the Judge's office before refusing defendants coming from court to the jail. From there, Mr. Goard began talking and, by the time it was over,

²⁶ Judge Jameson did not tell any bailiff to go arrest or charge Mr. Goard, contrary to what is in the JCC's final order.

everyone was on the same page, and all agreed that communication before refusing someone sent by the court during a docket was a good idea. Counsel can inform this Court that Mr. Goard did not make this complaint, did not want it made, and is not upset about what occurred. If asked, his response about the matter is, "I was doing my job, and the Judge was doing his." Mr. Goard never served a minute in jail.

Judge Jameson will tell you that he would have rather handled this matter differently, but given the environment that existed at that time, he did not know what else to do. During late 2020, different agencies were all under different instructions regarding how the business of the court system should continue in spite of COVID-19 while still keeping people safe. Courts were made to remain open and Judge Jameson wanted to handle as many cases as possible. As such, he continued to have dockets but allowed persons to participate virtually either outside the courtroom or in the courtroom in an area where the Judge had set up a podium for persons to appear "virtually" yet in the courthouse, if needed. As a part of this, allowing a jail to refuse to accept defendants ordered into custody by a sitting Circuit Judge, without first at least calling as was agreed, was simply unworkable and had to be resolved.

IV. The Commission Failed to Show by Clear and Convincing Evidence Any Bad Faith or Misconduct.

In its INTRODUCTION to the final order in question, the Commission seems to suggest that the fact that Judge Dawn Gentry committed several acts over an extended period of time could somehow justify the Commission's removal of Judge Jameson. Just as it was when Appellant pointed out the Commission's error in allowing a vote of 3-2 to suspend him, we must correct the Commission's fallacious reasoning.

Judge Gentry was accused of a horrible series of conduct carried out **in bad faith**. A short list of these actions is set out in another section of this brief comparing Judge Jameson's sanction verses other matters adjudicated by the JCC. This Court is very familiar with the horrible unprofessional conduct Judge Gentry committed, including having sex orgies in her office and knowingly approving timesheets for hours she knew employees did not work, and the long list goes on. No further discussion should be required. Judge Jameson's situation is nothing of the sort.

The Commission's final order discusses general accusations and conclusions that have no justification in reality. The order discusses Judge Jameson claiming, essentially, that he had no involvement with the nonprofit 42nd Judicial Circuit Community Corrections Board, Inc., Judge Jameson never said this, and, throughout all of these proceedings, has made it clear that the projects began by that nonprofit were his original idea. The commission accuses Judge Jameson of essentially laying everything at the feet of persons he supervised such as Dominik Mikulcik and Christine Pickett and taking no responsibility for the role he served. This could not be further from the truth. As he testified, Judge Jameson is, in fact, very proud of the work he was trying to do with the "justice partners" in his Circuit. *Everyone* believed that the work the nonprofit (that was a corporation that just happened to be called a Community Corrections Board for reasons explained by Judge Jameson in his testimony as part of the Commission's case) was doing, was a great thing. And it was, and still is.

No "bid rigging" occurred on any level. In short, when it came to the bid put out by the Calloway Fiscal Court, Judge Jameson did the following: (1) came up with the idea of using existing agencies to carry out a monitoring program and its oversight instead of

paying a middle man, thus reducing costs to defendants and making the use of GPS devices more viable; (2) mentioned this idea to Calloway and Marshall fiscal courts²⁷ when he was asked to come and speak to them about the fact that the law was not being followed with respect to ankle monitors and similar devices because no vendor was chosen by bid and defendants were left, improperly, to find their own equipment provider; (3) organized meetings with the board members where equipment from companies the judge's 2017 intern, Colin Edmundson located would be shown to the "justice partners;" (4) at the request of Calloway County attorney Bryan Ernstberger, emailed sample RFP's from both Total Court Services and Track Group to Mr. Ernstberger (the only two companies that bothered to return calls to anyone from the nonprofit for information regarding GPS programs), and (5) signed the bid that was put together on behalf of the nonprofit that was submitted to the Calloway County fiscal court by volunteer Dominik Mikulcik of his own accord. That is the extent of Judge Jameson's role in that process. If a judge is permitted to be on a nonprofit board and an officer of a board, it would seem that such activity would be included. Otherwise, there would seemingly be no benefit or reason for a judge being an officer.

As was testified to by Judge Jameson and Christine Pickett, not a single person that has been put on a GPS device has been arrested for failure to pay their fees. Only one

²⁷ As Calloway county attorney Bryan Ernstberger testified to on October 19th, Judge Jameson first contacted him rather than any fiscal court member when Jameson found out from AOC all of the many statutory requirements that must be met for a county to choose to have an ankle monitoring program. Judge Jameson also contacted Marshall county attorney, Jason Darnall, and informed him of the requirements. This led to Judge Jameson being *invited* to speak to both fiscal courts about the problem. And, Judge Jameson only mentioned the problem with noncompliance with the law that then existed, and that a potential solution was being discussed.

person that could be found via records was arrested for any type of violation that did not admit their violation at the subsequent bond or probation hearing.

As was discussed during Judge Jameson's testimony on Direct for the Commission, contrary to the point Appellee's counsel continuously put forth, a "Community Corrections Board" as set out in KRS 196, is not an entity itself. As that chapter requires, a nonprofit either must exist or be formed first. Then, and only then, can the members of that nonprofit board then decide to put in place the necessary requirements to qualify as having "Community Corrections Board" status, and thus, then receiving grant money from the Ky. Corrections Commission. The JCC has, throughout, proposed an improper understanding of that statutory scheme. The legislature's intent in creating a method for applying for KCC grant funds was to *broaden* accessibility of funding to help reduce incarceration rates by including local community organizations that were willing to step up. When the final order discusses in footnote 10 the idea that Judge Jameson always intended to do what he did, such is no secret. If Judge Jameson thought there was something wrong with what he was doing or otherwise wished to hide his intentions, *he would not have emailed AOC general counsel in the first place*. Instead, he would have just done as he pleased without reaching out to anyone for input. By definition, he was trying to involve others to *make sure* what he and the "justice partners" were doing was within limits; perhaps not perfectly inside a small circle, but within limits, which is all that is required. As for asking the Judicial Ethics Committee for an opinion, as any Judge is aware, the JEC does not tailor their responses to "what if" scenarios. They will only render an opinion on something that the Judge is specifically considering based on a specific set of confined facts. It is

Appellant's understanding they do not issue opinions based on pure hypotheticals, which is what this situation was at the time.

In its final order, the Commission states that Judge Jameson made personal appearances before fiscal courts for some improper purpose. Such is simply not the case. The ethics rules permit judges to appear before such bodies for multiple reasons, all of which were at play here. Further, Judge Jameson did not even bring up the idea of the nonprofit board having a specific idea they were going to propose to the fiscal courts. All Judge Jameson mentioned was that there was a problem, and "they" were working on a solution specifically to include the county attorneys. As was discussed by Dept. of Justice employees, if Judges are not on the board wanting to set up a GPS program, it may not be successful if the judge does not approve of some aspect of the program, equipment used, etc.. As such, local judges' involvement in the process of forming such a program is critical.

The discussion on pages 14-15 of the JCC final order is sorely misplaced. If one looks closely at the exhibits and testimony, Judge Jameson *did not* dictate what the specifications should be on any bid. As Judge Jameson testified to during the Commission's case, the "justice partners" group (and, as of March 2021 those that were thought to be directors of the nonprofit) had made it clear the features they desired the RFP to request. The equipment that had been presented to these "justice partners" by Track Group, particularly the Relialert device, was very impressive as it was all but unremovable from a defendant's leg and had many other impressive abilities. Simply put, that device had features no one in the "justice partners" group had ever seen or heard of prior to the presentation. These "partners," including fiscal court members, wanted the RFP to require

equipment at least as good as this equipment in functionality that also complied with the law. *See* testimony of Calloway County attorney. (VR: 10:13:45; 10:29:00 ;11:40:00-11:50:35). It was also made clear that Mr. Ernstberger, Calloway County attorney, drafted the RFP and Judge Jameson had nothing to do with it. (VR: 10:33:00-10:36:00). The only thing Judge Jameson did for the RFP was, at the request of the Calloway County attorney, try and get information together for the specifications and pass it on back to the county attorney. (VR: 10-19-22; 11:11:00; 11:56:40). Judge Jameson sent an RFP sample he had been given from another potential provider to the nonprofit, Total Court Services, and sent that RFP to Track Group with a request, as he was asked to do by the Calloway County attorney, to edit this document, if necessary, so Track Group equipment would *not be rejected* if bid. None of this gave any advantage to the CCB or a disadvantage to another bidder. If one reads the specifications in the RFP, it is clear that anyone with equipment that met the RFP (which was based completely on the requirements of Kentucky law) could be a successful bidder. Since the fiscal court members wanted equipment “at least as good” as what they had physically seen from Track Group, Mr. Ernstberger wanted to make sure this specific equipment was *not excluded* from the bidding process. He, nor anyone else, did *anything* to give a potential provider an advantage. (VR: 10-19-22; 11:31:00-11:36:50).

Further, these features and abilities were *required by the statutes* cited in the memo Dominik Mikulcik authored on the issue, which Calloway County Bryan Ernstberger requested a copy of from Judge Jameson in an email. This was never acknowledged by the JCC. These are the same statutory requirements that were first referenced in the opinion issued by AOC legal counsel. As such, it wasn’t just someone’s “desire” to have the

abilities available on the equipment, but it was *required*. None of the equipment offered by any other manufacturer that bid would have satisfied these statutory minimums. The Commission appeared to almost *refuse* to hear this information, and it was certainly ignored. The Commission also claims that Judge Jameson somehow *caused* the fiscal courts to choose the “CCB” as their GPS provider. Such is not true. The RFP was advertised just as any other is required to be. Even if the Commission chose not to believe Judge Jameson on this point, in order to meet their burden, they must put on “clear and convincing” evidence that he in fact did prepare the bid. This did not occur. *The same is true for all of these other issues* related to the nonprofit and the bid.

The Commission’s final order states that the AOC opinion issued by AOC general counsel to Judge Jameson in late 2018 clearly stated that the author could not provide “definitive answers” regarding the GPS program. To clarify, that opinion stated that, *because no law could be found on the issues*, the AOC could not advise on certain aspects. To a reasonable reader, this could be interpreted to say that no law preventing this project from moving forward could be found.

On page 17 of the JCC’s final order, the facts stated are absolutely incorrect. First, as has been explained elsewhere, each one of the true contempt proceedings with which the Commission took issue were justified and dealt with, overall, in a judicial manner. The Commission, again, shows its lack of understanding of criminal law when it makes the claim Judge Jameson had a duty to read Mr. Hoefle his rights or inquire about an attorney. As this Court is aware, Mr. Hoefle was held in “direct criminal contempt” for behavior he committed in the courtroom that Judge Jameson personally witnessed. These facts are discussed elsewhere in this briefing. A point that Judge Jameson could never get across to

the Commission was that defendants have no right to counsel or any level of what they continually refer to as “Due Process” when *Direct* Contempt has been committed.²⁸ Additionally, any claim by the JCC that Judge Jameson did something wrong by having the Circuit Court Clerk (not Judge Jameson) open Mr. Hoefle’s contempt cases as “CR” cases is absurd for many reasons. This is just how criminal cases are listed in Circuit Court. Judge Jameson did not make a decision regarding how the cases were listed, no one has ever brought the issue up, and Mr. Hoefle has never filed for any relief.

The next session of contempt discussed on page 18 of the JCC’s final order also reflects a misstatement of the facts and, yet again, a misunderstanding of the law. As Judge Jameson testified, which was unrebutted by the Commission, he only told the bailiff to “go get” the deputy jailer that had violated Judge Jameson’s previous order to not refuse defendants without first calling his office or otherwise notifying the Judge. Additionally, the JCC’s order misstates the law when it claims Judge Jameson did something wrong when he informed the deputy jailer he was being charged with civil contempt. The order makes it clear the Commission believes civil contempt may only be charged if it occurs before the charging judge. Of course, this is not the law. Further, this is a misstatement of the facts. As the video clearly reflects, Judge Jameson, as he is required to do when charging someone with *indirect* contempt, informed the deputy jailer that he was being charged with civil contempt, *not convicted or held in contempt*. The Judge even informed

²⁸ There was also much discussion over whether Judge Jameson wants to or does include the Commonwealth in bond and probation violation notices that he receives. The Commission seemed insistent and painted the picture that Judge Jameson was doing something wrong by preferring to involve the Commonwealth in these matters before issuing a warrant, but, at times, issuing such a warrant without consultation with the Commonwealth, which is permitted by law. (VR: 10-19-22; 05:37:00).

the deputy jailer of his right to counsel, to which the deputy jailer responded that he had a private lawyer on the way.

While both were waiting for the private attorney to arrive, Judge Jameson went on to inform the deputy jailer what he was being charged with and what it meant (i.e., that the person accused need only comply with the court order to make it go away). This is when the deputy jailer began engaging Judge Jameson in conversation without the Judge asking him any questions. Contrary to the JCC's accusations in the final order, Judge Jameson *did not* conduct a hearing. Once Mr. Goard engaged him in conversation, Judge Jameson received a call from the County Jailer. When this occurred, Judge Jameson answered it and spoke with the jailer. Once Judge Jameson was done talking to the jailer, he was satisfied that the matter was resolved and would not occur again. And, it has not occurred since. As a result, *Judge Jameson dismissed* any contempt against the Deputy Jailer and made sure nothing was listed on his criminal record.

Page 19 of the final order represents either a serious misunderstanding of the facts discussed or an intentional misrepresentation. Judge Jameson *did not deny* sending the email promoting the "Fletcher Event" to community members' email addresses he had collected for those interested in combating addiction. At the time Judge Jameson testified he had, and still has, no memory of the flyer that *The Fletcher Group* apparently put together of their own accord that was shown to him during the final hearing. Judge Jameson also admitted during this testimony on direct examination by the Commission that he should have not sent that email out with the word "fundraiser" still included in the subject line. This is Judge Jameson likely did not give much thought at the time, considering the circumstances. This message was obviously something that was quickly forwarded in an

effort to get as many interested members of the public to this public information event as possible. Judge Jameson believes that inviting people to such an event is permitted under the new ethics rules. In fact, the email sent from Chief Justice Minton introducing the new rules has a direct line that makes it clear Judges have new things they are permitted to do, and one of these is to present at a fundraising event for a nonprofit, especially a nonprofit like the CCB that is concerned with the administration of justice.

It is presumed the Commission members had never attended a RESTORE conference or been considerably exposed to what Judge Jameson still believes to be the role the Chief Justice would have Judges play to the extent permitted regarding combating addiction. As an elected official, Judge Jameson believed he was following the general directives of AOC and the Chief Justice in taking on a deep desire to instigate positive change in how his court and others dealt with addiction, which is something he believed was encouraged based on the fact that the Chief Justice, after a discussion with him regarding some of Judge Jameson's ideas and progress that had been made in his Circuit, referred Judge Jameson to the head of Specialty Courts at the time, Melinda Benjamin. This, in turn, sparked a meeting between Judge Jameson and Ms. Benjamin. At this meeting, a discussion was had regarding how some of the things the Judge had done in his Circuit and things he hoped to do could possibly be carried out statewide.

The Commission also makes the statement that Judge Jameson's answers during his hearing clearly indicated he was not going to change his behavior, but instead continue to do whatever he wanted. This could not be farther from the truth. Judge Jameson was asked to explain himself, and he did. However, he also made it clear to the Commission, especially in his closing of the temporary suspension hearing, that he wanted their help and

would adjust however they desired (VR: 08-12-22; 06:12:00). Judge Jameson's willingness to stick his neck out for what he believed was a worthy venture is not an indication that he is not open to suggestion or adjustment. In fact, even though he asked for "help" from the Commission, *not a single member* has tried to explain to him what specifically he did wrong, what rule he violated, and how he should do things differently. Just because *how* Judge Jameson did his job seems unique to other judges, *does not* mean that he did something improper. And, to the extent his actions may have been questionable or improper, he needs to know that and be assisted in adjusting his approach as a Judge, not be "made an example of." Even the Commission states in its final order that Judge Jameson had good intentions.

V. The Commission's Actions in Punishing Appellant for Filing an Application for Writ From this Court & Directly & Intentionally Interfering with the 2022 Election, Created a Class in a Manner that Violated Appellant's Right to Equal Protection, Due Process, and Violated Section 2 of the Ky. Constitution Against Unfettered and Arbitrary Power

If one looks at the facts of this matter objectively, keeping in mind that these complaints were undisputedly filed to impact the 2022 general election per testimony of Lisa DeRenard and Judge Jameson, the Commission's decisions and orders were also intended to impact the election as a method of "handling" Judge Jameson and making sure he and other judges got the message that challenging the Commission might come at a hefty price. In addition to this general "lesson," the facts give the impression that members of the panel may have coordinated with complainants in carrying out and resolving these complaints.

The Commission's orders, particularly the final order published the Friday before the 2022 general election, improperly placed Judge Jameson in an unjustifiable class that,

even under the most relaxed scrutiny, violated Equal Protection principles. *See Cook v. Popplewell*, 394 S.W.3d 323 (Ky. 2011).²⁹ Looking closely at the timing of events up to and including those taken after the completion of the final hearing, strongly supports this conclusion.

The effort to impact the 2022 election did not start in the late Summer of 2022. A very predictable pattern of conduct intended to impact the election could be seen on the front end from miles away. In fact, it became the question of the day among those assisting in this action just when the Commission would time the next event in order to have maximum impact on the election results. Consider the timeframe and the uncomplicated claims:

- (1) August of 2021, Judge Jameson receives JCC letter citing complaint, then he responds very quickly to the allegation in writing. Shortly after this, Judge Jameson receives a letter inviting him to an “informal hearing,”
- (2) October of 2021, Judge Jameson appears before the Commission for what he is told is an arms-length settlement meeting to first see if there is any reason for formal proceedings to move forward. During this “hearing” Judge Jameson learns the reason he was told he was summoned before the Commission is false; that he has been sabotaged by trickery into what can only be described as an “interrogation.”
- (3) From October of 2021-June of 2022, the Commission takes its time making large request for production of documents and responses to questions. A TOTAL OF 8 MONTHS PASSED.
- (4) July of 2022, the Commission files notice of formal proceedings and Judge Jameson files a timely response, later learning that the actual Commission members have apparently received NONE of the materials Judge Jameson sent in response to Commission requests; that, apparently, only Mr. Mando had received and reviewed these documents before a decision was made to proceed with formal proceedings.³⁰

²⁹ The fact that candidacy has always been heavily burdened by state regulation in no way suggests that the state has unfettered power to obstruct an individual's desire to seek elective office. But, in our view, the protection afforded by the United States Constitution to persons who desire to run for office is not derived from the First Amendment; rather, it is found in the Equal Protection Clause of the Fourteenth Amendment. *Mobley v. Armstrong*, 978 S.W.2d 307, 309 (Ky.1998).

³⁰ Throughout the final hearing, multiple Commission members, especially Judge Thomas, repeatedly asked questions regarding matters that Judge Jameson had answered fully in his written responses to the JCC's

- (5) August 12, 2022, the temporary suspension hearing occurs with the JCC presenting only two witnesses; neither of which give any measurable implicating testimony against Judge Jameson; however, the JCC suspends with a vote of 3-2; Appellant's Motion to Alter, Amend, or Vacate **informing the JCC of the requirement of 4 members to suspend**, is outright rejected with no order giving Facts or Conclusions of law. This is the point where everyone begins to almost jokingly gamble (due to the absurd level of unfairness) on just how close the final hearing will be to the November 8 upcoming election. Soon after, Appellant is notified the final hearing will be October 17, 2022, approximately two weeks from the election, which gives just enough time to make it through a week-long hearing and get an order out in time to impact the election, especially if Judge Jameson does not settle before his hearing.
- (6) October 20, the final hearing from October 17-20 concludes. No one, after hearing all of the testimony, believes anything more serious than a short suspension could reasonably be the result of the hearing. Even the Commission seems to have "calmed down" their approach to the matter by the time it ends.
- (7) A *writ of prohibition* from this Court is **granted** on October 28, 2022.
- (8) November 4, 2022, **five days before the election**, the Commission issues its final order on a Friday REMOVING Judge Jameson from the bench after the 10 day period required by rule passes, if no appeal is filed.
- (9) Beginning November 4 – 8, 2022, Andrea Moore (Judge Jameson's opponent), and local media sources cover the JCC order around the clock, with Ms. Moore even running a radio ad implying Judge Jameson has been "removed" which was largely interpreted as, "removed from the ballot." Many citizens state to Appellant's family & supporters they did not go vote because they believed Judge Jameson was no longer on the ballot or otherwise eligible to receive votes. In fact, an action challenging the election has now been filed in Marshall Circuit Court.

The Commission has stepped far beyond its jurisdiction. The language used in the final order is unjustifiable under any standard. The only reasonable understanding of why the Commission used such harsh language and exceeded its authority is that the Commission's direct intent was to impact the election that would occur only days after that order was released. If this is not so, there is no reason the Commission could not or would not have held that order just a few days to let the "people" weigh in without government influence. The catastrophic damage this caused to Judge Jameson and his bid for re-

inquiries. Reference to an email from the Chief Justice introducing the new 2018 canons was made in this regard, as were other documents/records.

election is undeniable. This conduct cannot stand if judges are to have *any* security in their decision to run for re-election or be a judge in the first place. No one group should control what it means to be a Kentucky judge or how those judges *properly* execute their discretion and authority.³¹ It is clear the Commission does not share this opinion.³²

VI. All Charges Related to Temporary Suspension Restrictions on Appellant Should be Dismissed as the Basis for the Allegations was Eliminated When this Court issued the *Writ* Voiding that Suspension.

The argument proposed is simple and requires little discussion. Upon the entry of the *writ* issued by this Court, the temporary order of suspension against Appellant never existed. As such, any charges based on his alleged violation of conditions of that suspension cannot be sustained.

If the Court believes this legal argument fails, the Commission did not meet its burden regarding these allegations. Judge Jameson only called his office once during his “suspension” period and that was to attempt to receive copies of documents being produced due to AOC’s broad interpretation of a subpoena. The testimony on cross of Sarah Gibson and Landon Norman (Judge’s staff) confirm this. Judge Jameson never once used his work computer during his “suspension.” The testimony given regarding this is clear that Judge Jameson simply changed the incorrect date of the final hearing that was listed on his electronic calendar *on his phone* to the correct date (from Oct 27 to Oct 17), which

³¹ The Preamble to the Judicial Ethics Rules, section 2 states: “The Canons state overarching principles of judicial ethics that all judges must observe. Although a judge may be disciplined only for violating a Rule, the Canons provide important guidance in interpreting the Rules. Where a Rule contains a permissive term, such as “may” or “should,” the conduct being addressed is committed to the personal and professional discretion of the judge or candidate in question, and no disciplinary action should be taken for action or inaction within the bounds of such discretion.”

³² There were multiple examples of this throughout these proceedings. E.g., Judge Karen Thomas made issue of the length of contempt sentences when such was not at issue, and her questions neglected witness testimony that Judge Jameson handles contempt appropriately to include giving a high sentence for contemptable behavior in court, but *often* going back and reducing contempt sentences or dismissing contempt charges. (VR: 10-19-22; 04:50:40).

automatically caused a notification email to go out to everyone else that had been part of that calendar event (Judge Jameson's staff). Further, when Judge Jameson was illegally suspended by the Commission on August 15, 2022, he obviously had his computers with him. He was given no instructions nor requests regarding his computers after this hearing. Therefore, he did the only thing he could, which is to keep the computers safe in his possession. The only reason Judge Jameson asked for a docking station, *which he never received*, was to charge his computer for when he did have permission to use it again because *all* of the work he did in preparation for the final hearing was on that computer, information he was never able to access before the hearing even though motion was made.

VII. Poor Minute Keeping for the Nonprofit was Not due to any Malice

While Judge Jameson certainly should have been more diligent regarding meeting minutes and other such details related to the nonprofit, there was *never* any proof that any of these misgivings were the result of anything but lackluster organizational skills. The timeframe where any "issues" existed was *very short*. In fact, at most any issue that existed was from December of 2020 until Mr. Mike Row was hired to be Director GPS Services for the nonprofit's GPS arm.³³ All of the documents regarding financials, IRS 501(c)(3) status, a community corrections plan, etc., existed and still exist. The main issue that was

³³ Something that the JCC has refused to address multiple times is the fact that any issues regarding Judge Jameson's role in handling GPS violations that may have existed, began in late 2020 and were born directly out of the Marshall County Attorney (connected to these complaints) and the Commonwealth Attorney (one of the complainants) REFUSING to handle the GPS violations, after agreeing to do so. This is something Dennis Foust made clear in his statement to the JCC from March of 2022 and something witness James Burkeen touched on in his testimony (VR: 10-19-22; 05:42:30-05:43:35) regarding victim's advocate, Renae Maness, not wanting to handle the violations. If these prosecutors had done what they admittedly said previously they would do (this is discussed in the recorded statement of Dennis Foust to the JCC), no problems would have existed regarding Judge Jameson's role with respect to handling GPS violations. It is clear that these two carried out an intentional plan to make Judge Jameson's involvement in what was really a good thing, look bad and damage his chances at re-election. These officers of the court ABUSED the JCC for political purposes, and the JCC played along in perfect tune.

not given enough attention was the keeping up with minutes from board meetings. However, there was no proof provided by the Commission that anything Judge Jameson and other witnesses such as Dominik Mikulcik and Christine Pickett said about meetings and board members was a fabrication or wholly inaccurate. Prior to this action, Judge Jameson had never had a complaint filed against him that resulted in anything other than a dismissal. This was either misunderstood or misrepresented by the Commission in its final order. Jameson has been a practicing attorney for 15 years, a member of multiple Circuit Court Judge Association committees, and was even appointed by Justice Nickell to a committee. He is not someone whose reputation has been to misrepresent, lie, or engage in any misconduct. Any suggestion otherwise is baseless and, frankly, insulting. While Commission members appear to hold an opinion different from many other judges regarding the Court's role in combating addiction, such *does not, per se*, mean those in support are "wrong."

VIII. Without Notice and Over Appellant's Strong Objection, the Commission Tried Judge Jameson for Conduct That was Uncharged

During the testimony of Tiffany Griffith, Appellee's counsel began asking questions of the witness regarding an impromptu meeting she and Judge Jameson had in his office this year about a deputy circuit court clerk named Lacey Cavitt, a strong supporter of Judge Jameson's opponent in the 2022 general election. The meeting was not about Ms. Cavitt supporting someone other than the judge. Rather, it concerned the incredibly uncomfortable work atmosphere in the Marshall County Judicial Building caused by Ms. Cavitt's constant negative statements about Judge Jameson during court hours in the clerk's office and elsewhere. (VR: 10-17-22; 11:00:30 & 11:04:00).

Both Judge Jameson and Ms. Griffith were very emotionally upset about the work atmosphere Ms. Cavitt was causing, and it was clearly interfering with the business of the court. (VR: 10-17-22; 11:00:00). As Ms. Griffith testified, there was no intimidation of her or anyone else by Judge Jameson. However, the more relevant issue is the fact that the Commission allowed the hearing on the charge to go forward when it had *asked for an informal response* on the complaint from Judge Jameson just days before. (VR:10-17-2022; 10:17:00).

Even if this Court believes holding Judge Jameson accountable for a charge to which he was never allowed to respond informally, the proof put on by the JCC was insufficient to sustain this allegation by clear and convincing evidence. Ms. Griffith testified that no “intimidation” occurred during this informal, impromptu meeting, or otherwise. The only thing that occurred was both Judge Jameson and Ms. Griffith tearing up in frustration and sadness at the situation.

IX. Rulings on, or Interpretations of, Unsettled Legal Questions are not Within the Jurisdiction of the Commission

Throughout these proceedings, the Commission has questioned *legal decisions* made by Judge Jameson to include, *inter alia*: interpretation of sections of KRS 67 and the other statutes relevant to a GPS program, reasonable interpretation of various other statutes, and reasonable interpretation of the new Canons. The JCC has no authority to determine if a Judge’s reasonable interpretation of the law was improper. *Only* this Court or another court of competent jurisdiction has that authority. Simply because the current JCC members who happen to be members at this time may disagree with Judge Jameson, does not mean Judge Jameson has done something *per se* unethical or otherwise

improper.³⁴ The JCC's current members do not seem to draw a line between their own personal opinions verses viewing a Judge's decisions and measuring them by a standard commiserate with Due Process.³⁵ The members' specific opinions by themselves should be all but irrelevant.

X. Judge Jameson Had No Role in Clerks Choosing to Collect GPS Fees Against AOC Advice; and AOC Assisted Clerks in Setting Payments Up in System

After Judge Jameson received an opinion from AOC general counsel regarding an "idea" he and other justice partners had been discussing which included the possibility of Marshall and Calloway Circuit Clerks receiving fees from defendants that were ordered to participate in a newly organized ankle monitor program. Once Judge Jameson read the opinion, which stated "we do not recommend" clerks receiving these payments, he passed the information on to both clerks and assumed it was settled. The next the Judge heard about the matter came from Calloway Clerk, Linda Avery, who stated that she and Tiffany Griffith had both decided to collect the fees against AOC's recommendation. (VR 10-17-22; 11:05:00).

XI. The Commission's Final Order all but Ignored the Testimony

³⁴ The JCC's beliefs are made up of the persons that *happen to be* its current membership. This handful of people do not and could not reflect the opinions of all citizens, attorneys, judges, etc.. In the experience of Appellant, the elected members of the JCC are more chosen by default than a contested election against one or more of their peers. No one wants the job on top of their other duties so the same persons are elected over and over, sometimes for over a decade.

³⁵ For example, this is reflected in the one lay member of the Commission consistently making remarks about her "not liking" Appellant's decisions such as: stating the law to Anastashia Dean's grandfather, not giving his nephew credit for the ReLife Project being his "pipedream" because she supports "underdogs." No legal or other legitimate grounds for criticizing Judge Jameson were ever mentioned by this lay member.

The Commission's final order is littered with factual conclusions that cannot be supported by the record. Appellant takes issue with every factual conclusion made by the Commission that is inconsistent with the facts stipulated to in this document.

XII. Requested Relief

Appellant hereby moves this honorable Court to DISMISS all charges against him for the previously stated reasons. However, in the alternative, Appellant requests any secondary relief to which he may be entitled to or ought otherwise be given so justice may be carried out and the wrongs he has suffered be remedied to the extent this Court has the jurisdiction to do so and believes such relief is justified. Appellant further requests an order of this honorable Court requiring the Commission to produce to it and to Appellant ALL factual information reported to the Commission regarding Judge Jameson since any issues regarding the 42nd Judicial Circuit Community Corrections Board, Inc., came to the attention of the JCC. Such is the only way Judge Jameson or this court will be able to uncover and know just how it is the Commission knew considerable details about the nonprofit (CCB) that were discussed considerably at the so called "informal hearing" held in October of 2021. Details not disclosed to Appellant in any way. Appellant moves this honorable Court to issue its rulings regarding all matters addressed due to the possibility of future occurrence with respect to not only Judge Jameson, but other judges as well who should be provided clarification of precisely what they are being subjected to if and when they are investigated by the current Commission or decide to run for office.

Appendix A

[Court Documents Related to Dale Sentencing]

COMMONWEALTH OF KENTUCKY
CALLOWAY CIRCUIT COURT
CASE NO. 19-CR-00210
CASE NO. 19-CR-00211

COMMONWEALTH OF KENTUCKY

PLAINTIFF

VS.

ENTERED
THIS 12-3, 20 21
CALLOWAY CIRCUIT/DISTRICT

DANNY TERRELL DALE

BY: AB D.C.

DEFENDANT

ORDER GRANTING DEFENDANT'S MOTION TO ALTER, AMEND, OR VACATE

This matter having come before the Court upon Defendant's Motion to Alter, Amend, or Vacate the Judgments entered in the above styled cases, the Court having reviewed the record, heard the arguments of counsel, and otherwise being sufficiently advised, hereby, makes the following findings of fact and conclusions of law:

Findings of Fact

1. Defendant appeared for Sentencing in both 19-CR-00210 and 19-CR-00211 on September 7, 2021.
2. During Sentencing, Defendant was held in direct criminal contempt in 19-CR-00210 for exiting the courtroom in violation of this Court's orders.
3. After being brought back to the courtroom, Defendant was held in direct criminal contempt in 19-CR-00211 for conduct that brought the Court into disrepute.
4. Each direct criminal contempt charge carried a sentence of 180-days. All sentences were to be served consecutively.

Conclusions of Law

Defendant timely filed a motion pursuant to CR 52.02 and CR 59.05 to reconsider the sentence entered against him. In support of his motion, Defendant argues that KRS 532.110(1)(a) requires the Defendant's definite contempt sentence to run concurrently with his indeterminate sentence for Receiving Stolen Property under \$10,000. Further, Defendant argues that KRS 533.060(3) does not apply because Defendant was not "awaiting trial." If Defendant was awaiting

trial, then the new criminal charges would be served consecutively. Defendant argues that he was not waiting for trial because he had already entered a guilty plea and was awaiting sentencing. Defendant argues, in the alternative, that if this Court were to find that all sentences are legally allowed to run consecutively, then Defendant's contempt sentence should be reduced pursuant to *Norton v. Commonwealth*, 37 S.W.3d 750 (Ky. 2001). This Court disagrees with Defendant's arguments.

The law is clear that pursuant to KRS 532.110(1)(a), "[a] definite and indeterminate term shall run concurrently and both sentences shall be satisfied by service of the indeterminate term." The Kentucky Supreme Court in *Norton* held, in relevant part: "[the] statutory requirement of concurrent sentencing would materially limit the court's power of contempt, and thus was unconstitutional as applied to defendant's contempt sentence for burglary and his sentence for contempt of court." *Id* at 750.

The "awaiting trial" argument was also presented in *Norton*. The Supreme Court reasoned that:

Although the precise meaning of "awaiting trial" is indeed an interesting issue, we need not resolve that question today, as we believe an entirely different and far more compelling reason exists to support the trial court's decision to order the contempt sentence to run consecutively with Appellant's burglary conviction.

Id at 754.

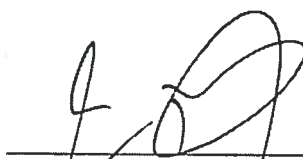
The Supreme Court in *Norton* cited the far more compelling reason as follows: "If we were to permit the KRS 531.110(1)(a) requirement of concurrent sentencing for definite and indeterminate terms to apply to sentences imposed for contempt of court, we have no doubt the requirement would materially limit the court's power of contempt. ... If the courts are to have the power to control participants in the judicial process and effectively administer justice, the power of contempt must be more than a hollow threat." *Id* at 755. Thus, this Court disagrees with Defendant's arguments.

However, this Court does believe that a reduction in sentence for contempt, as presented in Defendant's alternative argument, is warranted. Defendant's sentence shall be amended pursuant to CR 59.05.

WHEREFORE, the Court Concludes that Defendant's total sentence for the two direct criminal contempt charges will be amended down to 180 days. Therefore, this Court **ORDERS** Defendant's motion to Alter, Amend, or Vacate is, hereby, **GRANTED**. The granting of this

motion comes with an attached warning. Should Defendant participate in any similar conduct that brings this Court into disrepute, the Court will not show the same sort of mercy.

ENTERED this the 19th day of Dec, 2021.



Hon. James T. Jameson, Judge
42nd Judicial Circuit
Div. I

CLERK'S CERTIFICATE

I hereby certify that a copy of the foregoing was sent to those listed below on this the 3rd
day of ~~November~~, 2021.

December

Commonwealth

Defendant

Defense Counsel of Record

County Jail

DOC

19 CI 19-CR-00210 COMMONWEALTH VS. DALE, DANNY TERRELL

☐ DALE, DANNY TERRELL

1985 M B

**141498



Pty Memo: 175 HIGHLAND RD.

- ☐ RIEDEL, CHERI
☐ BURKEEN, JAMES
☐ Reynolds, Thomas
☒ DALE, DANNY TERRELL
☐ HARRIS, TOM JR

*Teams
CCOpil*

ATTORNEY-PUBLIC ADVOCATE
COMMONWEALTH'S ATTORNEY
COMPLAINING WITNESS
DEFENDANT / RESPONDENT
SURETY

RIEDC

reynolds31

☐ Bail Credit Denied ☐ Danger to self or others ☐ Flight Risk

Bail Set: 09/07/2019CA \$ 10,000.00

AMENDE 09/11/2019

Bail Set: 09/11/2019CA \$ 10,000.00

AMENDE 10/18/2019

Bail Set: 10/18/2019SU \$ 5,000.00

POSTED 10/19/2019

CONCURRENT 018 1 CI 19-CR-00211

CONCURRENT 018 1 CI 20-CR-00083

CONCURRENT 018 1 CI 20-CR-00084

Amount Due:

\$215.00

ENTERED 11-2-20 21
THIS CALL OWAY CIRCUIT/DISTRICT

MOTION HOUR

Sch Memo: motion to amend judgement pursuant to CR 52.01 & CR 59.05

BY: *JH* D.C.

MOTION TO AMEND

ATTORNEY-PUBLIC ADVOCATE

MOTION TO AMEND

ATTORNEY-PUBLIC ADVOCATE

MOTION TO AMEND JUDGEMENT PURSUANT TO CR 52.01 & CR 59.05

Cross Ref Date: 09/16/2019 DI 19-F-00263

GRAND JURY

() Costs Waived due to indigence

() Installment / Deferred Payment

19

- Atty motions for cases/sentences to run concurrent
- \approx Contempt charge was discussed

Def spoke an apology to the court.

Commonwealth stated def has not signed Probation Conditions, Judge advised if def still wants his probation he needs to sign

JHF / OTBE

James T. Jameson

**COMMONWEALTH OF KENTUCKY
CALLOWAY CIRCUIT COURT
CASE NO. 19-CR-00210
ELECTRONICALLY FILED**

COMMONWEALTH OF KENTUCKY

PLAINTIFF

V.

DANNY DALE

DEFENDANT

**AMENDED MOTION TO AMEND JUDGMENT PURSUANT TO CR 52.02
& CR 59.05**

Comes now, Danny Dale ("Defendant"), through Counsel, and timely moves the Court to reconsider the sentence entered against him on September 13, 2021.

In support of this motion, the Defendant states as follows:

1. KRS 532.110(1)(a) states that, "[a] definite and an indeterminate term shall run concurrently and both sentences shall be satisfied by service of the indeterminate term." This statute requires the Defendant's definite contempt sentence to run concurrently with his indeterminate sentence for Receiving Stolen Property Under \$10,000. The criminal contempt sentencing order specifically requires the sentence to run consecutively, contrary to this statute.
2. Defendant contends that KRS 533.060(3) does not apply in this case. KRS 533.060(3), states that "[w]hen a person commits an offense **while awaiting trial for another offense**, and is subsequently convicted or enters a plea of guilty to the offense committed while awaiting trial, the sentence imposed for the offense committed while awaiting trial shall not run concurrently with

AM - 000001 of 000003



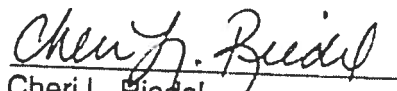
confinement for the offense for which the person is awaiting trial" (emphasis added). Defendant contends that when he was charged with contempt by this Court, he was no longer "awaiting trial" for another offense. From the Court's own wording in the contempt sentencing order in this matter, Mr. Dale was being sentenced at the time of his contumacious conduct, and therefore no longer awaiting trial.

3. Alternatively, if the Court determines that the sentence for contempt in this matter should properly run consecutive to the Defendant's sentence in this matter, Defendant argues that a sentence of 180 days total for two (2) Counts of contempt would be the appropriate sentence, rather than the 360 days that the Court has ordered. A reduction in the contempt sentence in this way would not infringe upon or diminish the Court's authority, nor hinder the Court's ability to enforce punishment for contumacious conduct. This is consistent with the court's opinion in *Norton v. Commonwealth*, 37 S.W.3d 750 (Ky. 2001), which stated that a 90-day sentence was an appropriate sentence for a defendant's contumacious conduct which occurred during the court's proceedings. That case similarly involved an emotional outburst by a defendant, drawn out over a short period of time. In *Norton*, the Supreme Court stated that a 90-day sentence for contumacious conduct appropriately and sufficiently recognized a court's authority to control the behavior of defendants in a courtroom.

WHEREFORE, Defendant respectfully moves this Court pursuant to CR 52.02 and 59.05 to amend the total sentence entered on September 13, 2021, and that his contempt

sentence be allowed to run concurrently with his 300-day alternative sentence in this matter.

Respectfully Submitted,



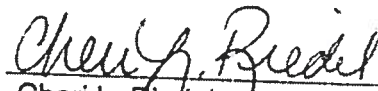
Cheri L. Riedel,
Attorney at Law
607 S. 6th St.
Murray, Kentucky 42071
833-514-8983

NOTICE

This Motion shall be brought before the Calloway Circuit Court for hearing on Tuesday, November 2, 2021 at 1:30pm, or as soon thereafter as allowed by the Court.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion was delivered via electronic mail on this the 1st day of October, 2021 to Hon. Dennis Foust, Commonwealth's Attorney.



Cheri L. Riedel

**COMMONWEALTH OF KENTUCKY
CALLOWAY CIRCUIT COURT
CASE NO. 19-CR-00210
ELECTRONICALLY FILED**

COMMONWEALTH OF KENTUCKY

PLAINTIFF

V.

DANNY DALE

DEFENDANT

MOTION TO AMEND JUDGMENT PURSUANT TO CR 52.02 & CR 59.05

Comes now, Danny Dale ("Defendant"), through Counsel, and timely moves the Court to reconsider the sentence entered against him on September 13, 2021.

In support of this motion, the Defendant states as follows:

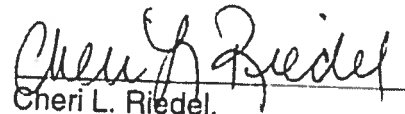
1. KRS 531.110(1)(A) states that, "[a] definite and an indeterminate term shall run concurrently and both sentences shall be satisfied by service of the indeterminate term." This statute requires the Defendant's definite contempt sentence to run concurrently with his indeterminate sentence for Receiving Stolen Property Under \$10,000. The criminal contempt sentencing order specifically requires the sentence to run consecutively, contrary to this statute.
2. Defendant contends that KRS 533.060(s) does not apply in this case. KRS 533.060(3), states that "[w]hen a person commits an offense **while awaiting trial for another offense**, and is subsequently convicted or enters a plea of guilty to the offense committed while awaiting trial, the sentence imposed for the offense committed while awaiting trial shall not run concurrently with confinement for the offense for which the person is awaiting trial" (emphasis

added). Defendant contends that when he was charged with contempt by this Court, he was no longer "awaiting trial" for another offense. From the Court's own wording in the contempt sentencing order in this matter, Mr. Dale was being sentenced at the time of his contumacious conduct, and therefore no longer awaiting trial.

3. Alternatively, if the Court determines that the sentence for contempt in this matter should properly run consecutive to the Defendant's sentence in this matter, Defendant argues that a sentence of 180 days total for two (2) Counts of contempt would be the appropriate sentence, rather than the 360 days that the Court has ordered. A reduction in the contempt sentence in this way would not infringe upon or diminish the Court's authority, nor hinder the Court's ability to enforce punishment for contumacious conduct. This is consistent with the court's opinion in *Norton v. Commonwealth*, 37 S.W.3d 750 (Ky. 2001), which stated that a 90-day sentence was an appropriate sentence for a defendant's contumacious conduct which occurred during the court's proceedings. That case similarly involved an emotional outburst by a defendant, drawn out over a short period of time. In *Norton*, the Supreme Court stated that a 90-day sentence for contumacious conduct appropriately and sufficiently recognized a court's authority to control the behavior of defendants in a courtroom.

WHEREFORE, Defendant respectfully moves this Court pursuant to CR 52.02 and 59.05 to amend the total sentence entered on September 13, 2021, and that his contempt sentence be allowed to run concurrently with his 300-day alternative sentence in this matter.

Respectfully Submitted,



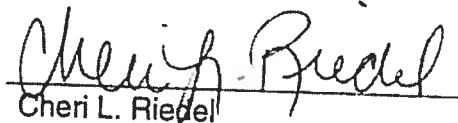
Cheri L. Riedel,
Attorney at Law
607 S. 6th St.
Murray, Kentucky 42071
833-514-8983

NOTICE

This Motion shall be brought before the Calloway Circuit Court for hearing on Tuesday, November 2, 2021 at 1:30pm, or as soon thereafter as allowed by the Court.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion was delivered via electronic mail on this the 23rd day of September, 2021 to Hon. Dennis Foust, Commonwealth's Attorney.



Cheri L. Riedel

COMMONWEALTH OF KENTUCKY
CALLOWAY CIRCUIT COURT
CASE NO. 19-CR-00210

COMMONWEALTH OF KENTUCKY

PLAINTIFF

VS.

THIS 9-8, 2021
CALLOWAY CIRCUIT/DISTRICT

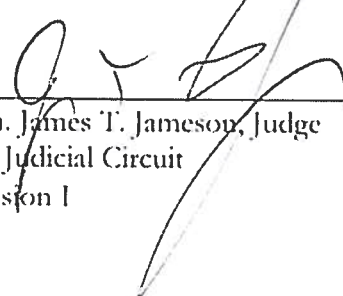
DANNY TERRELL DALE

BY: YB D.C.

DEFENDANT

CRIMINAL CONTEMPT SENTENCING ORDER

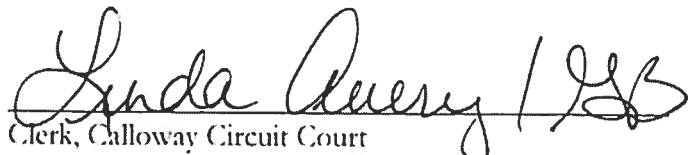
This matter having come before the Court *sua sponte*, on September 7, 2021, the Court being sufficiently advised, hereby, finds Defendant was disruptive in open court by words and conduct, which was directed against the dignity and authority of the court. Specifically, Defendant began leaving the courtroom while being sentenced. Defendant exited the courtroom in direct violation of court orders. Therefore, the Court concludes Defendant is in direct criminal contempt. **The Defendant is, hereby, sentenced to serve 180 days in the county jail consecutive to all other time the Defendant is currently serving beginning on September 7, 2021.**


Hon. James T. Jameson, Judge
42nd Judicial Circuit
Division I

Clerk's Certificate

I hereby certify that a copy of the foregoing was mailed to the following on this the 8th day of September, 2021.

- Commonwealth Attorney
- Defendant
- Department of Public Advocacy
- Calloway Jail


Clerk, Calloway Circuit Court

Riedel, Cheri L (DPA)

From: Hart, Mikayle (DPA)
Sent: Tuesday, September 7, 2021 1:20 PM
To: Riedel, Cheri L (DPA)
Cc: Gray, Cary A (DPA)
Subject: FW: Screenshot 2021-09-03 at 4.56.57 PM.jpeg

I forwarded a screenshot from Mr. Danny Dale regarding his upcoming appointment with Bridges. This is the automated text Mr. Dale received after scheduling his appointment. Please let me know if you need anything else, thanks!

From: Mikayle Hart <mikaylehart@gmail.com>
Sent: Tuesday, September 7, 2021 12:31 PM
To: Hart, Mikayle (DPA) <mikayle.hart@ky.gov>
Subject: Screenshot 2021-09-03 at 4.56.57 PM.jpeg

FILE AND NOTED OF RECORD
THIS 9-7, 2021
LINDA AVERY, CLERK
CALLOWAY CIRCUIT DISTRICT CT
BY: LS D.C.



+1 (844) 668-6891 >

Text Message
Today 12:31 PM

Hi DANNY, this is the beginning of your direct text thread with Adam Currence. Please do not send any sensitive health information over text. You can always call us at 2707615804.

This is a reminder of your upcoming appointment with Adam Currence on Monday October 18th at 1:45pm. If you have any questions please call the office at 270-761-5804. Thank you!

45 CI 19-CR-00210 COMMONWEALTH VS. DALE, DANNY TERRELL

☐ DALE, DANNY TERRELL

1985 M B

**141498



Pty Memo: 175 HIGHLAND RD.

- ☒ RIEDEL, CHERI
☐ BURKEEN, JAMES
☐ Reynolds, Thomas
☒ DALE, DANNY TERRELL
☐ HARRIS, TOM JR

ATTORNEY-PUBLIC ADVOCATE
COMMONWEALTH'S ATTORNEY
COMPLAINING WITNESS
DEFENDANT / RESPONDENT
SURETY

RIEDC

THIS ^{reynolds31} ENTERED 9-7-2021
CALLOWAY CIRCUIT/DISTRICT

BY: 213 D.C.

☐ Bail Credit Denied ☐ Danger to self or others ☐ Flight Risk

Bail Set: 09/07/2019CA \$ 10,000.00

AMENDE 09/11/2019

Bail Set: 09/11/2019CA \$ 10,000.00

AMENDE 10/18/2019

Bail Set: 10/18/2019SU \$ 5,000.00

POSTED 10/19/2019

CONCURRENT 018 I CI 19-CR-00211

CONCURRENT 018 I CI 20-CR-00083

CONCURRENT 018 I CI 20-CR-00084

Amount Due: \$45.00

SENTENCING

Cross Ref Date: 09/16/2019 DI 19-F-00263 GRAND JURY

() Costs Waived due to indigence

() Installment / Deferred Payment

45

2A 05/20/2021 NA

0280320

514.110

OBS RECEIVING STOLEN PROPERTY U/\$10,000 (F)
(D) *FTA Eligible*

25 months, probated 5 yrs. Superv.

w/ 300 day Alternative sentence

Consec to Contempt sentence + other sentences

No Credit for time served

#1 19CR210 Def left courtroom during sentencing, as he was being sentenced to serve. Had to be chased, tazed by court security - Contempt charge added (1)

#2 19CR211 After being brought back to courtroom, defendant cursed judge + said he would do his time on his head + come back + "F" up our community again - Contempt charge added (2)

Remanded into custody - Orders to be entered
cc waived

James T. Jameson

32 CI 19-CR-00210 COMMONWEALTH VS. DALE, DANNY TERRELL

☐ DALE, DANNY TERRELL

1985 M B

**141498



Pty Memo: 175 HIGHLAND RD.

- ☒ RIEDEL, CHERI
☐ BURKEEN, JAMES
☐ Reynolds, Thomas
☒ DALE, DANNY TERRELL
☐ HARRIS, TOM JR

ATTORNEY-PUBLIC ADVOCATE
COMMONWEALTH'S ATTORNEY
COMPLAINING WITNESS
DEFENDANT / RESPONDENT
SURETY

RIEDC

reynolds31

☐ Bail Credit Denied ☐ Danger to self or others ☐ Flight Risk
Bail Set: 09/07/2019CA \$ 10,000.00 AMENDE 09/11/2019
Bail Set: 09/11/2019CA \$ 10,000.00 AMENDE 10/18/2019
Bail Set: 10/18/2019SU \$ 5,000.00 POSTED 10/19/2019

CONCURRENT 018 I CI 19-CR-00211
CONCURRENT 018 I CI 20-CR-00083
CONCURRENT 018 I CI 20-CR-00084

ENTERED
THIS 7-8, 2021
CALLOWAY CIRCUIT/DISTRICT
BY: SP D.C.

Amount Due: \$45.00

SENTENCING

SE- 9/7 @ 2:30

Cross Ref Date: 09/16/2019 DI 19-F-00263 GRAND JURY
() Costs Waived due to indigence () Installment / Deferred Payment

2A 05/20/2021 NA 0280320 514.110 RECEIVING STOLEN PROPERTY U/\$10,000 (F) (D)
FTA Eligible

32

oral motion for Probation

Continued for Atty/def to address
possible counseling plan to address
underlying issues, or to be unrolled
Possibly Budgets or MSU?

James T. Jameson

44 CI 19-CR-00211 COMMONWEALTH VS. DALE, DANNY T

☐ DALE, DANNY T

1985 M B ***-**-3097 **141498



Pty Memo: 175 HIGHLAND RD, 42071

- ☒ RIEDEL, CHERI
☐ BURKEEN, JAMES
☐ BEELER, J.
☒ DALE, DANNY T
☐ WILLIAMS, D.
☐ HARRIS, TOM JR

ATTORNEY-PUBLIC ADVOCATE
COMMONWEALTH'S ATTORNEY
COMPLAINING WITNESS
DEFENDANT / RESPONDENT
SERVING OFFICER
SURETY

RIEDC

BEEL32
ENTERED

THIS 9-7-2021
CALLOWAY CIRCUIT/DISTRICT

BY: 213 D.C.

☐ Bail Credit Denied ☐ Danger to self or others ☐ Flight Risk

Bail Set: 09/07/2019CA \$ 10,000.00 AMENDE 09/11/2019

Bail Set: 09/11/2019CC \$ 0.00

PRIMARY 018 1 DI 19-F-00263

CONCURRENT 018 1 DI 19-F-00264

Bail Set: 10/18/2019CC \$ 0.00

POSTED 10/19/2019

PRIMARY 018 1 CI 19-CR-00210

CONCURRENT 018 1 CI 20-CR-00083

CONCURRENT 018 1 CI 20-CR-00084

Amount Due: \$20.00

SENTENCING

Cross Ref Date: 09/16/2019 DI 19-F-00264 GRAND JURY
() Costs Waived due to indigence () Installment / Deferred Payment

Remanded into Custody
Orders to be Entered.

44

3 09/16/2019 NA 0007880 508030 ASSAULT, 4TH DEGREE DATING VIOLENCE (MINOR INJURY) (M) (A)

12mo

4 09/16/2019 NA 0007880 508030 ASSAULT, 4TH DEGREE DATING VIOLENCE (MINOR INJURY) (M) (A)

12mo

5 09/16/2019 NA 0007880 508030 ASSAULT, 4TH DEGREE DATING VIOLENCE (MINOR INJURY) (M) (A)

12mo.

Consec to all other sentences + Contempt

#1 19-cr-210 Def left Courtroom during sentencing, as he was being sentenced to serve. Had to be chased, Tazed by Court security. - Contempt Charge added (1)

#2 19-cr-211 After being brought back to Courtroom, defendant cursed judge - said he would do this up time on his head + come back + "F" our community again - Contempt Charge added (2)

31 CI 19-CR-00211 COMMONWEALTH VS. DALE, DANNY T

☐ DALE, DANNY T

1985 M B ***-**-3097 **141498



Pty Memo: 175 HIGHLAND RD, 42071

- ☒ RIEDEL, CHERI
☐ BURKEEN, JAMES
☐ BEELER, J.
☒ DALE, DANNY T
☐ WILLIAMS, D.
☐ HARRIS, TOM JR

ATTORNEY-PUBLIC ADVOCATE
COMMONWEALTH'S ATTORNEY
COMPLAINING WITNESS
DEFENDANT / RESPONDENT
SERVING OFFICER
SURETY

RIEDC

BEEI.32

CCS22DW

☐ Bail Credit Denied ☐ Danger to self or others ☐ Flight Risk
Bail Set: 09/07/2019CA \$ 10,000.00 AMENDE 09/11/2019
Bail Set: 09/11/2019CC \$ 0.00
PRIMARY 018 1 DI 19-F-00263
CONCURRENT 018 1 DI 19-F-00264
Bail Set: 10/18/2019CC \$ 0.00 POSTED 10/19/2019
PRIMARY 018 1 CI 19-CR-00210
CONCURRENT 018 1 CI 20-CR-00083
CONCURRENT 018 1 CI 20-CR-00084

ENTERED
THIS 7-8, 2021
CALLOWAY CIRCUIT/DISTRICT
BY: 28 D.C.

Amount Due: \$20.00

SENTENCING

SE - 9/7 @ 2:30

Cross Ref Date: 09/16/2019 DI 19-F-00264
() Costs Waived due to indigence

GRAND JURY

() Installment / Deferred Payment

31

3 09/16/2019 NA 0007880 508030 ASSAULT, 4TH DEGREE DATING VIOLENCE (MINOR INJURY) (M) (A)

4 09/16/2019 NA 0007880 508030 ASSAULT, 4TH DEGREE DATING VIOLENCE (MINOR INJURY) (M) (A)

5 09/16/2019 NA 0007880 508030 ASSAULT, 4TH DEGREE DATING VIOLENCE (MINOR INJURY) (M) (A)

Oral Motion for Probation

Continued for Atty / def to address possible
Counseling plan to address underlying
issues, or to be unrolled
Possibly Bridges or MSH?

James T. Jameson