

CAUSE NO. 380-01407-2013

COMMISSION FOR LAWYER) (IN THE DISTRICT COURT
DISCIPLINE,) (
) (
Plaintiff,) (
) (
VS.) (380th JUDICIAL DISTRICT
) (
TY CLEVINGER,) (
) (
Defendant.) (COLLIN COUNTY, TEXAS

ORAL DEPOSITION OF

██████████ [REDACTED]

MARCH 7, 2014

VOLUME 1 OF 1

ORAL DEPOSITION OF ██████████ [REDACTED], produced as a witness at the instance of the Defendant and duly sworn, was taken in the above-styled and numbered cause on the 7th day of March, 2014, from 2:52 p.m. to 3:45 p.m. before Terri L. Edwards, Certified Shorthand Reporter in and for the State of Texas, reported by machine shorthand at 425 Austin Avenue, Suite 1414, Waco, Texas, pursuant to the Texas Rules of Civil Procedure and the provisions stated on the record or attached hereto.

MR. CLEVINGER: This is Ty Clevenger. It is March 7th at 2:52 p.m. Going on the record. With me in the room are Terri Edwards, [REDACTED], and [REDACTED], the witness. On the telephone is Dirrell Jones.

[REDACTED],
having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEVINGER:

Q Ms. [REDACTED], could you please state your full name?

A [REDACTED].

Q And were you formerly known [REDACTED]?

A Yes.

Q What years did you work in the Federal Courthouse?

A Um --

Q Just about --

A About '94 through '98.

Q Were you a deputy clerk?

A Yes.

Q I want to ask you about an attempted sexual assault that you and I discussed previously. When approximately did that occur?

A Around 1998, I believe. It's been so long --

Q Sure.

A -- I can't remember the exact date.

Q When -- on that particular day do you remember when

you first saw Judge Walter Smith?

A Yes.

Q And that would be U.S. District Judge Walter Smith, correct?

A Correct.

Q Describe when you ran into him and what happened.

A It was in the morning. It was about 8:30, and I had went down to the water fountain down the hall on the third floor, which is where the clerk's office is and also the judge's office and courtroom. And I went to rinse out my cup, get some water. And about that time Judge Smith came up the stairs, entering the building, coming in for the day. And he stopped and talked to me, "Hi, how are you?" And, really, I had never had a conversation with him, per se. We never crossed paths. The --

Q Before that time?

A Right. I mean, I hardly ever saw him even though we were on the same floor. But this morning he had -- this particular morning he had a pretty strong smell -- I don't know whether it was mouthwash or liquor, but it was pretty strong on his breath. And he -- when he was talking to me. He told me that -- he said, "Come see me sometime." I believe that's the exact words he used. And I was like, "Okay." I kind of thought it was strange. It was kind of a strange request. And so I figured it was, like, you know, come by the

office and say "hi" sometimes or something. I don't know.
That's kind of the way I took it.

Q Right.

A And I said, "Okay," and anyway --

Q What did you do after that?

A I went back to my desk and started working, and I had some training that I had to do. I can't remember if it was an online, but it was something that was piped in that -- training that I did. And I had to go down to the second floor in a room for that, and I was gone the majority of the morning doing that training. I got out about lunch.

Q Let me back up a little bit. You mentioned it smelled like mouthwash or liquor. Did you see or hear anything else that'd give you the impression he might have been intoxicated? Or did you mention to anyone else that you thought he might have been intoxicated?

A Yes, I did.

Q Who did you tell that you thought he might have been intoxicated?

A I told -- I told my supervisor, the district clerk, in San Antonio. They called me about the situation. And when I told them, I told them that I did smell liquor on his breath.

Q Okay.

A And I was pretty certain it was that. And they

weird things came out of my mouth, you know. And in hindsight, you know, I wish I would have said things differently, but I was like -- I -- I was just trying to keep him from blowing up at me because I could tell he was very -- he was agitated because I had not come in there earlier that morning. He was already agitated, and I could feel that, you know, and --

Q Did he have a reputation for having a temper, being angry?

A Uh-huh.

Q Is that a "yes," he did?

A Yes.

Q Okay. Did he have a reputation for drinking?

A Yes. I found -- I -- Yes.

Q Okay. And so after that last conversation you just described, did he try to grab you again, or did he physically touch you after that?

A He just took my hand, and he was like, you know, "Just come stay with me in here for a while," and I was just like, you know, "I -- I've got to get back to my desk. I've got to --" I don't really remember too much of what I said. I was just trying to get out of there and --

Q Okay. You want to take a break?

A No.

Q So where did you go? Did you talk to anybody right

Q How do you spell that?

A Michael Y-u-r-k-a-n-i-n. He was Judge Smith's law clerk, and he called me the week after that. It was, I would say, a week, maybe two -- no, probably two weeks just because of the events that he said has been -- had been happening, it had been -- He said -- he called me at home, and he said, "██████," he said, "You need to put some kind of closure on this. You need to do something about this." He said, "The judge is -- I'm having to go pick him up for work. He can't come into work. He's been in the hospital." He said, "He's, you know, falling apart. He's having to cancel court things, and, you know, he's not functioning. You've got to do something about this."

Q Well --

A And I said --

Q So he was suggesting it was your responsibility?

A Yes.

Q Okay.

A And I was like -- I said, "Michael, I'm the victim here. He did this to me. Why -- you know, what -- you're not even in your right mind to call and tell me to make things better, you know, about this." And he's like, "Well, you just need to do something because I can't do this anymore." In other words, he was feeling the stress of it.

Q So what did he say he wanted you to do?