

**COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION**

**IN RE THE MATTER OF:**

**OLU A. STEVENS, CIRCUIT COURT JUDGE  
30<sup>TH</sup> JUDICIAL CIRCUIT**

**FORMAL PROCEEDINGS DOCKET ENTRIES**

Date of Document

1. February 18, 2016 - [Notice of Formal Proceedings and Charges](#)
2. March 21, 2016 - [Amended Notice of Formal Proceedings and Charges](#)
3. March 22, 2016 - [Notice of Withdrawal as Counsel of James L. Deckard](#)
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**COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION**

**IN RE THE MATTER OF:**

**OLU A. STEVENS, CIRCUIT COURT JUDGE  
30<sup>TH</sup> JUDICIAL CIRCUIT**

**NOTICE OF FORMAL PROCEEDINGS AND CHARGES**

Notice is hereby given of the initiation of formal proceedings under Rule 4.180 of the Rules of the Kentucky Supreme Court. At the times set out in this Notice, you were a Circuit Court Judge for Kentucky's 30<sup>th</sup> Judicial Circuit located in Jefferson County. The charges are as follows:

**Count I**

On February 4, 2015, you presided over a sentencing hearing in *Commonwealth v. Gregory Wallace*, Case No. 13-CR-1686, in which the defendant pled guilty to felony charges of Robbery in the 2<sup>nd</sup> Degree and Burglary in the 2<sup>nd</sup> Degree. During the hearing counsel for the defendant moved the Court to probate the defendant's sentence. During argument on the motion, you criticized the authors of a victim's impact statement for indicating that their 3-year-old daughter expressed fear of black men following the defendant's invasion of their home, stating, in part:

- a. "I assume the victims in this case are white." (9:35:15am)
- b. "I am offended by that, I am deeply offended by that. That they would be victimized by an individual and then express some kind of fear of all black men. I wonder if the perpetrator had been white; would they be in fear of white men? The answer would probably be no. I'm offended by that." (9:36:00am)
- c. "This little girl has certainly been victimized and she can't help the way that she feels. My exception is more with her parents and their accepting of that kind of mentality and that fostering of that - those kind of stereotypes." (9:45:45am)

Immediately after this exchange, you granted defendant's motion and probated his sentence.

Your actions violate SCR 4.020(1)(b)(i) and constitute misconduct in office. Furthermore, your actions violate SCR 4.300 and the relevant portions of the following Canons of the Code of Judicial Conduct:

- **Canon 1** which requires judges to maintain high standards of conduct and uphold the integrity and independence of the judiciary.
- **Canon 2A** which requires judges to respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
- **Canon 3B(4)** which requires judges to be dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity.
- **Canon 3B(5)** which prohibits judges from manifesting a bias or prejudice.

### **Count II**

Following the February 4, 2015 sentencing hearing described in *Commonwealth v. Wallace*, Case No. 13-CR-1686, you made several comments about the victim's impact statement and on your decision to grant probation despite the fact that the defendant's probation was still pending. Such comments include:

- a. "Court brought it front and center this week. The case involved a burglary and the victims were a young couple and their three year-old child. The written victim impact statement on behalf of the child read that as a result of the offense committed against her parents in her presence, the child is in 'constant fear of black men.' The statement, written by her mother, continues that the child clings to her parent when in the presence of any black man. The incident, the mother concluded, 'has even affected our relationship with our African-American friends.'

I read this statement aloud in open court. For a reason. It was of little surprise to me that neither parent nor the child was present in court for the sentencing. After all, the defendant and the judge are amongst

the individuals the three year old has fear of as a result of the crime. Do three year olds form such generalized, stereotyped and racist opinions of others? I think not. Perhaps the mother had attributed her own views to her child as a manner of sanitizing them.

Let me be clear. The statement played absolutely no role in the sentencing decision and the commonwealth disavowed the statement. Needless to say, I was deeply offended, however, that this statement was put forth for the purpose of persuading me to impose a lengthy prison sentence. Had the perpetrator been white, I doubt it would have resulted in such gross generalizations. The race of a perpetrator of a crime is not a reason or an excuse to fear an entire race of people.

We must stand against it in whatever form. As a judge I do my work without regard to race. It is incumbent on me to confront and dispose of language based on racism and stereotypes. We should all do our part to eradicate such nonsense. And let me be clear, silence does nothing to contribute. It simply sends a message that such views are acceptable and fear somehow excuses wrong.” (Facebook post quoted in April 10, 2015 article, “Judge slams victims for tot’s ‘black men’ fear,” Andrew Wolfson, Courier Journal)

- b. “My exception was with particular words, not victims. If you do not know me, it is your right to criticize me. If you do know me, you know that what was written in the paper is not me. I am not in the business of shaming toddlers and victims of crime. And my exception was not a factor in the ultimate decision.” (April 13, 2015 Facebook post)

Your actions violate SCR 4.020(1)(b)(i) and constitute misconduct in office.

Furthermore, your actions violate SCR 4.300 and the relevant portions of the following

Canons of the Code of Judicial Conduct:

- **Canon 1** which requires judges to maintain high standards of conduct and uphold the integrity and independence of the judiciary.
- **Canon 2A** which requires judges to respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
- **Canon 3B(4)** which requires judges to be dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity.

- **Canon 3B(9)** which prohibits a judge from making a public comment regarding a proceeding that is pending or impending in any court that might reasonably be expected to affect its outcome.
- **Canon 4A(1)** which requires judges to conduct their extra-judicial activities so that they do not cast reasonable doubt on the judge's capacity to act impartially as a judge.
- **Canon 4A(2)** which requires a judge to conduct their extra-judicial activities so that they do not demean the judicial office.
- **Canon 3B(5)** which prohibits judges from manifesting a bias or prejudice.

The jurisdiction of the Judicial Conduct Commission in this matter is under SCR 4.020(1)(b)(i) and (v), and (1)(c) which read in pertinent part as follows:

- (1) Commission shall have authority:
  - (b) To impose the sanctions, separately or collectively of (1) admonition, private reprimand, public reprimand or censure; (2) suspension without pay or removal or retirement from judicial office, upon any judge of the Court of Justice or lawyer while a candidate for judicial office, who after notice and hearing the Commission finds guilty of any one or more of the following:
    - (i) Misconduct in office.
    - (v) Violation of the code of Judicial Conduct, Rule 4.300.
  - (c) After notice and hearing, to remove a judge whom it finds to lack the constitutional statutory qualifications for the judgeship in question.

For your information, the Commission wishes to call your attention to the following Supreme Court Rule:

**RULE 4.180 FORMAL PROCEEDINGS**

If the Commission concludes that formal proceedings should be initiated, it shall notify the judge. He may file an answer within 15 days after service of the notice. Upon the filing of his answer, or the expiration of time for so filing, the Commission shall set a time and place for the hearing and shall give reasonable notice thereof to the judge.

Please mail your answer to: Ms. Jimmy Shaffer, Executive Secretary, Kentucky  
Judicial Conduct Commission, P.O. Box 4266, Frankfort, Kentucky 40604-4266.

February 18, 2016

  
STEPHEN D. WOLNITZEK, CHAIR

Judge David P. Bowles recused himself from any consideration of this matter.

I hereby certify that copy hereof was served on Olu A. Stevens, Jefferson Circuit  
Court Judge, by mailing same to his attorneys, James L. Deckard, 127 West Main Street,  
Lexington, KY 40507 and Kimberly Bunton, 3050 West Broadway, Suite A, Louisville, KY  
40211, this 18<sup>th</sup> day of February, 2016.

  
JIMMY SHAFFER, EXECUTIVE SECRETARY

**COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION**

**IN RE THE MATTER OF:**

**OLU A. STEVENS, CIRCUIT COURT JUDGE  
30<sup>TH</sup> JUDICIAL CIRCUIT**

**AMENDED NOTICE OF FORMAL PROCEEDINGS AND CHARGES**

Notice is hereby given of the initiation of formal proceedings under Rule 4.180 of Rules of the Supreme Court. At all times set out in this Notice, you were Circuit Court Judge for Kentucky's 30<sup>th</sup> Judicial Circuit located in Jefferson County. The Notice of Formal Proceedings and Charges filed on February 18, 2016 (hereinafter referred to as the "Original Notice"), are adopted by reference in this Amended Notice. The Charges are as follows:

**Counts I - II**

The Charges in Count I - II of the Original Notice are reiterated, adopted and incorporated by reference in this Notice as if fully set forth herein.

**Count III**

On November 18, 2014, you dismissed a jury panel in Jefferson Circuit Court Case No. 13-CR-2070, styled *Commonwealth v. James Doss*, claiming the panel did not represent a fair cross-section of the community. On January 12, 2015, the Kentucky Attorney General, on behalf of Jefferson County Commonwealth Attorney Thomas B. Wine, filed a Motion for Certification of Law with the Supreme Court of Kentucky to determine, among other issues, whether a judge has the authority to dismiss the jury panel without providing evidence of systemic exclusion of a class of persons.

On October 20, 2015 WDRB.com posted an article entitled, "Louisville judge questioned for dismissing juries based on lack of minorities." The article mentioned, among others, the dismissal of the jury panel in the *Doss* case and that the Jefferson Commonwealth's Attorney had sought a certification of law with the Supreme Court of Kentucky.

Following the October 20, 2015 article on WDRB.com, you published comments on Facebook criticizing the Jefferson County Commonwealth's Attorney and accusing him of advocating for all-white jury panels. Such statements included:

- a. 10.29.15 - "Going to the Kentucky Supreme Court to protect the right to impanel all-white juries is not where we need to be in 2015. Do not sit silently. Stand up. Speak up."
- b. 10.29.15 - "...But whatever you believe the lack of representation is, it is clear that all-white juries are not in the best interest of a community that is 20% black and where the jail population stands at 55% black...And that is what Tom Wine is trying to do."
- c. 10.29.15 - "...Wine has called me a racist. And set the media on me to deceive the people while he does his deeds. If people, particularly affected people, would stand up and call him out, he would go right back into the corner."
- d. 10.29.15 - "...If you believe you have a right to seat all-white jury panels in Louisville, Kentucky in 2015, tell the people. Wine shouldn't deceive the people by focusing on me and calling me a racist."
- e. 10.2015 - "...Tom Wine, the Jefferson Commonwealth Attorney and Louisville's top prosecutor is going to the Kentucky Supreme Court to have my ruling overturned and protect his right to seat all-white jury panels in Louisville, Kentucky. ... If successful, his actions will have a negative impact on all citizens, particularly our black citizens."
- f. 10.2015 - "...After his acquittal, the Jefferson Commonwealth's Attorney Thomas B. Wine filed a motion with the Kentucky Supreme Court to determine I was incorrect in dismissing an all-white jury panel."
- g. 11.03.15 - "When the prosecution loses a trial and goes complaining to the Kentucky Supreme Court about their entitlement to the all-white jury panel the trial judge set aside, their purpose is readily apparent."

- h. 11.2015 – “...Complaining he should have had an all-white jury panel after losing a trial is poor form at the very least. At most it is something much more sinister.”
- i. 11.08.15 – “...The truth is the Jefferson Commonwealth’s Attorney does not have to pursue his right to impanel all-white juries. He is doing so because he wants to.”
- j. 11.10.15 – “We have received a tremendous outpouring of support from all over the country. Thank you to Dr. Boyce Watkins, Ricky Smile, D.L. Hughley and other national figures who have spoken out in favor of the case and against the Jefferson Commonwealth’s Attorney’s action before the Kentucky Supreme Court. ...There is very little question about your intent when a black defendant is acquitted by a jury of eight whites and four blacks and you complain about the trial judge granting a defense motion to dismiss an all-white jury panel.”
- k. 11.2015 – “...If asked, even the Jefferson Commonwealth’s Attorney may offer his “support” for diverse juries. Would that be good enough? Of course not. His actions say the exact opposite.”
- l. 11.2015 – “History will unfavorably judge a prosecutor who loses a jury trial in which a black man is acquitted and then appeals the matter claiming his entitled to an all-white jury panel. No matter the outcome, he will live in infamy.”
- m. 11.17.15 – “...The Jefferson Commonwealth’s Attorney is for all white jury panels...”

Your actions violate SCR 4.020(1)(b)(i) and constitute misconduct in office. Furthermore, your actions violate SCR 4.300 and the following Canons of the Code of Judicial Conduct:

- **Canon 1** which requires judges to maintain high standards of conduct and uphold the integrity and independence of the judiciary.
- **Canon 2A** which requires judges to respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
- **Canon 3B(4)** which requires judges to be dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity.
- **Canon 3B(5)** which prohibits judges from manifesting a bias or prejudice.

- **Canon 4A(1)** which requires judges to conduct their extra-judicial activities so that they do not cast reasonable doubt on the judge's capacity to act impartially as a judge.
- **Canon 4A(2)** which requires a judge to conduct their extra-judicial activities so that they do not demean the judicial office.

#### Count IV

On November 12, 2015, you gave a presentation to the Louisville Bar Association in which you continued your attacks on the Jefferson County Commonwealth Attorney. Your comments included:

- a. (11:41) "We have an individual, a prosecutor who's lost a criminal jury trial. A black defendant was acquitted by a jury of eight whites and four blacks."
- b. (12:12) "After that acquittal the prosecutor went to the Supreme Court of Kentucky and claimed that he was deprived of his right to an all-white jury panel."
- c. (15:47) "Just because the Jefferson Commonwealth Attorney does. Does he want to go down in history? He will live in infamy and he will be the butt of every prosecutor's jokes. You lose a trial and then you go to the Supreme Court of the Commonwealth of Kentucky to complain about what? The composition of the jury? How dare you! How dare you!"
- d. (32:21) "Even if you believe that Judge Stevens was wrong in sustaining a motion to set aside a jury panel, that does not deal with the action of the Jefferson Commonwealth's Attorney...that does not deal with his actions in going to the highest court in this Commonwealth and seeking relief on the basis of the fact that this judge deprived me of my all-white jury. ...You don't want to be the person who lost a jury trial and announce it for everybody and then say, oh by the way, he didn't give me my white jury. Because if he'd had given me my white jury then I would've convicted him."
- e. (38:40) "And when you go to the Supreme Court of the Commonwealth of Kentucky and you ask them to ensure your right to select all-white juries you're not acting on behalf of all the people. You're not acting as a representative of the people."
- f. (46:16) "I assure you that it begins here in Jefferson County with our representative. Our top prosecutor. The person who purports to represent all of the people. Who is in there saying I want an all-white jury. And whatever it moves you to do, whatever visceral response you have to this idea that a black defendant would be acquitted in our community by a jury of eight

whites and four blacks and then after that this is over the top prosecutor in our city would go the Supreme Court of the Commonwealth of Kentucky and claim that he was deprived of his all-white jury.”

- g. (48:06) “He’s on there talking about Judge Stevens implicitly is one of 200 judges, he’s the only one who’s ever done this. I wear it as a badge of honor. But does he wear it as a badge of honor that he is the only prosecutor in the history of the country to have ever gone anywhere claiming I lost because I didn’t have my all-white jury. He has a distinction that is far beyond mine. So I take my one in 200. I’m happy with it. I am proud of it. But is he proud of his? Because he is going to have to own it. He’s going to live in infamy.”

Your actions violate SCR 4.020(1)(b)(i) and constitute misconduct in office.

Furthermore, your actions violate SCR 4.300 and the following Canons of the Code of Judicial Conduct:

- **Canon 1** which requires judges to maintain high standards of conduct and uphold the integrity and independence of the judiciary.
- **Canon 2A** which requires judges to respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
- **Canon 3B(4)** which requires judges to be dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity.
- **Canon 3B(5)** which prohibits judges from manifesting a bias or prejudice.
- **Canon 4A(1)** which requires judges to conduct their extra-judicial activities so that they do not cast reasonable doubt on the judge’s capacity to act impartially as a judge.
- **Canon 4A(2)** which requires a judge to conduct their extra-judicial activities so that they do not demean the judicial office.

### **Count V**

In October and November of 2015, you published several comments on Facebook regarding the motion to certify the law filed by the Kentucky Attorney General on behalf of the Jefferson County Commonwealth’s Attorney. At the time of the comments, the case was pending before the Supreme Court of Kentucky. Your comments included:

- a. 10.29.15 – “Going to the Kentucky Supreme Court to protect the right to impanel all-white juries is not where we need to be in 2015. Do not sit silently. Stand up. Speak up.”
- b. 11.03.15 – “If you have ever used Facebook to say ‘vote for me,’ but remain publicly silent or indifferent on this issue that threatens the inclusion of black people and other minorities on our jury panels, shame on you. Stand up for something other than yourself. Speak the truth.”
- c. 10.29.15 – “... If people, particularly affected people, would stand up and call him out, he would go right back into the corner.”
- d. 11.2015 – “When a black man is acquitted and then the prosecutor asserts his right to an all-white jury panel, those who remain silent have chosen comfort over principle.”

In addition to these comments, you made several statements about the pending certification of law during your presentation for the Louisville Bar Association on November 12, 2015, stating:

- a. (15:12) “And I want to know who else cares about justice and fairness. Who else cares about equality and inclusion? Who is going to be quiet while this is done in our community? And who is going to step up and say this is not right? This is not how we want our community to be represented. We don’t want to go down in history as being the folks that went to the United States Supreme Court to argue our right to an all-white jury in 2015. We don’t want to go down in history that way.”
- b. (16:13) “People should be standing up saying we are not going to take this.”
- c. (31:40) “What I am urging all within the sound of my voice and anybody who may be watching this, is to stand up. Stand up. And say this is not what we want.”
- d. (38:02) “We should not stand by; we should not sit quietly while our community suffers this. We should not remain quiet. Not when someone is doing this to our community. We should stand. We should say it’s not right. We don’t want all-white juries in our community.”
- e. (40:27) “And I’m urging you, if you hear my voice; I’m urging you to step up. And do something. Say something. Be heard. Don’t let this go by and then complain later about how they’re talking about us or who is being excluded.”

- f. (45:51) “We need to speak out. We need to let the Jefferson Commonwealth’s Attorney know this is not what we want for our community. We need to let him know respectfully. And I’ve told people that.”
- g. (55:04) “Anybody within the sound of my voice. I’ll say it again. If you don’t believe in this, if you want this, if you want something else for our community, then step up to the plate. If it’s a letter, if it’s a call, if it’s a statement publicly, voice your position. Let it be known because I guarantee you this, I’m ready to take the bat for history.”
- h. (57:22) “We need to step up and we do not need anyone in our community saying that we should have an all-white jury panel. Not in 2015. That’s a challenge to you.”

Your actions violate SCR 4.020(1)(b)(i) and constitute misconduct in office.

Furthermore, your actions violate SCR 4.300 and the following Canons of the Code of Judicial Conduct:

- **Canon 1** which requires judges to maintain high standards of conduct and uphold the integrity and independence of the judiciary.
- **Canon 2A** which requires judges to respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
- **Canon 3B(4)** which requires judges to be dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity.
- **Canon 3B(5)** which prohibits judges from manifesting a bias or prejudice.
- **Canon 3B(9)** which prohibits a judge from making a public comment regarding a proceeding that is pending or impending in any court that might reasonably be expected to affect its outcome.
- **Canon 4A(1)** which requires judges to conduct their extra-judicial activities so that they do not cast reasonable doubt on the judge’s capacity to act impartially as a judge.
- **Canon 4A(2)** which requires a judge to conduct their extra-judicial activities so that they do not demean the judicial office.

## Count VI

In November of 2015, you published several comments on Facebook to the Louisville Metro Public Defender and to criminal defense attorneys in general. The comments criticized them for not publicly supporting you in your dispute with the Jefferson County Commonwealth's Attorney, including:

- a. 11.2015 - "...Anybody can say they 'support' diverse juries. Especially members of the criminal defense bar. They certainly cannot afford to say they are against them. They would be hypocrites...err...they are hypocrites."
- b. 11.16.15 - "...Why didn't the Public Defender respond? He did. He just never notified me. You will have to ask him why he remains silent when he is the one who asked me to set aside the jury panel and so many of his clients will be affected by an adverse decision. We have obtained a copy of his response. It is little wonder the motion for certification was granted. The response did not address the issues presented."
- c. 11.16.15 - "I will be posing some questions to him [public defender] as to why he said things he said in his response. And why he is quiet when his lawyers routinely ask for the relief I granted him in this case."
- d. 11.17.15 - "Open letter to the Louisville Metro Public Defender and Louisville Criminal Defense Lawyers

Dear Counsel:

Where are you?

You asked me to dismiss the jury penal consisting of 40 white jurors and 1 black juror. Yet you are silent.

You are the ones who regularly ask me to set aside jury panels for lack of racial diversity. Yet you are silent.

The Jefferson Commonwealth's Attorney is for all-white jury panels.

The people are for racially diverse jury panels.

What are you for?

Thank you for your consideration.

Judge Olu Stevens."

Additionally, you made similar comments during your presentation to the Louisville Bar Association on November 12, 2015, stating:

- a. (14:00) “Where is the public defender who asked for it to be done? Where is he? He’s silent. Where are the criminal defense lawyers who walk into court after jury selection has begun and request that this judge dismiss an entire jury panel for lack of diversity? Where are they with their impassioned arguments that they make before Judge Stephens in Jefferson Circuit court? They’re nowhere to be found. Why are they not speaking up?”
- b. (40:27) “Don’t sit back silently saying I’d rather not get involved. Believe me Judge Stevens would rather not get involved. But I’m getting involved because I have to. Not because I want to. And I’ll challenge them folks that are recording this here. There are people in this very building who purport to represent the lawyers who are sitting silently while this is happening. Because it’s safe and it’s comfortable. I understand. But sometimes getting justice is uncomfortable.”
- c. (42:01) “There are individuals willing to speak up that did not. They’re silent. And Dr. King famously said there comes a time when silence is betrayal.”

Your actions violate SCR 4.020(1)(b)(i) and constitute misconduct in office.

Furthermore, your actions violate SCR 4.300 and the following Canons of the Code of Judicial Conduct:

- **Canon 1** which requires judges to maintain high standards of conduct and uphold the integrity and independence of the judiciary.
- **Canon 2A** which requires judges to respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
- **Canon 2D** which prohibits judges from lending the prestige of judicial office to advance private interests of the judge or others.
- **Canon 3B(4)** which requires judges to be dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity.
- **Canon 3B(5)** which prohibits judges from manifesting a bias or prejudice.
- **Canon 3B(9)** which prohibits a judge from making a public comment regarding a proceeding that is pending or impending in any court that might reasonably be expected to affect its outcome.

- **Canon 4A(1)** which requires judges to conduct their extra-judicial activities so that they do not cast reasonable doubt on the judge's capacity to act impartially as a judge.
- **Canon 4A(2)** which requires a judge to conduct their extra-judicial activities so that they do not demean the judicial office.

### **JURISDICTION**

The Judicial Conduct Commission has jurisdiction in this matter under SCR 4.020(1)(b)(i) and (v), and (1)(c) which read, in pertinent part, as follows:

- (1) Commission shall have authority:
  - (b) To impose the sanctions, separately or collectively of (1) admonition, private reprimand, public reprimand or censure; (2) suspension without pay or removal or retirement from judicial office, upon any judge of the Court of Justice or lawyer while a candidate for judicial office, who after notice and hearing the Commission finds guilty of any one or more of the following:
    - (i) Misconduct in office.
    - (v) Violation of the code of Judicial Conduct, Rule 4.300.
  - (c) After notice and hearing, to remove a judge whom it finds to lack the constitutional statutory qualifications for the judgeship in question.

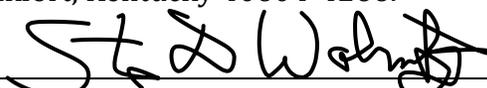
For your information, the Commission wishes to call your attention to the following Supreme Court Rule:

### **RULE 4.180 FORMAL PROCEEDINGS**

If the Commission concludes that formal proceedings should be initiated, it shall notify the judge. He may file an answer within 15 days after service of the notice. Upon the filing of his answer, or the expiration of time for so filing, the Commission shall set a time and place for the hearing and shall give reasonable notice thereof to the judge.

Please mail your answer to: Ms. Jimmy Shaffer, Executive Secretary, Kentucky Judicial Conduct Commission, P.O. Box 4266, Frankfort, Kentucky 40604-4266.

March 21<sup>st</sup>, 2016

  
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STEPHEN D. WOLNITZEK, CHAIR

Judge David P. Bowles recused himself from any consideration of this Amended Notice of Formal Proceedings and Charges.

I hereby certify that copy hereof was served on Olu A. Stevens, Jefferson Circuit Court Judge, by mailing same via U.S. Mail to his attorneys, James L. Deckard, Esq., 127 West Main Street, Lexington, KY 40507, and Kimberly Bunton, 3050 West Broadway, Suite A, Louisville, KY, 40211, this 21<sup>st</sup> day of March, 2016. ·



JIMMY SHAFFER, EXECUTIVE SECRETARY

**COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION**

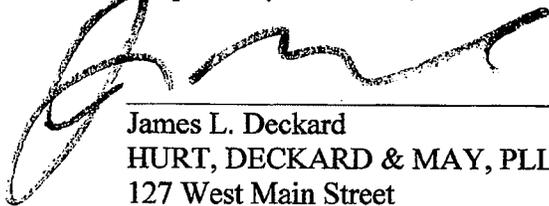
**IN RE THE MATTER OF:**

**OLU A. STEVENS, CIRCUIT COURT JUDGE  
30<sup>TH</sup> JUDICIAL CIRCUIT**

**NOTICE OF WITHDRAWAL AS COUNSEL OF JAMES L. DECKARD**

Comes now James L. Deckard and hereby gives Notice of Withdrawal from representation of the Respondent, Olu A. Stevens, Circuit Court Judge, 30<sup>th</sup> Judicial Circuit, in matters before the Judicial Conduct Commission (the "Commission"). Respondent has requested that he be granted thirty (30) days from this date for retention and entry of an appearance of new counsel, including for his response to the Amended Notice of Formal Proceedings and Charges entered on March 22, 2016, and any other proceedings before the Commission. *See* SCR 4.180, 4.200, 4.210.

Respectfully submitted,



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James L. Deckard  
HURT, DECKARD & MAY, PLLC  
127 West Main Street  
Lexington, KY 40507  
Telephone: (859) 254-0000  
Facsimile: (859) 254-4763  
jdeckard@hdmfirm.com

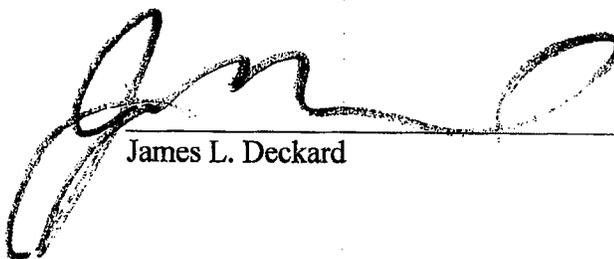
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was served, on this the 22<sup>nd</sup> day of March, 2016, via first-class U.S. Mail, postage prepaid, and via email upon the following:

Hon. Olu A. Stevens  
Circuit Judge, 6<sup>th</sup> Division  
Jefferson County Judicial Center  
700 W. Jefferson St., Ste. 220  
Louisville, Kentucky 40202-4730

Hon. Kimberly Bunton  
4311 River Park Dr.  
Louisville, Kentucky 40211

Hon. Jimmy Shaffer  
Executive Secretary  
Judicial Conduct Commission  
P.O. Box 4266  
Frankfort, Kentucky 40604

A handwritten signature in black ink, appearing to read 'James L. Deckard', is written over a horizontal line. The signature is stylized and cursive.

James L. Deckard

**COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION**

**IN RE THE MATTER OF:**

**OLU A. STEVENS, CIRCUIT COURT JUDGE  
30<sup>TH</sup> JUDICIAL CIRCUIT**

**MOTION TO ADMIT PRO HAC VICE**

Comes Now the Respondent Judge Olu Stevens, by and through counsel, and states the following:

Kimberly L. Bunton, Esq. a resident member of the Bar of the Commonwealth of Kentucky in active practice, hereby moves this Court for an order permitting J. Wyndal Gordon, Esq. to appear *pro hac vice* in the above-styled case in association with movant, Kimberly L. Bunton, Esq., as counsel for the above-styled matter, *In Re the Matter of: Olu A. Stevens, Circuit Court Judge 30<sup>th</sup> Circuit Judicial Circuit.*

Gordon is duly admitted and licensed to practice law in the state of Maryland and is in good standing. The Kentucky Bar Association's certification of the receipt of fee (Exhibit 1) is attached. His permanent pro hac vice ID number is PH20241.

Gordon understands that, pursuant to SCR 3.030, he is subjecting himself to the jurisdiction and the Rules of the Court governing professional conduct for the Commonwealth of Kentucky. The undersigned will continue as co-counsel and will be present at all times required by the Commission.

Wherefore, Respondent Judge Olu Stevens respectfully requests the Commission grant the motion to admit counsel pro hac vice.

Respectfully Submitted,

DocuSigned by:  
*Kimberly Bunton*  
28ABB372C7544E7...

---

Kimberly L. Bunton, Esq.  
1238 East Broadway, 2<sup>nd</sup> Floor  
Louisville, Kentucky 40204  
(502) 554-9954 (office)  
(502) 905-9333 (mobile)  
1-866-512-1068 (fax)  
klbunton@gmail.com

**COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION**

**IN RE THE MATTER OF:**

**OLU A. STEVENS, CIRCUIT COURT JUDGE  
30<sup>TH</sup> JUDICIAL CIRCUIT**

**ORDER ON MOTION TO ADMIT PRO HAC VICE**

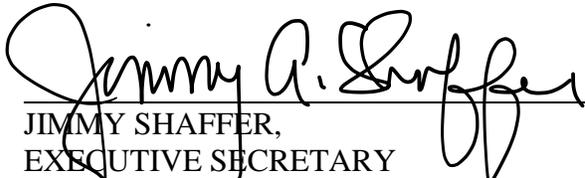
Upon consideration of Respondent's motion to admit J. Wyndal Gordon, Esq., to practice *pro hac vice* and having received certification from the Kentucky Bar Association that the requisite case fee has been paid pursuant to SCR 3.030(2) and from the Court of Appeals of Maryland that counsel is in good standing, it is by the Commission ORDERED that the motion be and it is hereby GRANTED.

  
\_\_\_\_\_  
Stephen D. Wolnitzek, Chair

Judge David P. Bowles recused from any consideration of this matter.

**CERTIFICATION**

I hereby certify that copy hereof was served on Judge Olu A. Stevens, Jefferson Circuit Court Judge, by emailing and mailing same to his attorneys, Kimberly L. Bunton, Esq., 1238 E. Broadway, 2<sup>nd</sup> Floor, Louisville, KY 40204, and Jon Wyndal Gordon, Esq., 20 South Charles St., Suite 400, Baltimore, MD 21201; and on counsel for the Judicial Conduct Commission, Jeffrey C. Mando and Louis D. Kelly, 40 West Pike Street, Covington, KY 41011, this 30<sup>th</sup> day of March 2016.

  
\_\_\_\_\_  
JIMMY SHAFFER,  
EXECUTIVE SECRETARY

**COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION**

**IN RE THE MATTER OF:**

**OLU A. STEVENS, CIRCUIT COURT JUDGE  
30<sup>TH</sup> JUDICIAL CIRCUIT**

**ORDER AND NOTICE OF HEARING**

Pursuant to SCR 4.020(1)(a)(ii) it is hereby ORDERED that a hearing will be held on April 19, 2016, at 9:00 a.m. in the Jefferson County Judicial Center, 10th Floor Appellate Courtroom, 700 West Jefferson Street, Louisville, Kentucky, 40202, as to whether it will be in the best interest of justice that Judge Stevens be suspended temporarily from acting in his official capacity as a judge and from the performance of his duties, without affecting his pay status, until final adjudication of the pending formal proceedings.

Date: April 4, 2016

  
\_\_\_\_\_  
STEPHEN D. WOLNITZEK, CHAIR

Judge David P. Bowles recused themselves from any consideration of this matter.

I hereby certify that copy hereof was served on Judge Olu A. Stevens, Jefferson Circuit Court Judge, by emailing and mailing same to his attorneys, Kimberly L. Bunton, Esq., 1238 E. Broadway, 2<sup>nd</sup> Floor, Louisville, KY 40204, and Jon Wyndal Gordon, Esq., 20 South Charles St., Suite 400, Baltimore, MD 21201; and on counsel for the Judicial Conduct Commission, Jeffrey C. Mando and Louis D. Kelly, 40 West Pike Street, Covington, KY 41011, this 4<sup>th</sup> day of April 2016.

  
\_\_\_\_\_  
JIMMY SHAFFER,  
EXECUTIVE SECRETARY

**COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION**

**IN RE THE MATTER OF:**

**OLU A. STEVENS, CIRCUIT COURT JUDGE  
30<sup>TH</sup> JUDICIAL CIRCUIT**

**MOTION TO DISMISS AND/OR ANSWER TO NOTICE OF  
FORMAL PROCEEDINGS AND CHARGES**

Now Comes the Respondent, Circuit Court Judge Olu Stevens, the duly elected public official for Kentucky's 30<sup>th</sup> Judicial Circuit located in Jefferson County, and files this his answer to the Original Notice and Amended Notice of Formal Proceedings and Charges:

This answer is timely filed after receipt of the Amended Notice that was served on March 21, 2016.

**MOTIONS TO DISMISS AND AFFIRMATIVE DEFENSES**

Respondent asserts the following motions to dismiss and/or affirmative defenses and specifically reserves the right to claim the following: (1) Violation of Respondent's rights under the First Amendment to the United States Constitution; (2) Violation of Respondent's rights under the Due Process Clause of the 14<sup>th</sup> Amendment to the United States Constitution; (3) Violation of Respondent's rights under the Equal Protection Clause of the 14<sup>th</sup> Amendment to the United States Constitution; (4) Respondent's speech was intended to be private; (5) Respondent's speech was protected as it was for educational purposes; (6) Judicial immunity and (7) Various conflicts of interest on the part of individual members of the Commission warranting recusal from consideration of this matter.

### **Count I**

Respondent, Judge Olu Stevens, hereby generally denies each and every, all and singular, the allegations charged in Count I of the Original Notice of Formal Proceedings and Charges, incorporated by reference into the Amended Notice of Formal Proceedings and Charges and demands strict proof thereof.

Respondent specifically denies that any of his actions or comments contained therein are a violation of SCR 4.020 (1)(b)(i); and/or SCR 4.300, and/or the Canons of the Code of Judicial Conduct (1, 2A, 3B(4) or 3 B(5)).

### **Count II**

Respondent hereby generally denies each and every, all and singular, the allegations charged in Count II of the Original Notice of Formal Proceedings and Charges incorporated by reference into the Amended Notice of Formal Proceedings and Charges and demands strict proof thereof.

Respondent, specifically denies that any of his actions or comments referenced therein are a violation of SCR 4.020 (1)(b)(i), and/or SCR 4.300 and/or the Canons of Code of Judicial Conduct (1, 2A, 3 B(4), 3 B(9), 4 A(1), 4 A(2), 3 B(5)).

### **Count III**

Respondent hereby generally denies each and every, all and singular, the allegations charged in Count III of the Amended Notice of Formal Proceedings and Charges, and demands strict proof thereof.

Respondent specifically denies that any of his alleged actions or comments contained therein are a violation of SCR 4.020(1)(b)(i); and/or SCR 4.300, and/or the Canons of the Code of Judicial Conduct (1, 2A, 3 B(4), 3 B(5), 4 A(1), 4 A(2)).

#### **Count IV**

Respondent hereby generally denies each and every, all and singular, the allegations charged in Count IV of the Amended Notice of Formal Proceedings and Charges, and demands strict proof thereof.

Respondent specifically denies that any of his alleged acts or comments contained therein are a violation of SCR 4.020(1)(b)(i); and/or SCR 4.300, and/or the Canons of the Code of Judicial Conduct (1, 2A, 3 B(4), 3 B(5), 4 A(1), 4 A(2)).

#### **Count V**

Respondent hereby generally denies each and every, all and singular, the allegations charged in Count V of the Amended Notice of Formal Proceedings and Charges, and demands strict proof thereof.

Respondent specifically denies that any of his alleged acts or comments contained therein are a violation of SCR 4.020(1)(b)(i), and/or SCR 4.300, and/or the Canons of the Code of Judicial Conduct (1, 2A, 3 B(4), 3 B(5), 3 B(9), 4 A(1), 4 A(2)).

#### **Count VI**

Respondent hereby generally denies each and every, all and singular, the allegations charged in Count VI of the Amended Notice of Formal Proceedings and Charges and demands strict proof thereof.

Respondent specifically denies that any of his actions or comments contained therein are a violation of SCR 4.020(1)(b)(i); and/or SCR 4.3000, and/or the Canons of the Code of Judicial Conduct (1, 2A, 2D, 3 B(4), 3 B(5), 3 B(9), 4 A(1), 4 A(2)).

WHEREFORE Respondent requests that the charges against him be dismissed.

Respectfully Submitted,

DocuSigned by:  
*Kimberly Bunton*  
28ABB372C7544E7...

---

Kimberly L. Bunton, Esq.  
1238 East Broadway, 2<sup>nd</sup> Floor  
Louisville, Kentucky 40204  
(502) 554-9954 (office)  
(502) 905-9333 (mobile)  
1-866-512-1068 (fax)  
klbunton@gmail.com

Jon Wyndal Gordon, Esq.  
20 South Charles Street, Suite 400  
Balitmore, Maryland 21201

**CERTIFICATION**

I hereby certify that a copy hereof was served on counsel for the Judicial Conduct Commission, Jeffrey C. Mando and Louis D. Kelly, 40 West Pike Street, Covington, KY 41011, this 5<sup>th</sup> day of April 206.

DocuSigned by:  
*Kimberly Bunton*  
28ABB372C7544E7...

---

Kimberly L. Bunton, Esq.  
1238 East Broadway, 2<sup>nd</sup> Floor  
Louisville, Kentucky 40204  
(502) 554-9954 (office)  
(502) 905-9333 (mobile)  
1-866-512-1068 (fax)  
klbunton@gmail.com

Jon Wyndal Gordon, Esq.  
20 South Charles Street, Suite 400  
Balitmore, Maryland 21201

**COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION**

**IN RE THE MATTER OF:**

**OLU A. STEVENS, CIRCUIT COURT JUDGE  
30<sup>th</sup> JUDICIAL CIRCUIT**

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**WITNESS LIST**

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Counsel for the Judicial Conduct Commission submits the following Witness List<sup>1</sup> for the SCR 4.020(1)(a) hearing set to commence on April 19, 2016 at 9:00 a.m.:

1. Judge Olu A. Stevens;
2. Jefferson Commonwealth Attorney Thomas B. Wine – will testify as to his personal recollections and observations regarding the charges.

Respectfully submitted,

*/s/ Jeffrey C. Mando*

JEFFREY C. MANDO (#43548)  
LOUIS D. KELLY (#92094)  
ADAMS, STEPNER, WOLTERMANN &  
DUSING, P.L.L.C.  
40 W. Pike Street  
P.O. Box 861  
Covington, KY 41012-0861  
(859)394-6200 Phone  
(859)392-7263 Fax  
[jmando@aswdlaw.com](mailto:jmando@aswdlaw.com)

*Counsel for Judicial Conduct Commission*

---

<sup>1</sup> This Witness List does not include any witnesses that may be called solely for the purpose of impeachment or rebuttal of a party of witness.

**CERTIFICATE OF SERVICE**

This is to certify that true and correct copy of the foregoing has been served upon the following via electronic mail, on this the 12<sup>th</sup> day of April, 2016:

Kimberly L. Bunton  
1238 E. Broadway, 2<sup>nd</sup> Floor  
Louisville, KY 40204  
[klbunton@gmail.com](mailto:klbunton@gmail.com)

Jon Wyndal Gordon  
20 South Charles St, Suite 400  
Baltimore, MD 21201  
[jwgaattys@aol.com](mailto:jwgaattys@aol.com)

Jimmy Shaffer  
Executive Secretary  
Kentucky Judicial Conduct Commission  
P.O. Box 4266  
Frankfort, KY 40604  
[JimmyShaffer@kycourts.net](mailto:JimmyShaffer@kycourts.net)

*/s/ Jeffrey C. Mando*  
Jeffrey C. Mando

1428127.1  
223751-74684

**COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION**

**IN RE THE MATTER OF:**

**OLU A. STEVENS, CIRCUIT COURT JUDGE  
30<sup>th</sup> JUDICIAL CIRCUIT**

---

**EXHIBIT LIST**

---

Counsel for the Judicial Conduct Commission submits the following Exhibit List<sup>1</sup> for the SCR 4.020(1)(a) hearing set to commence April 19, 2016 at 9:00 a.m.:

1. October 20, 2015 WDRB.com article, "Louisville judge questioned for dismissing juries based on lack of minorities."
2. Facebook posts made from Judge Stevens or on Judge Stevens' behalf in October and November 2015 as identified in the March 21, 2016 Amended Notice of Formal Proceedings and Charges;
3. November 12, 2015 video of Judge Stevens presentation to Louisville Bar Association;
4. November 16, 2015 Affidavit of Thomas B. Wine Seeking Designation of Special Judge in Jefferson County Indictment 14-CR-3357 styled *Commonwealth v. Sellers*, and 15-CR-0621 styled *Commonwealth v. Hodge*;
5. November 17, 2015 Order Disqualifying Judge Stevens from Jefferson Circuit Court Case No. 14-CR-3357 styled *Commonwealth v. Sellers*;
6. November 17, 2015 Order Disqualifying Judge Stevens from Jefferson Circuit Court Case No. 14-CR-0621 styled *Commonwealth v. Hodge*;
7. November 18, 2015 Affidavit of Thomas B. Wine Seeking Designation of Special Judge for All Criminal Cases Assigned to Division 6 of Jefferson Circuit Court;

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<sup>1</sup> This Exhibit List does not include any documents that may be used solely for the purpose of impeachment of a party or witness.

8. December 2, 2015 Order to Mediate;
9. December 4, 2015 Report to Chief Justice John D. Minton;
10. December 14, 2015 Motion to Set Aside Mediation Agreement and Motion for Ruling on Pending Motion to Disqualify filed by Thomas B. Wine;
11. December 18, 2015 Opinion and Order Denying Motion to Disqualify;
12. January 7, 2016 Affidavit of Thomas B. Wine Seeking Designation of Special Judge in Jefferson Circuit Court Case No. 15-CR-1110, *Commonwealth v. Anderson*;
13. January 8, 2016 Order Disqualifying Judge Stevens from Jefferson Circuit Court Case No. 15-CR-1110 styled *Commonwealth v. Anderson*;
14. January 11, 2016 Affidavit of Thomas B. Wine Seeking Designation of Special Judge in Jefferson Circuit Court Case Nos. 13-CR-2929 and 15-CR-1450 styled *Commonwealth v. Shanklin*;
15. January 13, 2016 Order Disqualifying Judge Stevens from Jefferson Circuit Court Case Nos. 13-CR-2929 and 15-CR-1450 styled *Commonwealth v. Damon Shanklin*;
16. Records from Jefferson Circuit Court Case No. 15-CR-1871 styled *Commonwealth v. Charles A. Evans*, including:
  - a. February 10, 2016 Order Sealing Record;
  - b. February 10, 2016 Emergency Motion for Intermediate Relief;
  - c. February 10, 2016 Affidavit of Thomas B. Wine Seeking Designation of Special Judge Pursuant to KRS 26A.020;
  - d. February 11, 2016 Verified Response of Judge Stevens to Wine Affidavit;
  - e. February 11, 2016 Order of Court of Appeals Granting Intermediate Relief;
  - f. March 16, 2016 Court of Appeals Opinion and Order Granting Petition for Writ of Prohibition.

Respectfully submitted,

/s/ Jeffrey C. Mando

JEFFREY C. MANDO (#43548)  
LOUIS D. KELLY (#92094)  
ADAMS, STEPNER, WOLTERMANN &  
DUSING, P.L.L.C.  
40 W. Pike Street  
P.O. Box 861  
Covington, KY 41012-0861  
(859)394-6200 Phone  
(859)392-7263 Fax  
[jmando@aswdlaw.com](mailto:jmando@aswdlaw.com)

*Counsel for Judicial Conduct Commission*

**CERTIFICATE OF SERVICE**

This is to certify that true and correct copy of the foregoing has been served upon the following via electronic mail, on this the 12th day of April, 2016:

Kimberly L. Bunton  
1238 E. Broadway, 2<sup>nd</sup> Floor  
Louisville, KY 40204  
[klbunton@gmail.com](mailto:klbunton@gmail.com)

Jon Wyndal Gordon  
20 South Charles St, Suite 400  
Baltimore, MD 21201  
[jwgaattys@aol.com](mailto:jwgaattys@aol.com)

Jimmy Shaffer  
Executive Secretary  
Kentucky Judicial Conduct Commission  
P.O. Box 4266  
Frankfort, KY 40604  
[jimmyshaffer@kycourts.net](mailto:jimmyshaffer@kycourts.net)

/s/ Jeffrey C. Mando

Jeffrey C. Mando

**COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION**

**IN RE THE MATTER OF:**

**OLU A. STEVENS, CIRCUIT COURT JUDGE  
30<sup>TH</sup> JUDICIAL CIRCUIT**

**EXHIBIT LIST**

Comes Now the Respondent, Circuit Court Judge Olu Stevens, and identifies the following exhibits to be presented at the suspension hearing scheduled for April 19, 2016:

1. Video recording of 1/15/16 pre-trial conference in the matter of the *Commonwealth v. Kelly Lynn South*, Indictment No.: 15CR02846;
2. Commonwealth's Motion to Recuse in the matter of *Commonwealth v. Kelly Lynn South*, Indictment No.: 15CR02846;
3. Kentucky Supreme Court Orders denying motions to disqualify Judge Stevens;
4. Any exhibit listed on the Commission's exhibit list.

Respondent reserves the right to amend this exhibit list at any time before hearing.

Respectfully Submitted,

DocuSigned by:  
  
28ABB372C7544E7...

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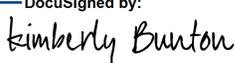
Kimberly L. Bunton, Esq.  
1238 East Broadway, 2<sup>nd</sup> Floor  
Louisville, Kentucky 40204  
(502) 554-9954 (office)  
(502) 905-9333 (mobile)  
1-866-512-1068 (fax)

klbunton@gmail.com

Jon Wyndal Gordon, Esq.  
20 South Charles Street, Suite 400  
Balitmore, Maryland 21201

**CERTIFICATION**

I hereby certify that a copy hereof was served on counsel for the Judicial Conduct Commission, Jeffrey C. Mando and Louis D. Kelly, 40 West Pike Street, Covington, KY 41011, this 12<sup>th</sup> day of April 2016.

DocuSigned by:  
  
28ABB372C7544E7...

---

Kimberly L. Bunton, Esq.  
1238 East Broadway, 2<sup>nd</sup> Floor  
Louisville, Kentucky 40204  
(502) 554-9954 (office)  
(502) 905-9333 (mobile)  
1-866-512-1068 (fax)  
klbunton@gmail.com

Jon Wyndal Gordon, Esq.  
20 South Charles Street, Suite 400  
Balitmore, Maryland 21201

**COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION**

**IN RE THE MATTER OF:**

**OLU A. STEVENS, CIRCUIT COURT JUDGE  
30<sup>TH</sup> JUDICIAL CIRCUIT**

**APPEARANCE**

Comes Now J. Bart McMahon, a licensed attorney in the Commonwealth of Kentucky, who enters his appearance as co-counsel in this matter for the Hon. Olu A. Stevens, Judge. J. Bart McMahon is not substituting at counsel, but joining Judge Stevens' team as co-counsel.

Respectfully Submitted,

s/ J. Bart McMahon  
J. Bart McMahon  
119 South Seventh Street  
Fourth Floor  
Louisville, Kentucky 40202  
(502) 589-4713  
jbartmc@mac.com

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy has been served upon the following by US mail, postage prepaid on this 13<sup>th</sup> day of April 2016:

Hon. Jeffrey Mando  
Hon. Louis Kelly  
Counsel for JCC  
40 W Pike St.  
Covington, KY 41011

s/ J. Bart McMahon  
J. Bart McMahon

COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION

IN RE THE MATTER OF:

OLU A. STEVENS, CIRCUIT COURT JUDGE  
30<sup>TH</sup> JUDICIAL CIRCUIT

MOTION TO ADMIT PRO HAC VICE

Comes Now J. Bart McMahon, Esq. a resident member of the Bar of the Commonwealth of Kentucky in active practice, hereby moves this Court for an order permitting Larry Wilder, Esq. to appear *pro hac vice as co-counsel* in the above-styled case in association with movant, J. Bart McMahon, Esq., as co-counsel for the above-styled matter, *In Re the Matter of: Olu A. Stevens, Circuit Court Judge 30<sup>th</sup> Circuit Judicial Circuit*. Kimberly Bunton and J. Wyndal Gordon will continue as co-counsel for Judge Stevens.

Mr. Wilder is duly admitted and licensed to practice law in the state of Indiana and is in good standing. The Kentucky Bar Association's certification of the receipt of fee (Exhibit 1) is attached. His permanent pro hac vice ID number is #PH20259.

Mr. Wilder understands that, pursuant to SCR 3.030, he is subjecting himself to the jurisdiction and the Rules of the Court governing professional conduct for the Commonwealth of Kentucky. The undersigned will continue as co-counsel and will be present at all times required by the Commission.

Wherefore, the undersigned respectfully requests the Commission grant the motion to admit counsel pro hac vice.

/s/ Larry O. Wilder (In. #11443-10  
Larry O. Wilder, Attorney Law

STATE OF INDIANA                    )  
  )    ss:  
COUNTY OF CLARK                 )

Subscribed and sworn to before me by Larry O. Wilder, on this 13 day of April 2016.

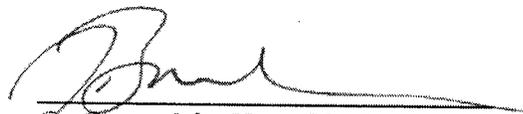
My Commission Expires:

  
\_\_\_\_\_  
Notary Public, Elise Jackson  
Resident: Clark County, Indiana

**CERTIFICATE OF SERVICE**

I hereby certify that, on this 13 day of April 2016, this motion and pleading has been served by U.S. Mail, upon the following persons:

Hon. Jeffrey Mando  
Hon. Louis D. Kelly  
40 West Pike Street  
Covington, KY 41011

  
\_\_\_\_\_  
Co-Counsel for Hon. Olu Stevens  
Judge, Jefferson Circuit Court  
30<sup>th</sup> Judicial Division

COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION

IN RE THE MATTER OF:

OLU A. STEVENS, CIRCUIT COURT JUDGE  
30<sup>TH</sup> JUDICIAL CIRCUIT

ORDER ON MOTION TO ADMIT PRO HAC VICE

Upon consideration of Respondent's motion to admit Larry Wilder, Esq., to practice *pro hac vice* and having received certification from the Kentucky Bar Association that the requisite case fee has been paid pursuant to SCR 3.030(2) and from the Court of Appeals of Maryland that counsel is in good standing, it is by the Commission ORDERED that the motion be and it is hereby GRANTED.

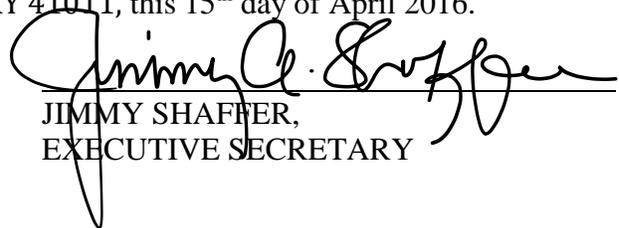
4/15/16  
Date

  
Stephen D. Wolnitzek, Chair

Judge David P. Bowles recused from any consideration of this matter.

CERTIFICATION

I hereby certify that copy hereof was served on Judge Olu A. Stevens, Jefferson Circuit Court Judge, by emailing and mailing same to his attorneys, Kimberly L. Bunton, Esq., 1238 E. Broadway, 2<sup>nd</sup> Floor, Louisville, KY 40204, and Jon Wyndal Gordon, Esq., 20 South Charles St., Suite 400, Baltimore, MD 21201; J. Bart McMahon, Esq., 119 South Seventh St., 4<sup>th</sup> Floor, Louisville, KY 40202; and Larry O. Wilder, Esq., Wilder Law Office, 530 East Court Ave., Jeffersonville, IN 47130; and on counsel for the Judicial Conduct Commission, Jeffrey C. Mando, Esq., 40 West Pike Street, Covington, KY 41011, this 15<sup>th</sup> day of April 2016.

  
JIMMY SHAFFER,  
EXECUTIVE SECRETARY

COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION

IN RE THE MATTER OF:

OLU A. STEVENS, CIRCUIT COURT JUDGE  
30<sup>TH</sup> JUDICIAL CIRCUIT

---

RESPONSE IN OPPOSITION TO MOTION TO DISMISS

---

In response to Judge Stevens' Motion to Dismiss, Counsel for the Commission states as follows:

**I. ARGUMENT**

In his Motion to Dismiss/Answer, Judge Stevens offers only a single paragraph to claim that his statements at issue in this case are protected by the First and Fourteenth Amendments to the U.S. Constitution. (Motion, p. 1) He further claims, without explanation, that his comments were private; that they were made for educational purposes; and, are protected by judicial immunity. (*Id.*) Lastly, Judge Stevens asserts that there are conflicts of interest on part of the Commission members. (*Id.*) Notwithstanding the fact that Judge Stevens does not provide any legal or factual grounds to support his motion, it nevertheless fails under applicable state and federal law.

With respect to his First Amendment claim, the U.S. Supreme Court recently reiterated its position that states may regulate judicial speech to maintain public confidence in the fairness and integrity of the judiciary, stating:

We have recognized the "vital state interest" in safeguarding "public confidence in the fairness and integrity of the nation's elected judges." *Caperton v. A. T. Massey Coal Co.*, 556 U. S. 868, 889, 129 S. Ct. 2252, 173 L. Ed. 2d 1208 (2009) (internal quotation marks omitted). The importance of public confidence in the integrity of judges stems from the place of the judiciary in the government. Unlike the executive or the legislature, the

judiciary “has no influence over either the sword or the purse; . . . neither force nor will but merely judgment.” The Federalist No. 78, p. 465 (C. Rossiter ed. 1961) (A. Hamilton) (capitalization altered). The judiciary’s authority therefore depends in large measure on the public’s willingness to respect and follow its decisions. As Justice Frankfurter once put it for the Court, “justice must satisfy the appearance of justice.” *Offutt v. United States*, 348 U. S. 11, 14, 75 S. Ct. 11, 99 L. Ed. 11 (1954). It follows that public perception of judicial integrity is “a state interest of the highest order.” *Caperton*, 556 U. S., at 889, 129 S. Ct. 2252, 173 L. Ed. 2d 1208 (quoting *White*, 536 U. S., at 793, 122 S. Ct. 2528, 153 L. Ed. 2d 694 (Kennedy, J., concurring)).

*Williams-Yulee v. Fla. Bar*, 135 S. Ct. 1656, 1666 (U.S. 2015). Additionally, the Court has given states greater latitude to restrict speech that shows a bias towards parties appearing before the judge as opposed to speech on issues. See *Republican Party v. White*, 536 U.S. 765 (2002).

The Commission’s Notice of Formal Proceedings and Charges against Judge Stevens does not seek to sanction him for engaging in a discussion over legal issues or topics. To the contrary, the Charges are based on the fact that Judge Stevens made numerous direct and personal attacks against the Jefferson Commonwealth Attorney – an individual whose office represents the Commonwealth in *all* of Judge Stevens’ criminal cases. Judge Stevens’ comments have eroded the appearance of fairness and impartiality that all judges must afford parties who appear before them. In order to maintain public confidence in the judiciary, the Commission can discipline Judge Stevens – or any other judge who makes such comments – without running afoul the First Amendment.

Judge Stevens’ request for dismissal under the Fourteenth Amendment likewise fail. The Sixth Circuit has held that states may regulate judicial speech to maintain the impartiality and integrity of the judiciary and that such regulations do not violate the Equal Protection clause of the Fourteenth Amendment. See *O’Toole v. O’Connor*, 802 F.3d 783, 791-792 (6th Cir. 2015). Additionally, Judge Stevens cannot successfully bring a claim

under the Due Process clause of the Fourteenth Amendment because the Kentucky Code of Judicial Conduct gives sufficient warning of the proscribed conduct when measured by common understanding and practice. *Alred v. Commonwealth*, 395 S.W.3d 417, 423-424 (Ky. 2012); *Nicholson v. Judicial Retirement & Removal Com.*, 562 S.W.2d 306, 308-309 (Ky. 1978).

Finally, Judge Stevens' allegations of judicial immunity and conflicts of interest are unsupported. The Commission is a creature of the Kentucky Constitution and is "vested with authority to discipline judges for official misconduct." *Kentucky Judicial Conduct Comm'n v. Woods*, 25 S.W.3d 470, 471 (Ky. 2000). As such, judicial immunity does not shield judges from discipline. Additionally, Judge Stevens has not pled facts or shown proof to overcome the presumption of honesty and integrity of Commission members necessary to prove a conflict of interest that would require the Commission members' recusal. *Alred*, 395 S.W.3d at 428.

## **II. CONCLUSION**

Based upon the foregoing, Counsel for the Commission respectfully requests that Judge Stevens' Motion to Dismiss be denied.

Respectfully submitted,



Jeffrey C. Mando, Esq. (#43548)  
Louis D. Kelly, Esq. (#92094)  
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WOLTERMANN & DUSING, PLLC  
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[jmando@aswdlaw.com](mailto:jmando@aswdlaw.com)  
[lkelly@aswdlaw.com](mailto:lkelly@aswdlaw.com)

*Counsel for Judicial Conduct Commission*

**CERTIFICATE OF SERVICE**

This is to certify that true and correct copy of the foregoing has been served via electronic mail on this the 5 day of April, 2016, upon the following:

Kimberly L. Bunton, Esq.  
1238 East Broadway, 2<sup>nd</sup> Floor  
Louisville, KY 40204  
[klbunton@gmail.com](mailto:klbunton@gmail.com)

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20 South Charles Street, Suite 400  
Baltimore, MD 21201  
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530 East Court Avenue  
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J. Bart McMahon, Esq.  
119 South Seventh Street  
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Louisville, KY 40202  
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Ms. Jimmy Shaffer  
Executive Secretary  
Kentucky Judicial Conduct Commission  
P.O. Box 4266  
Frankfort, KY 40604  
[jimmyshaffer@KYCOURTS.NET](mailto:jimmyshaffer@KYCOURTS.NET)



Jeffrey C. Mando, Esq.

COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION

IN RE THE MATTER OF:

OLU A. STEVENS, CIRCUIT COURT JUDGE  
30<sup>TH</sup> JUDICIAL CIRCUIT

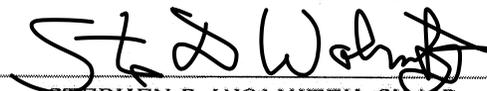
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AGREED ORDER OF TEMPORARY SUSPENSION FROM DUTIES  
PENDING FINAL ADJUDICATION

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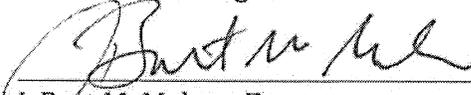
Upon agreement of the parties, and pursuant to SCR 4.020(1)(a)(ii), Judge Stevens be and is hereby suspended temporarily from acting in his official capacity as a judge and from the performance of his duties, without affecting his pay status, until final adjudication of the pending formal proceedings by the Commission.

SO ORDERED this 18<sup>th</sup> day of April, 2016

  
STEPHEN D. WOLNITEK, CHAIR

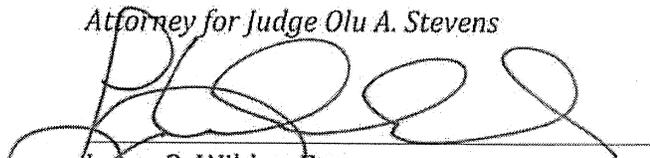
Judge David Bowles recused himself from any consideration of this matter.

Have Seen and Agreed:



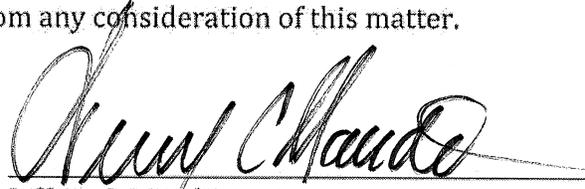
J. Bart McMahon, Esq.  
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jbartmc@mac.com

*Attorney for Judge Olu A. Stevens*



Larry O. Wilder, Esq.  
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530 East Court Avenue  
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larrywilder@me.com

*Attorney for Judge Olu A. Stevens*



Jeffrey C. Mando, Esq.  
ADAMS, STEPNER,  
WOLTERMANN & DUSING, PLLC  
40 West Pike Street  
Covington, KY 41011  
jmando@aswdlaw.com

*Attorney for the Judicial Conduct Commission*

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing was served on Olu A. Stevens, Jefferson Circuit Court Judge, on this the 18<sup>th</sup> day of April, 2016, by mailing same to his attorneys:

J. Bart McMahon, Esq.  
119 South Seventh Street  
4<sup>th</sup> Floor  
Louisville, KY 40202

Larry O. Wilder, Esq.  
Wilder Law Office  
530 East Court Avenue  
Jeffersonville, IN 47130

Jeffrey C. Mando, Esq.  
ADAMS, STEPNER,  
WOLTERMANN & DUSING, PLLC  
40 West Pike Street  
Covington, KY 41011

Kimberly L. Bunton, Esq.  
1238 East Broadway  
2<sup>nd</sup> Floor  
Louisville, KY 40204

J. Wyndal Gordon, Esq.  
The Law Office of J. Wyndal Gordon, P.A.  
20 South Charles Street  
Suite 400  
Baltimore, MD 21201

  
JIMMY SHAFFER,  
EXECUTIVE SECRETARY

**COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION**

**IN RE THE MATTER OF:**

**OLU A. STEVENS, CIRCUIT COURT JUDGE  
30<sup>TH</sup> JUDICIAL CIRCUIT**

**SECOND AMENDED NOTICE OF FORMAL PROCEEDINGS AND CHARGES**

Notice is hereby given of the initiation of formal proceedings under Rule 4.180 of Rules of the Supreme Court. At all times set out in this Notice, you were Circuit Court Judge for Kentucky's 30<sup>th</sup> Judicial Circuit located in Jefferson County. The Notice of Formal Proceedings and Charges filed on February 18, 2016 (hereinafter referred to as the "Original Notice"), and Amended Notice of Formal Proceedings and Charges filed on March 21, 2016 (hereinafter referred to as the "First Amended Notice") are adopted by reference in this Second Amended Notice. The Charges are as follows:

**Counts I – VI**

The Charges in Counts I – VI of the Original Notice and First Amended Notice are reiterated, adopted and incorporated by reference in this Notice as if fully set forth herein.

**Count VII**

On February 11, 2016, the Kentucky Court of Appeals issued an Order Granting Intermediate Relief in Jefferson Circuit Court Case No. 15-CR-1871, styled *Commonwealth v. Evans*. The Order directed you to stay the trial proceedings against the Defendant pending the outcome of petition a writ of prohibition filed by the Commonwealth's Attorney that sought to bar you from discharging a jury panel that you believed did not meet the fair cross-section requirement for a constitutionally comprised jury. The Court of Appeals' Order was faxed to your office on 7:30 a.m. on February 11, 2016.

At 10:00am that same day, the jury panel under review in the *Evans* case reported to your courtroom per previous instructions. You then directed the sheriff to dismiss the jury panel back to the jury pool in violation to the Court of Appeals' Order to stay the proceedings.

Your actions violate SCR 4.020(1)(b)(i) and constitute misconduct in office. Furthermore, your actions violate SCR 4.300 and the following Canons of the Code of Judicial Conduct:

- **Canon 1** which requires judges to maintain high standards of conduct and uphold the integrity and independence of the judiciary.
- **Canon 2A** which requires judges to respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

### **Count VIII**

On March 16, 2016, the Kentucky Court of Appeals issued an Opinion and Order Granting the Commonwealth Attorney's Petition for Writ of Prohibition in Jefferson Circuit Court Case No. 15-CR-1871, styled *Commonwealth v. Evans*. In its Order, the Court of Appeals barred you from dismissing future jury panels absent a showing by the defendant that the fair-cross-section requirement was not met pursuant to *Miller v. Commonwealth*, 394 S.W.3d 402 (Ky. 2011), or until further direction from the Kentucky Supreme Court. The Court of Appeals further concluded that you violated its February 11, 2016 Order Granting Intermediate Relief when you subsequently dismissed the jury panel in that case.

On March 17, 2016, you issued a public statement regarding the Court of Appeals' Opinion and Order, stating:

“Without comment or opinion on the merits of the case, I understand there is great discomfort that accompanies efforts to address disparities in our criminal justice system. But any eagerness to defend the status quo should

not be without regard to the principles which govern our decision making abilities,” stated Judge Olu Stevens. “Judges must be impartial and free from any conflict of interest. When the Court of Appeals testifies on behalf of the Commonwealth then rules in favor of the Commonwealth, our principles have been unapologetically, brazenly and recklessly compromised. Notwithstanding the forgoing, I will abide by the Court of Appeals Order,” said Judge Stevens.

Your actions violate SCR 4.020(1)(b)(i) and constitute misconduct in office.

Furthermore, your actions violate SCR 4.300 and the following Canons of the Code of Judicial Conduct:

- **Canon 1** which requires judges to maintain high standards of conduct and uphold the integrity and independence of the judiciary.
- **Canon 2A** which requires judges to respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
- **Canon 3B(9)** which prohibits a judge from making a public comment regarding a proceeding that is pending or impending in any court that might reasonably be expected to affect its outcome.

### **JURISDICTION**

The Judicial Conduct Commission has jurisdiction in this matter under SCR 4.020(1)(b)(i) and (v), and (1)(c) which read, in pertinent part, as follows:

- (1) Commission shall have authority:
  - (b) To impose the sanctions, separately or collectively of (1) admonition, private reprimand, public reprimand or censure; (2) suspension without pay or removal or retirement from judicial office, upon any judge of the Court of Justice or lawyer while a candidate for judicial office, who after notice and hearing the Commission finds guilty of any one or more of the following:
    - (i) Misconduct in office.
    - (v) Violation of the code of Judicial Conduct, Rule 4.300.
  - (c) After notice and hearing, to remove a judge whom it finds to lack the constitutional statutory qualifications for the judgeship in question.

For your information, the Commission wishes to call your attention to the following Supreme Court Rule:

**RULE 4.180 FORMAL PROCEEDINGS**

If the Commission concludes that formal proceedings should be initiated, it shall notify the judge. He may file an answer within 15 days after service of the notice. Upon the filing of his answer, or the expiration of time for so filing, the Commission shall set a time and place for the hearing and shall give reasonable notice thereof to the judge.

Please mail your answer to: Ms. Jimmy Shaffer, Executive Secretary, Kentucky Judicial Conduct Commission, P.O. Box 4266, Frankfort, Kentucky 40604-4266.

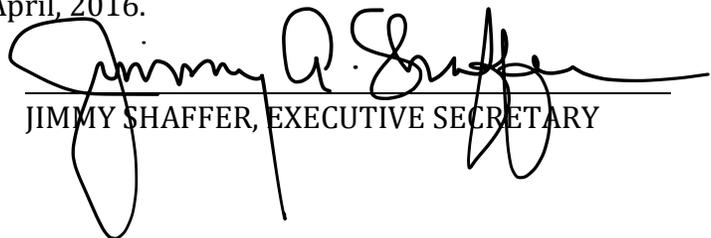
April <sup>25<sup>th</sup></sup>\_\_\_\_\_, 2016

  
STEPHEN D. WOLNITZEK, CHAIR

Judge David P. Bowles recused himself from any consideration of this Second Amended Notice of Formal Proceedings and Charges.

**CERTIFICATION**

I hereby certify that copy hereof was served on Olu A. Stevens, Jefferson Circuit Court Judge, by mailing same via U.S. Mail to his attorneys, Kimberly L. Bunton, Esq., 1238 E. Broadway, 2<sup>nd</sup> Floor, Louisville, KY 40204; Jon Wyndal Gordon, Esq., 20 South Charles Street, Baltimore, MD 21201; J. Bart McMahon, Esq., 119 South Seventh Street, 4<sup>th</sup> Floor, Louisville, KY 40202; and Larry O. Wilder, Esq., Wilder Law Office, 530 East Court Avenue, Jeffersonville, IN 47130, this <sup>25<sup>th</sup></sup>\_\_\_\_ day of April, 2016.

  
JIMMY SHAFFER, EXECUTIVE SECRETARY

**COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION**

**IN RE THE MATTER OF:**

**OLU A. STEVENS, CIRCUIT COURT JUDGE  
30<sup>TH</sup> JUDICIAL CIRCUIT**

**MOTION TO DISMISS AND/OR ANSWER TO SECOND AMENDED NOTICE OF  
FORMAL PROCEEDINGS AND CHARGES**

Now Comes the Respondent, Circuit Court Judge Olu Stevens, the duly elected public official for Kentucky's 30<sup>th</sup> Judicial Circuit located in Jefferson County, and files this his answer to the Second Amended Notice of Formal Proceedings and Charges. Respondent specifically references and incorporates his answer to the Original Notice and Amended Notice of Formal Proceedings and Charges.

This answer is timely filed after receipt of the Amended Notice that was served on April 25, 2016.

**MOTIONS TO DISMISS AND AFFIRMATIVE DEFENSES**

Respondent asserts the following motions to dismiss and/or affirmative defenses and specifically reserves the right to claim the following: (1) Violation of Respondent's rights under the First Amendment to the United States Constitution; (2) Violation of Respondent's rights under the Due Process Clause of the 14<sup>th</sup> Amendment to the United States Constitution; (3) Violation of Respondent's rights under the Equal Protection Clause of the 14<sup>th</sup> Amendment to the United States Constitution; (4) Judicial immunity and (5) Various conflicts of interest on the part of individual members of the Commission warranting recusal from consideration of this matter.

## Count VII

1. Respondent, Judge Olu Stevens hereby generally denies each and every, all and singular, the allegation(s) charged in Count VII of the Second Amended Notice of Formal Proceedings and Charges and demands strict proof thereof.
2. Respondent specifically denies that any of his alleged action(s), inaction(s) or omission(s) constitute a violation of SCR 4.020(1)(b)(i); and, or SCR 4.300, or any Canons of the Code of Judicial Conduct including, but not limited to Canon(s) 1 and 2A.
3. Notwithstanding the above, the filing of an affidavit under KRS 26A.020 deprives the Circuit Court of jurisdiction. The Circuit Court's jurisdiction is suspended pending a determination to the challenge to the court's jurisdiction. *Shafizadeh v. Shafizadeh*, 444 S.W.3d 437 (Ky. App 2012).
4. Along with its Writ before the Kentucky Court of Appeals, the Commonwealth filed an affidavit under KRS 26A.020. Upon the filing of the affidavit, the Circuit Court's jurisdiction to execute the order of the Court of Appeals was suspended pending a determination by the Chief Justice of the Kentucky Supreme Court. The determination was not made until March 19, 2016 (over 30 days later) when the motion was denied.
5. The Respondent denies dismissing the jurors or ordering anyone to do so, but states he was without jurisdiction to seat the jurors in accordance with the Court of Appeals order. The jurors were dismissed by order of another Circuit judge.
6. The allegations that Respondent dismissed jurors in violation of the Court of Appeals order are without merit and should be dismissed.

### **Count VIII**

7. Respondent, Judge Olu Stevens hereby generally denies each and every, all and singular, the allegation(s) charged in Count VIII of the Second Amended Notice of Formal Proceedings and Charges and demands strict proof thereof.
8. Respondent specifically denies that the alleged action(s) constitute a violation of SCR 4.020(1)(b)(i); and, or SCR 4.300, or any Canons of the Code of Judicial Conduct including, but not limited to Canon(s) 1, 2A and 3B(9).
9. Notwithstanding the above, Respondent's statement is an opinion protected by the First Amendment to the United States Constitution and is grounded in Kentucky statutory law and judicial canons.
10. The question raised by the Respondent's statement is the appearance created when a judge appears as a witness in a matter in which a judicial colleague presides, and whether on a contested issue the testimony of the judge/witness would be perceived to be weighed more heavily than the testimony of other witnesses, or whether rulings would be swayed by the fact that the witness is a judicial colleague.
11. KRS 26A.015 requires recusal when a judge has knowledge of a circumstance in which his or her impartiality might reasonably be questioned.
12. In this case, a sitting Kentucky Court of Appeals judge testified for and in favor of the Commonwealth on the very issue her Court of Appeals colleague considered and issued an emergency order in favor of the Commonwealth and on which another Court of Appeals colleague authored the final opinion in favor of the Commonwealth.
13. The above facts raise legitimate issues of conflict warranting consideration of recusal and the Respondent's statement spoke to the unaddressed issues.

14. The Respondent's statement did not concern the merits of the case.

15. The allegations concerning Respondent's statement are without merit and should be dismissed.

WHEREFORE Respondent requests that the charges against him be dismissed.

Respectfully Submitted,

DocuSigned by:  
  
28ABB372C7544E7...

---

Kimberly L. Bunton, Esq.  
1238 East Broadway, 2<sup>nd</sup> Floor  
Louisville, Kentucky 40204  
(502) 554-9954 (office)  
(502) 905-9333 (mobile)  
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J. Bart McMahon, Esq.  
119 South Seventh Street, 4<sup>th</sup> Floor  
Louisville, Kentucky 40202

Larry O. Wilder, Esq.  
Wilder Law Office  
530 East Court Avenue  
Jeffersonville, IN 47130

## CERTIFICATION

I hereby certify that a copy hereof was served on counsel for the Judicial Conduct Commission, Jeffrey C. Mando and Louis D. Kelly, 40 West Pike Street, Covington, KY 41011, this 10<sup>th</sup> day of May, 2016.

DocuSigned by:  
  
28ABB372C7544E7...

---

Kimberly L. Bunton, Esq.  
1238 East Broadway, 2<sup>nd</sup> Floor  
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(502) 554-9954 (office)  
(502) 905-9333 (mobile)  
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119 South Seventh Street, 4<sup>th</sup> Floor  
Louisville, Kentucky 40202

Larry O. Wilder, Esq.  
Wilder Law Office  
530 East Court Avenue  
Jeffersonville, IN 47130

**COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION**

**IN RE THE MATTER OF:**

**OLU A. STEVENS, CIRCUIT COURT JUDGE  
30<sup>TH</sup> JUDICIAL CIRCUIT**

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**RESPONSE IN OPPOSITION TO MOTION TO DISMISS**

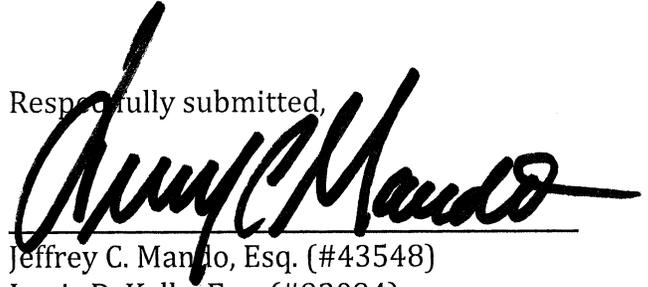
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In response to Judge Stevens' Motion to Dismiss, Counsel for the Commission states as follows:

On April 25, 2016, the Judicial Conduct Commission issued its Second Amended Notice of Formal Proceedings and Charges against Judge Olu A. Stevens. On May 10, 2016, Judge Stevens filed an Answer and Motion to Dismiss the Second Amended Charges relying on the same arguments he used in his Motion to Dismiss the First Amended Charges filed on April 5, 2016.

Because Judge Stevens does not provide any new factual or legal arguments to support his current Motion to Dismiss, Counsel for the Commission adopts and incorporates by reference as if fully set forth herein, the legal arguments in its Response in Opposition to Judge Stevens' Motion to Dismiss filed on April 15, 2016.

Respectfully submitted,



Jeffrey C. Mandlo, Esq. (#43548)

Louis D. Kelly, Esq. (#92094)

ADAMS, STEPNER,

WOLTERMANN & DUSING, PLLC

40 West Pike Street

Covington, KY 41011

859.394.6200

859.392.7263 – Fax

[jmando@aswdlaw.com](mailto:jmando@aswdlaw.com)

[lkelly@aswdlaw.com](mailto:lkelly@aswdlaw.com)

*Counsel for Judicial Conduct Commission*

### **CERTIFICATE OF SERVICE**

This is to certify that true and correct copy of the foregoing has been served via electronic mail on this the 12 day of May, 2016, upon the following:

Kimberly L. Bunton, Esq.  
1238 East Broadway  
2<sup>nd</sup> Floor  
Louisville, KY 40204  
[klbunton@gmail.com](mailto:klbunton@gmail.com)

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20 South Charles Street  
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[jwgaattys@aol.com](mailto:jwgaattys@aol.com)

Larry O. Wilder, Esq.  
Wilder Law Office  
530 East Court Avenue  
Jeffersonville, IN 47130  
[larrywilder@me.com](mailto:larrywilder@me.com)

J. Bart McMahon, Esq.  
119 South Seventh Street  
4<sup>th</sup> Floor  
Louisville, KY 40202  
[jbartmc@mac.com](mailto:jbartmc@mac.com)

Ms. Jimmy Shaffer  
Executive Secretary  
Kentucky Judicial Conduct Commission  
P.O. Box 4266  
Frankfort, KY 40604  
[jimmyshaffer@KYCOURTS.NET](mailto:jimmyshaffer@KYCOURTS.NET)



Jeffrey C. Mandlo, Esq.

**COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION**

**IN RE THE MATTER OF:**

**OLU A. STEVENS, CIRCUIT COURT JUDGE  
30<sup>TH</sup> JUDICIAL CIRCUIT**

**NOTICE OF TIME AND PLACE FOR HEARING**

NOTICE is hereby given that the hearing in these formal proceedings will be held commencing August 8, 2016, at 9:00 a.m. in the Jefferson County Judicial Center, 10th Floor Appellate Courtroom, 700 West Jefferson Street, Louisville, Kentucky, 40202.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served upon Judge Olu A. Stevens, Jefferson Circuit Court Judge, by mailing same via U.S. mail to his attorneys, Kimberly L. Bunton, Esq., 1238 E. Broadway, 2<sup>nd</sup> Floor, Louisville, KY 40204; Jon Wyndal Gordon, Esq., 20 South Charles Street, Baltimore, MD 21201; J. Bart McMahon, Esq., 119 South Seventh Street, 4<sup>th</sup> Floor, Louisville, KY 40202; and Larry O. Wilder, Esq., Wilder Law Office, 530 East Court Avenue, Jeffersonville, IN 47130; and upon counsel for the Judicial Conduct Commission, Jeffrey C. Mando and Louis D. Kelly, 40 West Pike Street, Covington, KY 41011, this 19<sup>th</sup> day of May, 2016.

  
JIMMY A. SHAFFER  
EXECUTIVE SECRETARY

Judge David P. Bowles recused from any consideration of this matter.

**COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION**

**IN RE THE MATTER OF:**

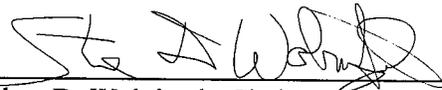
**OLU A. STEVENS, CIRCUIT COURT JUDGE  
30<sup>TH</sup> JUDICIAL DISTRICT**

**ORDER FOR EXTENSION**

Determining that additional time is needed for final disposition in this matter, the Commission finds good cause for an extension of time, and it is therefore by the Commission,

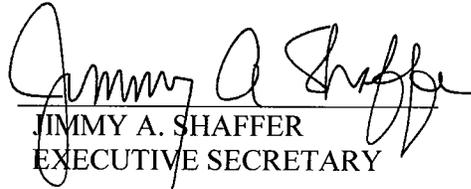
**ORDERED** that the time within which the Commission shall make final disposition be and hereby is extended pursuant to SCR 4.260(3) to and including February 12, 2017.

Entered the 5<sup>th</sup> day of July, 2016.

  
\_\_\_\_\_  
Stephen D. Wolnitzek, Chair

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served upon Judge Olu A. Stevens, Jefferson Circuit Court Judge, by mailing same via U.S. mail to his attorneys, Kimberly L. Bunton, Esq., 1238 E. Broadway, 2<sup>nd</sup> Floor, Louisville, KY 40204; Jon Wyndal Gordon, Esq., 20 South Charles Street, Baltimore, MD 21201; J. Bart McMahon, Esq., 119 South Seventh Street, 4<sup>th</sup> Floor, Louisville, KY 40202; and Larry O. Wilder, Esq., Wilder Law Office, 530 East Court Avenue, Jeffersonville, IN 47130; and upon counsel for the Judicial Conduct Commission, Jeffrey C. Mando and Louis D. Kelly, 40 West Pike Street, Covington, KY 41011, this 5<sup>th</sup> day of July, 2016.

  
\_\_\_\_\_  
JIMMY A. SHAFFER  
EXECUTIVE SECRETARY

Judge David P. Bowles recused from any consideration of this matter.

**COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION**

**IN RE THE MATTER OF:**

**OLU A. STEVENS, CIRCUIT COURT JUDGE  
30<sup>TH</sup> JUDICIAL CIRCUIT**

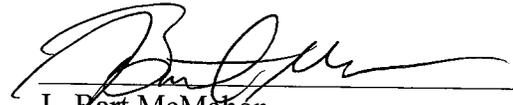
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**MOTION OF LARRY O. WILDER & J. BART MCMAHON  
TO WITHDRAW AS RESPONDENT'S COUNSEL**

---

Come now the undersigned counsel, Larry O. Wilder and J. Bart McMahon, who move the Commonwealth of Kentucky Judicial Conduct Commission to enter the attached Order withdrawing their appearances in this matter. In support of this motion, it is proper for the order of withdrawal to be entered in this matter as Judge Olu A. Stevens has discharged the undersigned attorneys.

Respectfully Submitted,



J. Bart McMahon  
119 South Seventh Street  
Fourth Floor  
Louisville, Kentucky 40202  
502-589-4713

Larry O. Wilder  
530 East Court Avenue  
Jeffersonville, Indiana 47130  
812-288-6820

CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2016, the following persons were served with this motion and attached order via U.S. Mail or electronic mail:

Hon. Jeffrey Mando &  
Hon. Louis Kelly  
ADAMS, STEPNER, WOLTERMANN &  
DUSING, PLLC.  
40 West Pike Street  
Covington, KY 41011

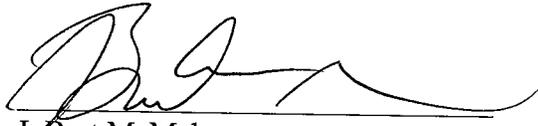
Hon. Olu A. Stevens  
Judge, Jefferson Circuit Court  
Via electronic service

Hon. Kimberly Bunton  
1238 East Broadway, 2nd Floor  
Louisville, Kentucky 40204  
Via electronic service

Hon. J. Wyndal Gordon  
J. WYNDAL GORDON, P.A.  
20 South Charles Street, Suite 400  
Baltimore, Maryland 21201  
Via electronic service

Commonwealth of Kentucky  
Judicial Conduct Commission  
P.O. Box 4266  
Frankfort, KY 40604-426

Hon. Olu A. Stevens  
Judge, Jefferson Circuit Court  
700 West Jefferson Street  
Louisville, Kentucky 40202



J. Bart McMahon

COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION

IN RE THE MATTER OF:

OLU A. STEVENS, CIRCUIT COURT JUDGE  
30<sup>TH</sup> JUDICIAL CIRCUIT

**ORDER GRANTING MOTION TO WITHDRAW AS RESPONDENT'S COUNSEL**

Upon consideration of the motion of attorneys Larry O. Wilder and J. Bart McMahon to withdraw as counsel for Respondent, and the Judicial Conduct Commission being sufficiently advised, it is by the Commission ORDERED that Larry O. Wilder and J. Bart McMahon are hereby withdrawn as counsel for the Respondent in the matter.

7/29/16  
Date

  
Stephen D. Wolnitzek, Chair

Judge David P. Bowles recused from any consideration of this matter.

**CERTIFICATION**

I hereby certify that copy hereof was served on Judge Olu A. Stevens, Jefferson Circuit Court Judge, by mailing same to his attorneys, Kimberly L. Bunton, Esq., 1238 E. Broadway, 2<sup>nd</sup> Floor, Louisville, KY 40204, and Jon Wyndal Gordon, Esq., 20 South Charles St., Suite 400, Baltimore, MD 21201; withdrawn attorneys J. Bart McMahon, Esq., 119 South Seventh St., 4<sup>th</sup> Floor, Louisville, KY 40202; and Larry O. Wilder, Esq., Wilder Law Office, 530 East Court Ave., Jeffersonville, IN 47130; and on counsel for the Judicial Conduct Commission, Jeffrey C. Mando, Esq., 40 West Pike Street, Covington, KY 41011, this 29<sup>th</sup> day of July, 2016.

  
JIMMY SHAFFER,  
EXECUTIVE SECRETARY

**COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION**

**IN RE THE MATTER OF:**

**OLU A. STEVENS, CIRCUIT COURT JUDGE  
30<sup>TH</sup> JUDICIAL CIRCUIT**

**AGREED ORDER OF SUSPENSION**

\*\*\*\*\*

Olu A. Stevens (“Judge Stevens”) is a Circuit Court Judge for Kentucky’s 30<sup>th</sup> Judicial Circuit, consisting of Jefferson County. Prior to the commencement of the final hearing, the parties reached an agreement to resolve the matter. Judge Stevens has waived formal proceedings and Judge Stevens, the Judicial Conduct Commission (the “Commission”) and the Commission’s Counsel have agreed to the entry of this Order.

The Commission received Complaints and other information, conducted preliminary and subsequent investigations, and filed a Notice of Formal Proceedings and Charges (the “Original Notice”), an Amended Notice of Formal Proceedings and Charges (the “First Amended Notice”) and a Second Amended Notice of Formal Proceedings and Charges (the “Second Amended Notice”) (the Original Notice, First Amended Notice and Second Amended Notice referred to collectively as the “Notices”) against Judge Stevens alleging he violated the Canons of the Kentucky Code of Judicial Conduct. The Notices asserted eight (8) charges against Judge Stevens. Judge Stevens timely filed Responses to each of the Notices

Judge Stevens, by counsel, and the Commission’s Counsel, reached agreement on a resolution of this matter, as described below. The Commission’s Counsel recommended that the Commission accept the agreement reached with Judge Stevens, and the

Commission, by a vote of 6-0 approved the agreement, resulting in this Agreed Order of Suspension:

1. Judge Stevens agrees that he will not retaliate against any witness, complainant or person involved in these proceedings regarding their statements, actions or other conduct prior to the date of this Agreed Order of Suspension, and further agrees that if he does commit any such acts of retaliation as to such prior statements, acts or conduct, it will constitute a breach of this Agreed Order of Suspension.

2. Judge Stevens' public statement regarding this matter is attached as Exhibit A to this Agreed Order and incorporated by reference.

3. Judge Stevens agrees that any statements made by him or by others under his direction disavowing the contents of the public statement or admissions in this Agreed Order shall constitute a breach of this Agreed Order which shall result in a reinstatement of the charges and may subject Judge Stevens to additional discipline up to and including removal from office.

4. Judge Steven agreed to, and did, make an allocution on the record and in open court on August 8, 2016, as follows:

a. As to Count I of the Notices, Judge Stevens admits that he made the statements contained in subsections (a) through (c) and that these statements constitute a violation of the Canons 1, 2A and 3B(5) of the Kentucky Code of Judicial Conduct.

b. As to Count II of the Notices, Judge Stevens admits that he made the statement contained in subsections (a) and (b), and that these statements constitute a violation of Canons 1, 2A and 4A(2) of the Kentucky Code of Judicial Conduct.

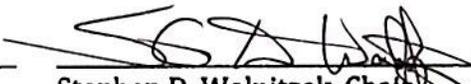
- c. As to Count III of the Notices, Judge Stevens admits that he made the statements contained in subsections (a) through (m) and that these statements constitute a violation of Canons 1, 2A, 3B(4), 3B(5), 4A(1), and 4A(2) of the Kentucky Code of Judicial Conduct.
- d. As to Count IV of the Notices, Judge Stevens admits that he made the statements contained in subsections (a) through (g) and that these statements constitute a violation of Canons 1, 2A, 3B(4), 3B(5), 4A(1), and 4A(2) of the Kentucky Code of Judicial Conduct.
- e. As to Count V of the Notices, Judge Stevens admits that he made the statements contained therein and that these statements constitute a violation of Canons 1, 2A, 3B(4), 3B(5), 3B(9), 4A(1), and 4A(2) of the Kentucky Code of Judicial Conduct.
- f. As to Count VI of the Notices, Judge Stevens admits that he made the statements contained therein and that these statements constitute a violation of Canons 1, 2A, 3B(9), 4A(1), and 4A(2) of the Kentucky Code of Judicial Conduct.
- g. As to Count VII of the Notices, the Commission agrees that this charge is DISMISSED.
- h. As to Count VIII of the Notices, Judge Stevens admits that he made the statement contained therein and that this statement constitutes a violation of Canons 1, 2A, and 3B(9) of the Kentucky Code of Judicial Conduct.

Therefore, in light of the foregoing, Judge Stevens is hereby suspended from his duties as Jefferson Circuit Court Judge, without pay, for a period of ninety (90) days, beginning August 8, 2016 and ending October 30, 2016. In entering this Order with the agreement of

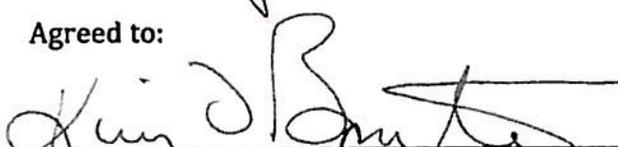
Judge Stevens, the Commission has duly considered that Judge Stevens fully cooperated in the Commission's investigation and procedures and that he had no prior infractions.

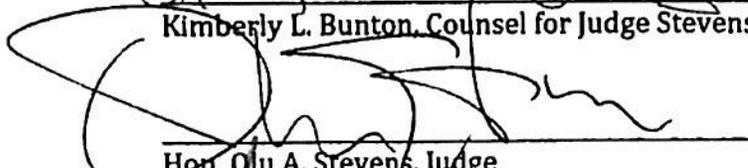
Judge Janet L. Stumbo, Judge Eddy Coleman, Judge Karen Thomas, Mr. Joseph D. Adams, Mr. Michael A. Noftsgar, and Mr. Stephen D. Wolnitzek, sitting. Judge David P. Bowles recused from any consideration of this matter.

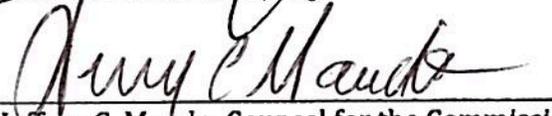
Date: Aug 8, 2016

  
Stephen D. Wolnitzek, Chair

Agreed to:

  
Kimberly L. Bunton, Counsel for Judge Stevens

  
Hon. Olu A. Stevens, Judge

  
Jeffrey C. Mando, Counsel for the Commission

Public Statement of Judge Olu A. Stevens  
August 8, 2016

Beginning in October 2015, I made several comments on social media criticizing Commonwealth Attorney Tom Wine's decision to seek Certification of Law with the Kentucky Supreme Court regarding a decision I made to disqualify a jury panel based on inadequate racial diversity. I also discussed this issue at a presentation before the Louisville Bar Association on November 12, 2015. My intent in making these comments was to emphasize the need to have jury panels that reflect our Commonwealth's racial and ethnic diversity so that all individuals can receive fair trials.

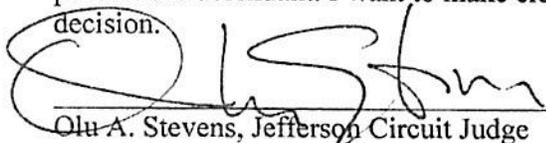
However, rather than focusing solely on the issue on racial representation on jury panels, many of my social media posts and statements during the LBA presentation focused on Mr. Wine and criticized him for seeking the Certification of Law. I realize now that this was wrong. Whether or not I would have done the same in his shoes, Mr. Wine had every right to seek Certification of Law if he felt it was appropriate. I was likewise wrong for saying that his decision to seek Certification of Law was an attempt to advocate for all-white juries. I recognize how serious it is to accuse someone, either expressly or implicitly, of racism. I do not believe Tom Wine is a racist. I apologize for any statements that implied as much.

I want to make clear that I hold no ill-will towards Mr. Wine or anyone in the Jefferson Commonwealth Attorney's Office. Whatever bad feelings I may have towards Mr. Wine in the past is behind me. I pledge that I will rule on all cases that come before based solely upon the facts and the law.

I also want to acknowledge that it was improper for me to discuss the Certification of Law while the case was pending before the Kentucky Supreme Court. While it was not my intention to influence the outcome of the decision, this behavior was nevertheless wrong. Furthermore, I was wrong to criticize the Louisville Metro Public Defender or other members of the legal community on social media.

I also retract and apologize for my March 17, 2016 public statement regarding the Kentucky Court of Appeals.

In *Commonwealth v. Gregory Wallace*, I expressed my displeasure at the contents of a victim impact statement that indicated that the daughter of the victims feared black men as a result of the defendant's actions. I took offense to those comments because I believe they perpetuated negative racial stereotypes. While I maintain that we should continue to speak out against racial stereotyping or discrimination of any kind, I acknowledge that directing my frustration at the victims of the crime was not the appropriate method or venue to address the subject. There have been suggestions that my displeasure with the victim impact statement influenced my decision to probate the defendant. I want to make clear that the victim impact statement played no role in my decision.



Olu A. Stevens, Jefferson Circuit Judge

**COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION**

**IN RE THE MATTER OF:**

**OLU A. STEVENS, CIRCUIT COURT JUDGE  
30<sup>TH</sup> JUDICIAL CIRCUIT**

**ORDER CORRECTING CLERICAL MISTAKE**

On August 8, 2016, the parties in this action entered into an Agreed Order of Suspension whereby Judge Olu A. Stevens would serve an unpaid suspension for a period of ninety (90) days. However, the Agreed Order contained a clerical error that set the terms of the suspension for August 8, 2016 to October 30, 2016, which consists of only 83 days.

SCR 4.160 states that Kentucky Rules of Civil Procedure shall apply to the Commission to the extent they are not inconsistent with Supreme Court Rules. CR 60.01 allows the Commission to correct any clerical mistakes in judgments, orders or other parts of the record. In order to correct the clerical error contained in the Agreed Order, the Commission hereby ORDERS that the August 8, 2016 Agreed Order of Suspension is hereby corrected to accurately reflect terms agreed upon by the parties at the August 8, 2016 hearing. Judge Stevens' 90-day suspension shall begin on August 8, 2016 and conclude on November 6, 2016. All other terms and provisions of the August 8, 2016 Agreed Order of Suspension shall remain in effect.

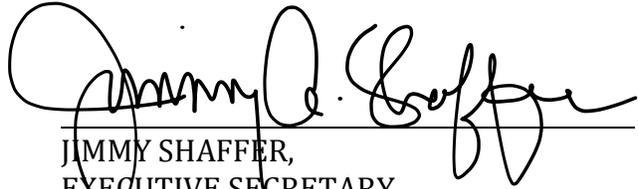
Dated: August 11<sup>th</sup>, 2016

  
\_\_\_\_\_  
STEPHEN D. WOLNITZEK, CHAIRMAN  
KENTUCKY JUDICIAL CONDUCT COMMISSION

Judge David P. Bowles recused himself from any consideration of this matter.

**CERTIFICATION**

I hereby certify that copy hereof was served on Judge Olu A. Stevens, Jefferson Circuit Court Judge, by mailing same to his attorneys, Kimberly L. Bunton, 1238 E. Broadway, 2<sup>nd</sup> Floor, Louisville, KY 40204; and Jon Wyndal Gordon, 20 South Charles St, Suite 400, Baltimore, MD 21201; and the attorneys for the Judicial Conduct Commission, Jeffrey C. Mando and Louis D. Kelly, 40 W. Pike Street, Covington, KY 41012, this 11<sup>th</sup> day of August, 2016.

  
JIMMY SHAFFER,  
EXECUTIVE SECRETARY