

TY CLEVENGER

Attorney at Law
1095 Meadow Hill Drive
Lavon, Texas 75166

telephone 979 985 5289
facsimile 979 530 9523

tyclevenger@yahoo.com
Texas Bar No 24034380

September 8, 2014

Clerk, U.S. Court of Appeals for the Fifth Circuit
600 S. Maestri Place
New Orleans, Louisiana 70130.

Re: Complaint of Misconduct against U.S. District Judge Frank Walter S. Smith, Jr. (W.D. Tex.) and Senior U.S. District Judge Harry Lee Hudspeth (W.D. Tex.)

To Whom It May Concern:

On March 7, 2014, I deposed Elisha [REDACTED] a former deputy clerk in the Waco Division of the U.S. District Court for the Western District of Texas. According to Ms. [REDACTED] testimony, it appears that Judge Walter S. Smith, Jr. engaged in abusive sexual contact, a felony, as defined by 18 U.S.C. §§2244 and 2246. As a result, it appears that Judge Smith further violated Canon 2(A) of the Code of Conduct for United States Judges.

I have enclosed a transcript of Ms. [REDACTED] testimony, as well as a transcript of the testimony of her ex-husband, Stanley Knight. Mr. Knight's testimony corroborates the testimony of Ms. [REDACTED] and Ms. [REDACTED] identified a number of other witnesses who can corroborate her testimony.

As of 2006, there is no limitations period for prosecuting a violation of §2244. Unfortunately, the incident occurred in 1998, when the limitations period for such an offense was five years. Nonetheless, Congress's power to impeach is not subject to any limitations period, therefore I request that this matter be investigated, with the results of any such investigation reported to Congress.

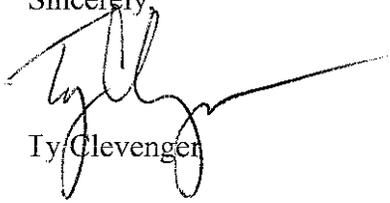
According to Ms. [REDACTED] testimony, Judge Smith's alleged crime was reported to Senior District Judge Harry Lee Hudspeth, who was then serving as chief judge for the Western District of Texas. It appears from her testimony that Judge Hudspeth took no action, other than to conceal Judge Smith's alleged crime. As such, it appears that Judge Hudspeth violated Canon 3(B)(5) by failing to "take appropriate action upon learning of reliable evidence indicating the likelihood that a judge's conduct contravened" the Code of Conduct.

At least one district court has opined that judges may violate 18 U.S.C. §4 (misprision of a felony) by failing to report a felony. *See Suntrust Mortgage, Inc v. Busby*, 2009 WL 4801347, *3 (W.D.N.C.). If that is so, then Judge Hudspeth may have

committed a felony himself, thereby violating Canon 2(A). As such, I request that an investigation of Judge Hudspeth's actions (or inactions), with the results of any such investigation reported to Congress.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ty Clevenger', with a long horizontal flourish extending to the right.

Ty Clevenger

Judicial Council of the Fifth Judicial Circuit

COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY

To begin the complaint process, complete this form and prepare the brief statement of facts described in item 4 (below). The RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, adopted by the Judicial Conference of the United States, contain information on what to include in a complaint (Rule 6), where to file a complaint (Rule 7), and other important matters. Requests for copies of the rules should be directed to: Clerk, United States Court of Appeals for the Fifth Circuit, 600 S. Maestri Place, New Orleans, LA 70130. The rules are also available at www.ca5.uscourts.gov.

Your complaint (this form and the statement of facts) should be typewritten and must be legible. Only an original of the complaint must be filed. Enclose the copy of the complaint in an envelope marked "COMPLAINT OF MISCONDUCT" or "COMPLAINT OF DISABILITY" and submit it to: Clerk, United States Court of Appeals for the Fifth Circuit, 600 S. Maestri Place, New Orleans, LA 70130. **Do not put the name of any judge on the envelope.**

1. Name of Complainant: Ty Clevenger
Contact Address: 1095 Meadow Hill Drive
Lavon, TX 75166
Daytime telephone: 979) 985-5289

2. Name(s) of Judge(s): Walter S. Smith, Jr
Court: Western District of Texas

3. Does this complaint concern the behavior of the judge(s) in a particular lawsuit or lawsuits?
 Yes No

If "yes," give the following information about each lawsuit:

Court: _____

Case Number: _____

Docket number of any appeal to the _____ Circuit: _____

Are (were) you a party or lawyer in the lawsuit?

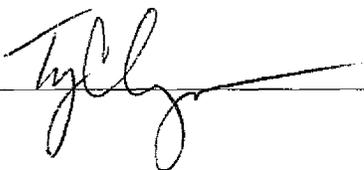
Party Lawyer Neither

If you are (were) a party and have (had) a lawyer, give the lawyer's name, address, and telephone number:

4. **Brief Statement of Facts.** Attach a brief statement of the specific facts on which the claim of judicial misconduct or disability is based. Include what happened, when and where it happened, and any information that would help an investigator check the facts. If the complaint alleges judicial disability, also include any additional facts that form the basis of that allegation.

5. **Declaration and signature:**

I declare under penalty of perjury that the statements made in this complaint are true and correct to the best of my knowledge.

(Signature)  (Date) 9/8/14

Judicial Council of the Fifth Judicial Circuit

COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY

To begin the complaint process, complete this form and prepare the brief statement of facts described in item 4 (below). The RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, adopted by the Judicial Conference of the United States, contain information on what to include in a complaint (Rule 6), where to file a complaint (Rule 7), and other important matters. Requests for copies of the rules should be directed to: Clerk, United States Court of Appeals for the Fifth Circuit, 600 S. Maestri Place, New Orleans, LA 70130. The rules are also available at www.ca5.uscourts.gov

Your complaint (this form and the statement of facts) should be typewritten and must be legible. Only an original of the complaint must be filed. Enclose the copy of the complaint in an envelope marked "COMPLAINT OF MISCONDUCT" or "COMPLAINT OF DISABILITY" and submit it to: Clerk, United States Court of Appeals for the Fifth Circuit, 600 S. Maestri Place, New Orleans, LA 70130. **Do not put the name of any judge on the envelope.**

1. Name of Complainant: Ty Cleverger
Contact Address: 1095 Meadow Hill Drive
Lavon, TX 75166
Daytime telephone: (979) 985-5289

2. Name(s) of Judge(s): Harry Lee Hudspeth
Court: Western District of Texas

3. Does this complaint concern the behavior of the judge(s) in a particular lawsuit or lawsuits?
 Yes No

If "yes," give the following information about each lawsuit:
Court: _____
Case Number: _____
Docket number of any appeal to the _____ Circuit: _____
Are (were) you a party or lawyer in the lawsuit?

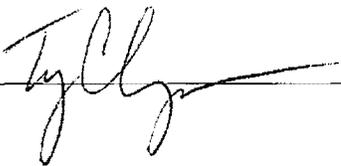
Party Lawyer Neither

If you are (were) a party and have (had) a lawyer, give the lawyer's name, address, and telephone number:

4. **Brief Statement of Facts.** Attach a brief statement of the specific facts on which the claim of judicial misconduct or disability is based. Include what happened, when and where it happened, and any information that would help an investigator check the facts. If the complaint alleges judicial disability, also include any additional facts that form the basis of that allegation.

5. **Declaration and signature:**

I declare under penalty of perjury that the statements made in this complaint are true and correct to the best of my knowledge.

(Signature)  (Date) 9/8/14