

**Judicial Merit Commission – Special Meeting
Law Library, Third Floor, Tang Conference Room
101 W. Jefferson, East Court Building
Thursday, March 26, 2009 2:00 – 4:00 p.m.**

Special Meeting Minutes

The Judicial Merit Commission met on Thursday, March 26, 2009, to conduct a Special Meeting in the appeal of Robert Amavisca v. Adult Probation Department. The meeting was conducted in the Tang Conference Room located at 101 W. Jefferson, East Court Building, Law Library, 3rd Floor.

I. Meeting Convened

The meeting was called to order at 2:00 p.m. with the following members in attendance: Commissioners Thomas J. Davis (Chair), N. Joseph Cayer, Robert Oberstein, and Maria Hoffman. Also in attendance were Phillip E. Hanley, Secretary to the Commission, Billie Berry, Human Resources Specialist, Gary Bridget, Employee Relations Administrator, Alisa Blandford, Assistant Attorney General, Jamie Harding, Assistant Attorney General, Donna McDaniel, Appellant Counsel, Sue Bauer, Division Director, Adult Probation, and Margie Archibeque, Court Reporter.

II. Appeals For Decision

Robert Amavisca v. Adult Probation Department

The appellant, Robert Amavisca, filed a timely appeal to the disciplinary action taken by the Adult Probation Department – suspension without pay for a period of 80 hours “for engaging in unprofessional and insubordinate behavior and for failing to complete supervisory responsibilities.”

A hearing ensued. Hearing Officer Amy Lieberman recommended that the discipline rendered by the Adult Probation Department be upheld. The parties had an opportunity to submit Proposed Findings of Facts, Conclusions of Law and Recommendations to the Hearing Officer. Mr. Amavisca timely appealed the disciplinary action and the Hearing Officer’s Findings of Facts, Conclusions of Law and Recommendations.

The Commission now sat to hear the appeal.

All counsel were present for the appeal hearing. Appellant counsel informed the Commission that appellant was sick and unable to attend, but appellant counsel asked that the hearing go forward in appellant’s absence.

Pursuant to Commission procedure, each party was given 15 minutes to present its arguments and rebuttal. Assistant Attorney General, Alisa Blandford presented arguments on behalf of the Adult Probation Department. Donna McDaniel, appellant counsel,

presented arguments on behalf of appellant, Robert Amavisca. After counsels' arguments, Commission members questioned Sue Bauer, Adult Probation Division Director, regarding Adult Probation policy and procedure. Final statements were then made by both counsel.

The Commission then convened Executive Session.

Executive Session

Executive Session convened at 2:58 p.m. The Commission concluded its Executive Session at 3:15 p.m. and the Special Session resumed immediately thereafter.

The Chair entertained a motion and the following motion was offered:

Motion: Commissioner Cayer moved that the recommendation of the hearing officer be modified to reduce the suspension to a 40-hour suspension without pay and that Mr. Amavisca be referred to appropriate counseling within the system. Commissioner Oberstein seconded the motion.

Commissioner Hoffman moved to amend the motion to add that Mr. Amavisca attends another training of supervisors on the Field Reassessment Offender Screening Tool (FROST).

Commissioner Cayer accepted the amendment to the motion. Commissioner Oberstein seconded the acceptance of the amendment.

The amended motion was then called by the Chair as follows:

Amended Motion: The discipline imposed on Mr. Robert Amavisca in the matter of *Robert Amavisca v. Adult Probation Department* is modified from an 80-hour suspension to a 40-hour suspension without pay, and that along with that discipline there be a required mediation and that Mr. Amavisca be required to attend a FROST Refresher Course.

None opposed and no abstentions. The Commission accepted the motion unanimously.

AG Blandford stated the department was not clear what the Commission meant by required mediation. The Chair noted that the Commission would issue its Decision and Order that would clearly state its meaning.

Discussion then ensued as to whether the Commission was adopting or modifying the Hearing Officer's Findings of Fact and Conclusions of Law. Discussion also ensued as to whether the Commission had the authority to reduce the level of discipline.

Further discussion ensued. The Commission advised counsel it would issue its Decision and Order and counsel would have ten days after receipt to submit any objections thereto.

Hearing no further questions or comments, the Chair entered a motion to adjourn.

Motion: Commissioner Cayer moved to adjourn the hearing. The motion was seconded by Commissioner Oberstein. Motion unanimously approved. The hearing was adjourned at 3:45 p.m.

Respectfully submitted,

Billie J. Berry
Staff to the Commission

For

Phillip E. Hanley
Secretary to the Commission

Next Meeting: Tuesday, June 2, 2009 @ 2:00 p.m. in the Tang Conference Room