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Circuit Court - Division II
Judge David R. Duggan
948 E. Lamar Alexander Parkway
Maryville, TN 37804

February 25, 2010

Dear Judge Duggan,

The purpose of this letter is to make a suggestion regarding the appointment of the Grand Jury Foreperson, and is not to imply that there is any impropriety by you or anyone in the Blount County Justice Center.

It is imperative, to the justice of the people, that the Grand Jury foreperson remain independent of both the Judge and the Prosecutor. Current Justice Antonin Scalia said "The Grand Jury is an institution separate from the courts, over whose functioning the courts do not preside." *States v. Williams*, 504 U.S. 36 at 47 (1992). While no Judge in Tennessee can preside over the proceedings of the Grand Jury behind closed doors, it should also be that no Judge can appoint the foreperson if it's truly a separate institution from the courts.

Rule 6(g)(1) of the Tennessee Rules of Criminal Procedure does allow the Judge, authorized by law to charge—and receive the report of—the grand jury, to appoint the Grand Jury foreperson. Historically all grand jury members have been selected randomly and the foreperson was chosen by the Grand Jury members. This was a good structure for the Grand Jury because it remained independent from all other branches of government and was best able to investigate criminal matters because of its independence.

In the meantime I'd like to propose a solution that I believe to be the best for the people of Blount County, given the current Rule governing the appointment of the Grand Jury Foreperson.

This rule empowers the Judge to appoint the foreperson, but it does not specify how the Judge can make such an appointment. I propose that an additional name be drawn randomly from the same pool of potential jurors from which the other 12 grand jury members are drawn. After you have drawn 13 jurors, select from those 13 the one that you feel is best qualified to serve as the foreperson. My personal preference would be to let the grand jury members pick the foreperson, but given Rule 6(g)(1), I believe this to be a good lawful compromise.

I appreciate your consideration in this matter of the people's Grand Jury.

Sincerely,

Tona Monroe