

**STATE OF MICHIGAN
BEFORE THE JUDICIAL TENURE COMMISSION**

COMPLAINT AGAINST

Hon. Tracy E. Green
Third Circuit Court
Detroit, MI

Complaint No. 103

COMPLAINT

The Judicial Tenure Commission (“Commission”) has authorized this complaint against Honorable Tracy E. Green (“respondent”), judge of the Third Circuit Court, County of Wayne, State of Michigan, and directed that it be filed. This action is taken pursuant to Article 6, Section 30 of the Michigan Constitution of 1963, as amended, and MCR 9.200 *et seq.*

1. Respondent has been a licensed lawyer and a member of the State Bar of Michigan since 1997.
2. Respondent is, and since January 2019 has been, a judge of the Third Circuit Court, County of Wayne, State of Michigan.
3. As a judge, respondent has been, and still is, subject to the duties and responsibilities imposed on her by the Michigan Supreme Court, and is subject to the standards for discipline set forth in MCR 9.104 and 9.202.

BACKGROUND INFORMATION

4. Respondent has a son named Gary Davis-Headd.
5. Respondent has two grandsons, Gary Davis-Headd, Jr. and Russell Davis-Headd, who are Gary Davis-Headd's children.
6. At all relevant times, Gary Davis-Headd, Jr. and Russell Davis-Headd were under eleven years of age.
7. In 2019 Gary Davis-Headd was convicted of two counts of felony child abuse second degree, MCL 750.136b, in Wayne County Circuit Court case no.18-009282-01-FH.
8. The victims in the criminal case were respondent's grandsons, Gary Davis-Headd, Jr. and Russell Davis-Headd.

COUNT ONE – COVERING UP EVIDENCE OF CHILD ABUSE

9. Between July of 2014 and June 24, 2018, respondent was aware that on multiple occasions her son had been abusive to his then-wife, Katy Davis-Headd, by slapping her and choking her. That is, respondent was aware that her son was prone to abusive behavior.
10. For the reasons stated below, between May 29, 2015 and June 24, 2018, respondent was aware that her son, Gary Davis-Headd, was abusing her grandchildren, Gary Davis-Head, Jr., and Russell Davis-Headd:

- a. Respondent was aware that her son was a very “stern” or “strong” disciplinarian.
- b. Respondent was aware that her son used corporal punishment on his children.
- c. Respondent was aware that her son hit his children with a belt.
- d. Respondent’s grandsons told respondent that they had been spanked by their father on numerous occasions.
- e. Respondent’s grandsons expressed to her their concern about what would happen to them physically if their father learned they had misbehaved at her home.
- f. Respondent was aware her son had slapped Gary, Jr. across the face hard enough to leave a handprint.
- g. Respondent saw other marks on Gary, Jr.’s face on other occasions that Gary, Jr. told her had been inflicted by his father.
- h. At least one time, in 2016 or 2017, respondent saw her son hit Gary Jr. on his face and chest while she was in the kitchen of her home and they were at the back door.
- i. On more than one occasion, Russell showed respondent bruises on his body and told respondent they had been inflicted by his father.

- j. Russell, at around age eight, told respondent he was about to be “spanked” by his father. Respondent left the home as the “spanking” was about to take place.
 - k. Respondent’s grandsons told her they had been “spanked” by their father on other occasions.
 - l. When Russell was around eight years old, respondent saw an injury under his eye that he informed her had been inflicted by his father.
 - m. On four occasions, respondent saw injuries on Gary, Jr.’s face that he told her were inflicted by his father.
- 11. During the period of May 2015 through June 2018, respondent was aware that her son was under a court order not to use corporal punishment on his children.
 - 12. Despite various indicia of abusive punishments, respondent did not inquire into the nature of her grandsons’ corporal punishments.
 - 13. The totality of the evidence shows that respondent was aware that her grandsons were being abused by her son.
 - 14. Respondent put makeup on the injury under Russell’s eye that he showed her as described in paragraph 10(l), and put makeup on Gary, Jr.’s facial injuries that are described in paragraph 10(m). She did so for the purpose of attempting to conceal the injuries.

15. By concealing evidence that her son had abused her grandsons, respondent committed misconduct in violation of:
- a. MCR 9.104(1) and Michigan Rule of Professional Conduct (MRPC) 8.4(c), by engaging in conduct prejudicial to the proper administration of justice;
 - b. MCR 9.104(2), by engaging in conduct that exposes the legal profession or the courts to obloquy, contempt, censure or reproach;
 - c. MCR 9.104(3), by engaging in conduct that is contrary to justice, ethics, honesty, or good morals;
 - d. MRPC 8.4(b), which deems it professional misconduct if a lawyer engages in conduct involving violation of the criminal law, where such conduct reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer;
 - e. MCL 750.483a(5)(a), which prohibits tampering with evidence;
 - f. MCL 750.505, for being an accessory after the fact to child abuse; and
 - g. MCR 9.104(5), by engaging in conduct that violated a criminal law of the State of Michigan.

**COUNT TWO - FALSE STATEMENTS ABOUT
KNOWLEDGE OF CHILD ABUSE**

16. This count incorporates paragraphs nine through fourteen of Count One.
17. As described below, respondent made false statements about her knowledge that her son abused her grandsons, and about her actions with respect to that abuse.
18. The Judicial Tenure Commission sent respondent requests for comment dated September 17 and October 30, 2019.
19. In her November 21, 2019 answer to the Commission's question 17 in the September 17, 2019 request for comment, respondent stated that none of her grandchildren had ever told her that they had been abused.
20. In her November 21, 2019 answer to the Commission's question 19 in the September 17, 2019 request for comment, respondent stated, "I was, and remain, unaware of any alleged 'abuse' of my grandchildren by my son."
21. In her November 21, 2019 answer to the Commission's question 38 in the September 17, 2019 request for comment, respondent stated, "I was never, under any circumstances or in any respect aware of, or told by anyone, the details of alleged abuse of my grandsons at the hand of their father. Specifically, I was never advised about alleged abuse by my grandsons."
22. In her November 21, 2019 answer to the Commission's question 38 in the September 17, 2019 request for comment, respondent stated: "As related to

being spanked, I have no recall of any specific occasion that this was mentioned by my grandsons. I was not, however, aware of any specific situation or complaint from my grandchildren concerning being spanked for misbehavior. Further, I never saw any signs that my grandchildren had been spanked by their father.”

23. In her November 21, 2019 answer to the Commission’s questions 16(k), 17, and 38 in the September 17, 2019 request for comment, respondent denied she was made aware of “corporal punishment” her son administered to her grandsons, and claimed she was only told about one incident in which Gary, Jr. was slapped across the face, plus additional spankings.
24. In her November 21, 2019 answer to the Commission’s question 15 in the September 17, 2019 request for comment, respondent denied knowing that Gary, Jr. and Russell had been hit by their father. She also denied witnessing Gary, Jr. being hit.
25. In her November, 21, 2019 answers to the Commission’s questions 14(b)(v), 18, 18(a) and 38 in the September 17, 2019 request for comments, respondent stated that she did not see marks on her grandsons’ bodies, excluding the slap mark she once saw on Gary, Jr.’s face.
26. In her November 21 answer to question 14(b)(v) in the September 17, 2019 request for comments, respondent stated she was not “advised” that any marks

had been left on her grandsons' bodies by her son, excluding the slap mark that she saw on Gary, Jr.'s face.

27. Respondent's statements identified in paragraphs nineteen through twenty-six, above, falsely denied her knowledge, as described in part below, that her son had abused her grandsons:
 - a. Respondent saw Gary, Jr. and Russell frequently and on several occasions Gary, Jr. told her about the abuse while she was driving them in her car and he was around nine or ten years old. Russell also told respondent that he was being hit by his father.
 - b. Respondent witnessed Gary, Sr. hit Gary, Jr., as summarized in paragraph 10(h), above.
 - c. On at least one occasion, when Russell was around eight years old and while at respondent's house, he showed respondent bruises on his face, neck, arms, legs, and back that he told respondent had been inflicted by her son. He showed respondent bruises that he told respondent had been inflicted by her son on other occasions as well.
 - d. In the bathroom of her house, when Russell was under nine years old, respondent put makeup on an injury under his eye that she was informed had been inflicted by her son;

- e. In the bathroom of her house, when Gary, Jr. was nine or ten years old, respondent put makeup on his face four times to cover marks that, as she was informed, had been inflicted by her son.
28. Respondent's November 21, 2019 answers to questions 14(b), 14(b)(viii), and 15 from the September 17, 2019 request for comment asserted that she never witnessed her son strike Gary, Jr. Her answers were false or misleading, in that she did see her son strike Gary, Jr. multiple times. One specific occurrence is described in paragraph 10(h), above.
29. Respondent's November 21, 2019 answers to questions 18(g) and 19 from the September 17, 2019 request for comments asserted that she put makeup on Gary, Jr. because Russell was making fun of him for being slapped by his father and for the mark on his cheek. Her answers were false or misleading because Russell never teased Gary about being slapped by their father or having a mark on his cheek, and neither of the boys ever told respondent or anyone else that Russell teased Gary, Jr. for this reason.
30. Respondent's November 21, 2019 answer to question 18 from the September 17, 2019 request for comments asserted that she put makeup on Gary, Jr.'s face on one occasion when she saw what looked like a handprint on his cheek. In context, her answer to question 18g asserted that she put makeup on Gary, Jr.'s face on only one occasion. Her answer was false and misleading, in that

she put makeup on Gary, Jr.'s face four times to cover marks inflicted by her son.

31. Respondent's November 21, 2019 answers to questions 18 and 19 from the September 17, 2019 request for comments asserted that she put makeup on Gary, Jr. on one occasion, but did not mention that she had also put makeup on Russell to cover abuse. This omission was false and misleading, in that she put makeup on Russell to cover an injury inflicted by her son.
32. Respondent testified at a juvenile court hearing on March 13, 2019 as a witness on behalf of Gary Davis-Headd.
33. Respondent made several false statements during her testimony including:
 - That there were not times that Gary, Jr. showed her bruises on his body (transcript p. 63)
 - That she did not use makeup to cover up Gary and Russell's bruises (transcript, p. 65)
 - That Gary's testimony that respondent did cover up bruises on his face with makeup was a lie (transcript, p. 66)
34. Respondent's testimony at juvenile court that is cited in paragraph 33 contradicts her November 21, 2019 answer to question number 18 in the September 17, 2019 request for comments that she put makeup on Gary, Jr.'s face one time "Because Gary, Jr. and Russell were at an age where they were

constantly teasing one another, Gary, Jr. told me that Russell was making fun of him for being slapped by his father and the mark on his cheek. I told Gary, Jr. that I could apply some liquid foundation to his cheek to make the mark go away. I applied some foundation to the cheek of Gary, Jr., but it was not successful in covering up the mark.” (Q 18). Respondent’s testimony in juvenile court and her statement to the Commission cannot reasonably both be true.

35. Respondent’s testimony at juvenile court that is cited in paragraph 33, and respondent’s November 21, 2019 answer to question number 18 in the September 17, 2019 request for comments, are both false, in that respondent put makeup on Gary, Jr., multiple times, and did not do so to prevent Russell from teasing him.
36. Each of the false statements described in paragraphs nineteen through thirty-five was misconduct, in violation of:
 - a. MCR 9.202(B), which prohibits false or misleading statements to the Commission;
 - b. MCR 9.104(2), which prohibits conduct that exposes the legal profession or the courts to obloquy, contempt, censure or reproach;
 - c. MCR 9.104(3), which prohibits conduct that is contrary to justice, ethics, honesty, or good morals;

- d. Michigan Code of Judicial Conduct (MCJC) Canon 2(A), which requires that a judge avoid all impropriety and appearance of impropriety;
- e. MCJC Canon 2(B), which requires a judge to act in a way that promotes confidence in the integrity of the judiciary; and
- f. MRPC 8.4(b), which prohibits a lawyer from conduct involving dishonesty, deceit, or misrepresentation, where such conduct reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer.

Pursuant to MCR 9.230(B), an original verified answer to the foregoing complaint, and nine copies thereof, must be filed with the Commission within 14 days after service of the complaint upon respondent. Such answer must contain a full and fair disclosure of all facts and circumstances pertaining to the allegations. Willful concealment, misrepresentation, or failure to file an answer and disclosure are additional grounds for disciplinary action.

JUDICIAL TENURE COMMISSION
OF THE STATE OF MICHIGAN

/s/ Lynn Helland
Lynn Helland (P32192)
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November 10, 2020