

Monroe A. Miller, Jr.
19 Big Spruce Lane
Waynesville, NC 28786
(828) 456-3718
January 9, 2013

The Grievance Committee
The North Carolina State Bar
208 Fayetteville Street
PO Box 25908
Raleigh, NC 27611
(919) 828-4620

Subject: Complaint against James Weaver "Kirk" Kirkpatrick, III

I, the undersigned hereby complain against

James Weaver "Kirk" Kirkpatrick, III
Kirkpatrick Law Firm
37 Branner Avenue
Waynesville, NC 28786
(828) 452-0801

I agree to cooperate by furnishing to the representatives of the North Carolina State Bar all pertinent information and records in my possession concerning the alleged misconduct of said attorney. I further agree that if a hearing or inquiry is ordered concerning the alleged misconduct of said attorney, then I will furnish evidence concerning the facts by submitting to deposition or personal attendance at the hearing or inquiry. I hereby indicate that this information is provided and transmitted by me to the North Carolina State Bar for the purpose of investigating the alleged misconduct of the above named attorney. I understand that I may also need to reveal this information to a privately-retained attorney to pursue private remedies on my behalf. I further understand that the immunity granted by North Carolina General Statute 84-28.2 applies only to those statements made without malice and intended for transmittal only to the North Carolina State Bar.

I also understand that the North Carolina State Bar may reveal this information to the accused attorney for his response to a formal inquiry and to others pursuant only to the Rules and Regulations of the North Carolina State Bar.

On October 15, 2012, at a Haywood County Commission meeting, during a time period for commissioners to respond to public comments, Kirk Kirkpatrick, who is both an elected Haywood County Commissioner and a lawyer, threatened me with a legal opinion while wearing the hat of a public official

[re: video, http://www.haywoodnc.net/index.php?option=com_allvideoshare&view=video&slg=october-15]

and again threatened me during the same time slot at the November 19, 2012 county commission meeting

[re: video, http://www.haywoodnc.net/index.php?option=com_allvideoshare&view=video&slg=november-19]

while again wearing the hat of a public official. All county commission meetings are video recorded and televised, and available for viewing on the Haywood County website, www.haywoodnc.net.

No one likes to be threatened, and I don't appreciate being threatened, in public and on television, by a lawyer with his opinion while he is wearing the hat of an elected county commissioner. Where in the Bar Association play book is he allowed to get away with this?

This started when I read a public comment at the October 15th county commission meeting,

[re: 121015 Public Comment.pdf, enclosed].

I said, in part:

“There's another completely new problem's that's popped up with David Francis that's raised new additional questions.

Do you know Terry Ramey, Commissioner Swanger?

Have you heard about what's going on with Van Winkle? They are a law firm in Asheville. Do you know Van Winkle, Vice chairman Kirkpatrick?

Evidently, Van Winkle is under some deal, with David Francis, to act as a third party debt collector, and have been sending out collection and foreclosure letters to Haywood County Taxpayers, Terry Ramey being one of them.

These certified letters did not have the required disclosures indicating that they were a third party tax collector, a penalty of \$1,000 per letter. Terry has received five of those letters. His last letter **did** have the required disclosure.

What's going on between Francis and Van Winkle? Who was that sanctioned by?

Who is going to pay the \$1,000 fine per letter for not disclosing Van Winkle is acting as a third party debt collector? Van Winkle, or the County? Or should I say, the taxpayers of Haywood County?

You know, I've been waiting **four months** to gain access to these Private Property Listing Letters and information. Francis has refused access at every level. By refusing to meet with me, at worst, it makes it appear that he has something to hide. At best, it does not enhance his resume.

These questions are not going away. Now I'm interested in inspecting these Van Winkle letters. The sooner you folks can lean on Francis to start having meetings and answering these questions, the sooner they will be resolved.”

Kirkpatrick replied, [re: transcript of video of meeting, and reprinted in Haywood County Toeprints, Vol.3, Issue 9, <http://haywoodtp.net/pubTP/T121022SE.pdf>] after public comments were complete, a time where commissioners can respond directly to comments made by the public:

Kirkpatrick: “I don't have any, ... I guess I gotta have a couple responses to Mr. Miller. I don't normally do that, but, **some of this involves legal things**, and, for one thing on the letters, any time that letters are sent out for taxes purposes, the language that is required on those documents, it's not required. That's required for consumer debt. And taxes are not consumer debt.

The other thing is that, **I think if you are actually representing a particular person**, you could probably have access to those particular persons records, Mr. Miller. **I don't know if you are acting as an attorney representing certain parties**, or attempting to gain access to represent them on particular issues, but it would helpful if you were assisting someone to bring that particular person in,

instead of just coming in and saying something generally. I don't see Mr. Ramey here. I have spoken with Mr. Ramey about his particular concerns, but he is not here this evening, **but if you are acting on his behalf, I would suggest that you seek counsel yourself about whether you should do that or not, or whether that's appropriate.** I not certainly deterring whether you can gain access to information you are entitled to, **but you may be putting yourself in a situation you don't want to necessarily be in.** And that's not a threat from me, I'm just trying to help you out so you don't run into that. Other than that, I have the utmost confidence that Mr. Francis is attempting to collect debts that are owed on taxes. Unfortunately, they have to be collected, and we all pay them here, and everyone in the county is responsible for paying those and that's the only way it works. And I do believe that when I actually met with, when I was in Mr. Francis' office today, there was a constituent that came in, and I sat there and met with her with him, and I know that he was very cordial with her, and attempted to work out a particular issue. And I do think he attempts to do that. Unfortunately, there are some that don't pay the taxes, and simply because somebody's in, under financial circumstances where they can't pay, or their having difficulty, I know that we can work with them to a certain extent, but the statutes do not allow for us to forgive taxes or reduce taxes just at a whim. That's not fair to everybody else whose paying their tax. And, so I guess some response to what you had to said this evening, I just wanted to provide that for you."

At the conclusion of my public comment at the November 19th county commission meeting, I said, in part [re: 121119 Public Comment.pdf, enclosed]:

"Finally, vice chairman Kirkpatrick, when you were threatening me with legal advice at the October 15th meeting, were you acting as a county commissioner or as a lawyer?"

Kirkpatrick again replied, [re: transcript of video of meeting, and reprinted in Haywood County Toeprints, Vol.3, Issue 12, <http://haywoodtp.net/pubTP/T121127.pdf>] after public comments were complete,

Kirkpatrick: "... and then as far as Mr. Miller goes, uh, I was - I don't - I don't make threats, I'm not going to make any threats to you, **Mr. Miller, your actions, you're accountable for your own actions, whatever they may be, uh, and you can go read the law on what it is if you are practicing law, and if you have a degree, uh, and you're licensed to practice law in the State of North Carolina, you certainly can, but if you're not, I mean, it is an unauthorized practice of law. It's up to you to determine whether what your doing is practicing law or not.** And, uh, it's not a threat by me at all, it's just wanted to call that out, and make sure that you don't get yourself in trouble, that's all. **I'm not going to make any reports.**

"Are you talking to me, sir?" [A lawyer seated between me and Kirkpatrick, who thought Kirkpatrick was talking to him].

No, no, no sir, I'm not talking to you, I'm done with the confederate, I was moving on to another issue. (Laughter) No. Uh, and that's all I have to say."

Kirkpatrick accused me of "**unauthorized practice of law**", also implying I would need a "license" to practice law in the State of North Carolina, all based simply on the public comments I made at a public county commission meeting.

My immediate reaction and public response was via a newsletter I publish, **Haywood County Toeprints** on www.haywoodtp.net, <http://haywoodtp.net/pubTP/T121127.pdf>, Vol. 3, Issue 12, enclosed.

Additionally, I posted an Op-Ed on www.haywoodtp.net, "Op-Ed. Response to Kirk Kirkpatrick threat of possible Unauthorized Practice of Law, by Art Patten. 12/08/2012...", <http://haywoodtp.net/pubII/121208Op-Ed.pdf>, enclosed.

As an additional point of fact, the elected Haywood County Clerk to the Superior Court, June Ray, is not a lawyer. Yet she is a probate judge.

[re: "Transcript - June Ray, Clerk of Superior Court, confessing she was the judge that refused delivery of my USPS Registered Restricted Priority Package at the Justice Center to the Grand Jury Foreman, 4/30/2012. 5/26/2012...", <http://haywoodtp.net/pubII/120430RayHydeTranscript.pdf>]

The following are the first few minutes of a Meeting with June Ray, Clerk of the Superior Court, and her assistant, Sam Hyde, Assistant Clerk to the Superior Court who is a lawyer, at the Haywood County Justice Center on April 30, 2012 [There is an audio recording of this meeting, available upon request].

Miller: I've got a bunch of questions here, I've saved them all up.

Ray: Like I said, I hope I can answer them.

Miller: If you can't, don't worry, I'll find somebody to answer them, but I thought you would be a good person to ask for most of them.

Ray: Ok.

Miller: Ok. First one, this is a ...

[**Editors Note:** I brought a USPS Priority Envelope that was sent Registered Restricted to the Foreman of the Grand Jury, mailed on March 27, 2012, that was refused at the Justice Center by a judge].

Ray: I remember we received this in the mail, and I had to -, I couldn't sign for it because ...

Miller: ... It's Registered Restricted. Yeah, it came here, I mailed in on the 27th, it came here on the 28th ...

Ray: Yes.

Miller: I got it returned to me the 29th. My question to you is, the mail carrier that returned it to me said that she got it third hand, but the judge had refused this package.

Ray: I'm assuming she probably meant me, because ... it was me.

Miller: No, she said a judge...

Ray: I'm a probate judge.

Miller: Oh. I didn't know that. Ok.

Ray: Yeah. To my knowledge, no other judge saw that.

Miller: Oh, ok.

Ray: Cause see, we receive the mail here, it was restricted and to a certain individual, so I didn't feel like I had the right to sign for it.

Miller: No you couldn't, that's why I sent it registered restricted. What I thought they would do, and this is was to the Grand Jury Foreman, ...

Ray: Yes.

Miller: What I thought they would do, and I gave instructions to Brad Letts, I understand he is the resident judge ...

Ray Senior Resident...

Miller: ... that he would most likely know the name of the Grand Jury Foreman, and he would advise them of the date she would be here, and at that point the carrier could then deliver the package.

Ray: It's my understanding with the mail that when you get something like that, somebody's got to sign off of it when it arrives, it's not something that can lay around here for two or three days.

Miller: No. The postal carrier would have to take it back with the understanding that when this person showed up, bring it back, and then sign for it. That's ...

Ray: But there's really no guarantee, even though we have a grand jury foreperson, that there's no guarantee that they're going to be here each and every term. Because of illness or vacation, or those reasons.

Miller: Ok. I was willing to take my chances, but it was refused, and it's still sealed. So you were the one that refused it.

[Editors Note: Judge June Ray admitted to refusing a United States Post Office Priority Registered Restricted piece of mail that was not addressed to her, it was addressed to the Grand Jury Foreman].

Ray: Yes.

So why is it that Kirkpatrick can accuse me of unauthorized practice of law because I don't have a "law license" and he does not make the same accusation to June Ray, Clerk to the Superior Court, who is a probate judge, and practices law every time she wears the probate judge hat? June Ray, by the way, is one of the few people in Haywood County that has taken the proper oath of office. Kirk Kirkpatrick has not.

[re: "UPDATE Oath's of Office, Haywood County Commissioners James Weaver Kirkpatrick III, Mark Swanger, Bill Upton, Haywood County DA Michael Bonfoey, Amanda Owens, Clerk of Superior Court June Ray, Waynesville Mayor Gavin Brown 4/20/2012...", <http://haywoodtp.net/pubII/120420Oaths.pdf>]

By the way, since June Ray is not a lawyer, she did not receive a complaint to the Bar Association for her behavior as noted in the above transcript. Instead, the complaint was directed to the David Williams, Inspector General of the United States Postal Service [re: Complaint dated June 11, 2012, not enclosed].

enc: 121015 Public Comment.pdf
Haywood County Toeprints, Vol.3, Issue 9
121119 Public Comment.pdf
Haywood County Toeprints, Vol.3, Issue 12
Op-Ed. Response to Kirk Kirkpatrick threat of possible Unauthorized Practice of Law, by Art Patten.
Transcript - June Ray, Clerk of Superior Court
Oath's of Office, Haywood County Commissioners James Weaver Kirkpatrick III, ...

Monroe A. Miller Jr.
Monroe A. Miller Jr.
19 Big Spruce Lane
Waynesville, NC 28786
(828) 456-3718

[Notary Stamp Here]

Jurat

Signed and sworn before me Archie Gearty, on this day, the 9 day of January 2013.

Signed: Archie G. Gearty

Printed: Archie F. Gearty

3 Minute Public Comment

October 15, 2012

Here's where we stand.

Last Monday, I was lead to believe I would have a meeting with Judy Ballard regarding the 2,000 Private Property Listing's sent out by David Francis' department.

Judy Ballard was not there. She was out doing some audit. Then left immediately on vacation until November 5th, and was unavailable. Francis was there, pointed to the 3 gigantic trays of letters and said have at it.

[Hold up 3 pages of questions]. Unfortunately, I have **three pages** of questions I needed to ask **someone** about these letters before it makes sense to me to start diving into these letters. Francis was there, but again refused to meet with me or answer any questions.

I now have an open request into Kitina Houck, the tax department employee that Judy Ballard designated to act in her absence, and have requested a meeting with her. That is pending, evidently, until she gets approval from Francis.

NC General Statute § 105-350 (paragraph 8), the general duties of tax collectors, states that "he is to send **bills** or **notices** of taxes due to taxpayers if instructed to do so by the governing body".

Francis has said this is **not a bill**, so it must be a **notice**. People are telling to me he having wages garnished and people are paying money for these "not a bill's"?

There's another completely new problem's that's popped up with David Francis that's raised new additional questions.

Do you know Terry Ramey, Commissioner Swanger?

Have you heard about what's going on with Van Winkle? They are a law firm in Asheville. Do you know Van Winkle, Vice chairman Kirkpatrick?

Evidently, Van Winkle is under some deal, with David Francis, to act as a third party debt collector, and have been sending out collection and foreclosure letters to Haywood County Taxpayers, Terry Ramey being one of them.

These certified letters did not have the required disclosures indicating that they were a third party tax collector, a penalty of \$1,000 per letter. Terry has received five of those letters. His last letter **did** have the required disclosure.

What's going on between Francis and Van Winkle? Who was that sanctioned by?

Who is going to pay the \$1,000 fine per letter for not disclosing Van Winkle is acting as a third party debt collector? Van Winkle, or the County? Or should I say, the taxpayers of Haywood County?

You know, I've been waiting **four months** to gain access to these Private Property Listing Letters and information. Francis has refused access at every level. By refusing to meet with me, at worst, it makes it appear that he has something to hide. At best, it does not enhance his resume.

These questions are not going away. Now I'm interested in inspecting these Van Winkle letters. The sooner you folks can lean on Francis to start having meetings and answering these questions, the sooner they will be resolved.

I appreciate your allowing time for me to express my concerns.

Thank you.

Haywood County "Toeprints"

October 22, 2012

Vol. #3 Issue #9 (Subject: * SPECIAL EDITION * Threat from Kirkpatrick, Invite from Francis)

www.haywoodtp.net

What's Happening?

The purpose of this newsletter is to inform Haywood County Taxpayers of what transpires at the bi-monthly County Commission Meetings. This newsletter will be written from the perspective of a casual observer, myself. Any opinions expressed will be mine.

County Commission Meeting, October 15, 2012.

The following is my public comment at the 10/15/2012 county commission meeting:

"Here's where we stand.

Last Monday, I was lead to believe I would have a meeting with Judy Ballard regarding the 2,000 Private Property Listing's sent out by David Francis' department.

Judy Ballard was not there. She was out doing some audit. Then left immediately on vacation until November 5th, and was unavailable. Francis was there, pointed to the 3 gigantic trays of letters and said have at it.

[Hold up 3 pages of questions]. Unfortunately, I have **three pages** of questions I needed to ask **someone** about these letters before it makes sense to me to start diving into these letters. Francis was there, but again refused to meet with me or answer any questions.

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These questions are not going away. Now I'm interested in inspecting these Van Winkle letters. The sooner you folks can lean on Francis to start having meetings and answering these questions, the sooner they will be resolved."

[Editors Note: I had this last portion prepared, but ran out of the 3 minute time period to present it...]

[Do I have time to give you an update on Susan Sorrells?

An ethics complaint has been filed against **Susan Sorrells** with the North Carolina Ethics Commission for her behavior at the HCC Board of Trustees meeting on September 4th, related to the HCC presidential selection process. If the commission decides to investigate this matter, I will keep you informed of their findings.]

"I appreciate your allowing time for me to express my concerns. Thank you."

Kirkpatrick Response to my Public Comment...

[Editors Note: This was transcribed from the video of the 10/15/2012 meeting posted on the county website, and at approximately 5:58 into the video, Kirkpatrick starts.]

Kirkpatrick: "I don't have any, ... I guess I gotta have a couple responses to Mr. Miller. I don't normally do that, but, some of this involves legal things, and, for one thing on the letters, any time that letters are sent out for taxes purposes, the language that is required on those documents, **it's not required.** That's required for consumer debt. And taxes are not consumer debt."

[Editors Note: What?]

"The other thing is that, I think if you are actually representing a particular person, you could probably have access to those particular persons records, Mr. Miller. I don't know if you are acting as an attorney representing certain parties, or attempting to gain access to represent them on particular issues, but it would be helpful if you were assisting someone to bring that particular person in, instead of just coming in and saying something generally. I don't see Mr. Ramey here. I have spoken with Mr. Ramey about his particular concerns, but he is not here this evening, but if you are acting on his behalf, I would suggest that you seek counsel yourself about whether you should do that or not, or whether that's appropriate. I not certainly deterring whether you can gain access to information you are entitled to, **but you may be putting yourself in a situation you don't want to necessarily be in.** And that's not a threat from me, I'm just trying to help you out so you don't run into that."

[Editors Note: Kirkpatrick said: " ... **but you may be putting yourself in a situation you don't want to necessarily be in.** Kirkpatrick said it's "not a threat from me." Well, who is it from? It certainly sounds to me like it was a threat, and the person at the receiving end of a threat gets to make the call whether or not that sounds like a threat or not. If Kirkpatrick wanted to really help me out, he would lean on Francis to answer my questions.]

"Other than that, I have the utmost confidence that Mr. Francis is attempting to collect debts that are owed on taxes. Unfortunately, they have to be collected, and we all pay them here, and everyone in the county is responsible for paying those and that's the only way it works. And I do believe that when I actually met with, when I was in Mr. Francis' office today, there was a constituent that came in, and I sat there and met with her with him, and I know that he was very cordial with her, and attempted to work out a particular issue. And

I do think he attempts to do that. Unfortunately, there are some that don't pay the taxes, and simply because somebody's in, under financial circumstances where they can't pay, or their having difficulty, I know that we can work with them to a certain extent, but the statutes do not allow for us to forgive taxes or reduce taxes just at a whim. That's not fair to everybody else whose paying their tax. And, so I guess some response to what you had to said this evening, I just wanted to provide that for you."

My public comment seems to have rattled Kirkpatrick's cage. You know, instead of threatening me, it would be more enlightening to the Taxpayer's of Haywood County if he used his time to answer some of the questions posed by my public comment and leaning on Francis to answer some of these questions rather than deflecting and threatening.

UPDATE - Inspection of Personal Property Listing Letters.

I received another invitation from David Francis to inspect the 2,000 or so Personal Property Listing letters on October 30, at 10:00am, somewhere in the Tax Department Offices. Francis sent an e-mail to me on 10/18/2012 which said, in part:

"After conferring with Ms. Ballard, there will not be a meeting with her when she returns to the office or with anyone else from the tax office. This also applies to Ms. Houck. The records you requested to inspect will be available to you on Tuesday, Oct. 30, at 10:00am."

I plan to be there to inspect these letters, hopefully accompanied by an investigator from a state agency.

This advance notice of this review should provide Vicki Hyatt with adequate time to prepare another front page article about how well David Francis is collecting "The tax that won't go away".

Legend: If any name is in bold, it can't be a good thing.

Monroe A. Miller Jr.,
Haywood County Taxpayer
19 Big Spruce Lane
Waynesville, NC 28786
www.haywoodtp.net

3 Minute Public Comment
November 19, 2012

Last Tuesday, David Francis presented me with the remainder of the Personal Property Listing letters I have been requesting for months. The total numbered 1,206 letters and are now in a data base format posted on www.haywoodtp.net. There are 794 letters that are missing based on David Teague indicating there were 2,000 letters.

I also posted a list of about 30 questions regarding the circumstances of these letters and Francis has avoided even acknowledging them, let alone answering them.

These questions are now reaching the levels of the State Auditor, the Attorney General, the DMV, the Department of Revenue, the Sheriff, the Office of the Haywood County District Attorney, and are also now posted on my website.

I would like to know the authority Francis has for attempting to tax unregistered vehicles which include cars, trucks, mobile homes, boats, trailers, jet ski's, anything that has ever had a license plate, because I am sure getting some conflicting views on this from the highest levels of the DMV.

Francis's unwillingness to respond to these questions and put them to bed gives the appearance that he is conducting some sort of scam operation here, and your unwillingness to lean on him to respond to these questions does not cast you in a very good light.

Most of you already have these questions, except for you, vice-chairman Kirkpatrick and you, commissioner Ensley, who both have threatened to delete my e-mails to you.

Francis has just indicated that he does not have two files or folders of taxpayers I requested who I know have interacted with him. Is Francis or someone in the tax department destroying evidence?

I am providing a copy of the summary of my report to Marty Stamey, the county manager, to see if any of you commissioners, or you Chip, will either lean on Francis to answer these questions or if any of you will respond to these questions. These questions are not going away.

Finally, vice chairman Kirkpatrick, when you were threatening me with legal advice at the October 15th meeting, were you acting as a county commissioner or as a lawyer?

I appreciate your allowing time for me to express my concerns.

Thank you.

Monroe A. Miller Jr.
19 Big Spruce Lane
Waynesville, NC 28786

Haywood County "Toeprints"

November 27, 2012

Vol. #3 Issue #12 (Subject: David Francis, Kirk Kirkpatrick, County Commission Meeting)

www.haywoodtp.net

What's Happening?

The purpose of this newsletter is to inform Haywood County Taxpayers of what transpires at the bi-monthly County Commission Meetings. This newsletter will be written from the perspective of a casual observer, myself. Any opinions expressed will be mine.

My Public Comment, Commission Meeting 11/19/2012.

The following is my public comment at the Nov. 19th County Commission Meeting:

"Last Tuesday, David Francis presented me with the remainder of the Personal Property Listing letters I have been requesting for months. The total numbered 1,206 letters and are now in a data base format posted on www.haywoodtp.net. There are 794 letters that are missing based on David Teague indicating there were 2,000 letters.

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answer these questions or if any of you will respond to these questions. These questions are not going away.

Finally, vice chairman Kirkpatrick, when you were threatening me with legal advice at the October 15th meeting, were you acting as a county commissioner or as a lawyer?

I appreciate your allowing time for me to express my concerns. Thank you."

The Personal Property Listing Report is posted on www.haywoodtp.net :

UPDATE Summary of questions to date and Personal Property Listing letters sent to Haywood County Taxpayers by David Francis Tax Department employees, 11/13/2012, 11/13/2012...

or

<http://haywoodtp.net/pubII/121113Francis.pdf>

David Francis Nov. 19th Public Comment.

David Francis again took the opportunity to speak during a public comment session. How many county employees find the need to have to do this? Francis' public comments were transcribed from the video of the Nov. 19th meeting, shown on www.haywoodnc.net.

Throughout Francis' comments, count the number of times Francis mentions the issue of addressing the 30 questions and when he is going to respond to them...

David Francis:

"Good Evening Commissioners, hope everybody's doing well, I wish everyone a Happy Thanksgiving as well, too. I just want to address the remarks from Mr. Miller there, the uh, Mr. Miller inspected records, there was, we first told him back in June, around 2,000 dollars, which was just - excuse me, 2,000 bills, just an estimate, from years past, uh, the tax assessors office has done a good job of working, calling people, before they had to mail out the letters, so, there was, and then there was those letters that did get mailed out. Some of the letters that are not public record, due to the fact that they have DMV, or vehicle identification numbers in there. DMV - Department of Motor Vehicles. We're bound by federal and state statues by not releasing that information. So that information is not public record. And if it is public record, it has to be redacted out. Okay? So that's why you can't see all the records.

His constant prevarications, you know, a couple of meetings ago, he talks [**Editors Note:** arms waving for emphasis] about an FBI investigation. Unfounded! You know, goes and, you know, sends letters to all these other, you know, departments, Department of Motor Vehicles, Department of Transportation, Department of Revenue, you know, on and on again. We have a conference call with the State Auditors Office today, where they say we find nothing that you are doing that is incorrect. **This is just a personal attack on me** [**Editors Note:** holding his hand across his heart, for emphasis]. This is all it is. And I apologize for to you all and to the citizens of Haywood County that have to put up with this. I'm sorry. But enough is enough, as I said before. This goes on and on and on. You know, he had audacity to call Haywood County la-la land. La-la land. **He doesn't like Haywood County** [**Editors Note:** holding his hand across his heart, for emphasis] He doesn't care about Haywood County. And it's just not right that he keeps dragging, you know, my employees, other fellow workers, that work hard. You know, he goes on diatribe about Dale Burris back in the summer. Still, no apology to Dale. Still. Asked for him to be fired. But no apology. You know, he's inconsiderate, inconsistent in his, you know, attacks. And it doesn't make any more sense any more. Thank you."

- “You know, he had audacity to call Haywood County la-la land. La-la land. He doesn't like Haywood County ...” I'm glad **Francis** brought this up. The reference to la-la land was with respect to **David Francis'** spreadsheet of constantly increasing property values (remember the revaluation?), and is referenced in an e-mail to Marty Stamey on 6/5/2011 which was copied to **David Francis**.

The following is a reprint of that e-mail...

Hi Marty,

I know of at least one (1) case here in Haywood County that this applies to, and that is the one referenced in Assistant Attorney General Mark Teague's letter to me of May 31, and that is the parcel of property out near Lake Logan whose clients of Steve Martin are trying to make some kind of land transaction, when Mark Teague changed his opinion in his new and improved clarified "Do-Over" statement:

“... The State Property Office is of the opinion[1] that if a current appraisal, conducted by a duly licensed appraiser, were made of these particular tracts of land, the value reflected in such an appraisal would be lower than the value indicated in the 2008 appraisal by as much as thirty percent. ...”

[1] “opinion” as used in this sentence has the following meaning: “A belief or conclusion held with confidence, but not substantiated by positive knowledge of proof.” American Heritage Dictionary, pg. 872 (Second College Edition, 1991).

[1a] “opinion” as understood through my life experiences: “A lawyer can only express an opinion, a judge makes the ruling”.

If Mark Teague's "Do-Over" statement only applies to this one Itsy-Bitsy parcel, and not the rest of the county, doesn't that kind of screw up Steve Martin's case? If Steve Martin took Mark Teague's original opinion "out of context", as apparently I may have taken his original opinion "out of context", wouldn't that strengthen Steve Martin's original case and contention now? **He and his clients could argue that, as you say, we are fortunate that we live in a county (la-la land) where property values only increase, except for this one Itsy-Bitsy parcel?**

I'm so confused...
Monroe

Number of times **Francis** addressed the issue of responding to the 30 questions? **Zero** [0]!

A couple of comments regarding this **Francis** Public Outburst:

- “This is just a personal attack on me ...”. You know, **Francis** has a lot to answer for, being a public official and tax collector and all that, and currently has nearly my full attention. You would think he would want to answer these questions and put everything to bed, but no. This “personal attack” - playing the victim - business is not to be confused with an actual physical assault, which **Francis** assaulted on me at the Justice Center on August 6, 2012 [re: Incident Report]. Now that is what I would call a personal attack!
- “...we first told him back in June, around 2,000 dollars, which was just - excuse me, 2,000 bills”. Wait a minute. He told a recipient of one of these “bills”, that was **not a bill**. What is it? Is it a “bill”, or “**not a bill**”?

As you can see, the indirect reference was specific to “a county where property values only increase, la-la land.” It is presumptuous for **Francis** to publically insinuate that I do not like Haywood County. You are encouraged to review the whole concept of ever increasing property values on www.haywoodtp.net :

Open Letter - Response to Sharon Edmundson, LGC, who responded to my Informal Complaint (Long download). 9/25/2011...

or
<http://haywoodtp.net/publl/110925Edmundson.pdf>

Kirk Kirkpatrick Nov. 19th Response to Public Comments. In response to my question to **Kirkpatrick** during my public comment (which he never did answer, by the way) “...when you were threatening me with legal advice at the October 15th meeting, were you acting as a county commissioner or as a lawyer?”, **Kirkpatrick** again felt the need to speak out and defend his previous comments, and are again transcribed from the same Nov. 19th video.

Kirk Kirkpatrick:

“... and then as far as Mr. Miller goes, uh, I was - I don’t - I don’t make threats, I’m not going to make any threats to you, Mr. Miller, your actions, you’re accountable for your own actions, whatever they may be, uh, and you can go read the law on what it is if you are practicing law, and if you have a degree, uh, and you’re licensed to practice law in the State of North Carolina, you certainly can, but if you’re not, I mean, it is an **unauthorized practice of law**. It’s up to you to determine whether what your doing is practicing law or not. And, uh, it’s not a threat by me at all, it’s just wanted to call that out, and make sure that you don’t get yourself in trouble, that’s all. I’m not going to make any reports.”

[Editors Note: previous public speaker interrupted, presumably a lawyer, thinking **Kirkpatrick** was talking to him]

“Are you talking to me, sir?”

Kirkpatrick:

“No, no, no sir, I’m not talking to you, I’m done with the confederate, I was moving on to another issue. (Laughter) No. Uh, and that’s all I have to say.”

Before we get to **Kirkpatrick**, what in the world kicked off this business about me practicing law? That’s right, it was the last part of my public comment on October 15th, reprinted here:

“There’s another completely new problem’s that’s popped up with **David Francis** that’s raised new additional questions.

Do you know Terry Ramey, Commissioner Swanger?

Have you heard about what’s going on with Van Winkle? They are a law firm in Asheville. Do you know Van Winkle, Vice chairman **Kirkpatrick**?

Evidently, Van Winkle is under some deal, with **David Francis**, to act as a third party debt collector, and have been sending out collection and foreclosure letters to Haywood County Taxpayers, Terry Ramey being one of them.

These certified letters did not have the required disclosures indicating that they were a third party tax collector, a penalty of \$1,000 per letter. Terry has received five of those letters. His last letter **did** have the required disclosure.

What’s going on between **Francis** and Van Winkle? Who was that sanctioned by?

Who is going to pay the \$1,000 fine per letter for not disclosing Van Winkle is acting as a third party debt collector? Van Winkle, or the County? Or should I say, the taxpayers of Haywood County?

You know, I’ve been waiting **four months** to gain access to these Private Property Listing Letters and information. **Francis** has refused access at every level. By refusing to meet with me, at worst, it makes it appear that he has something to hide. At best, it does not enhance his resume.

These questions are not going away. Now I’m interested in inspecting these Van Winkle letters. The sooner you folks can lean on **Francis** to start having meetings and answering these questions, the sooner they will be resolved.”

This whole thorny business with Van Winkle has evidently gotten under **Kirkpatrick's** skin - the debt collector letters, the missing disclosure about Van Winkle announcing that they were a third party debt collector, the \$1,000 fine per letter for the missing disclosure, etc., etc., etc.

Notice that **no** commissioner nor **David Francis** has bothered to ever respond to this query!

Now to **Kirkpatrick** comments.

Kirkpatrick advised I read the law. Well, here it is. From the North Carolina General Statutes:

§ 84-2.1. "Practice law" defined.

The phrase "practice law" as used in this Chapter is defined to be performing any legal service for any other person, firm or corporation, with or without compensation, specifically including the preparation or aiding in the preparation of deeds, mortgages, wills, trust instruments, inventories, accounts or reports of guardians, trustees, administrators or executors, or preparing or aiding in the preparation of any petitions or orders in any probate or court proceeding; abstracting or passing upon titles, the preparation and filing of petitions for use in any court, including administrative tribunals and other judicial or quasi-judicial bodies, or assisting by advice, counsel, or otherwise in any legal work; and to advise or give opinion upon the legal rights of any person, firm or corporation; Provided, that the above reference to particular acts which are specifically included within the definition of the phrase "practice law" shall not be construed to limit the foregoing general definition of the term, but shall be construed to include the foregoing particular acts, as well as all other acts within the general definition. The phrase "practice law" does not encompass the writing of memoranda of understanding or other mediation summaries by mediators at community mediation centers authorized by G.S. 7A-38.5 or by mediators of personnel matters for The University of North Carolina or a constituent institution. (C.C.P., s. 424; 1870-1, c. 90; 1871-2, c. 120; 1880, c. 43; 1883, c. 406; Code, ss. 27, 28, 110; Rev., ss. 210, 3641; 1919, c. 205; C.S., s. 198; 1933, c. 15; 1941, c. 177; 1943, c. 543; 1945, c. 468; 1995, c. 431, s. 3; 1999-354, s. 2; 2004-154, s. 2.)

So, vice chairman **Kirkpatrick**, where in the hell am I practicing law? Where in my public comment am I practicing law? Seems to me I'm asking a bunch of questions, like I always do, that no one is very anxious to answer, like they never are.

Now some specific points...

- It doesn't matter that **Kirkpatrick** says "I don't make threats", I felt threatened when he made the threat on Oct. 15th, and I felt threatened when he threatened that I was practicing law without a license "...it is an unauthorized practice of law". This appears to me as a form of official oppression by a public official.
- **Kirkpatrick** wants to make sure I don't get myself in trouble, so he said: "I'm not going to make any reports.". Who are you going to make a report to, attorney **Kirkpatrick**, the Bar Association, or will you be making the report as County Commissioner **Kirkpatrick**? Aren't you under some kind of lawyer oath or something to report stuff? Go ahead and make the report, and that will definitely call needed attention to the Van Winkle questions. Why aren't you making a report about Van Winkle anyway?

North Carolina State Auditor.

I also had a consultation with the State Auditor's Office last Monday (11/19/2012). I had submitted an Informal Complaint regarding the Haywood County Personal Property Letters. The State Auditor's office investigates fraud. The person I spoke to was very helpful and provided NC General Statutes relating to Unregistered Vehicles (classified motor vehicles). Based on these statutes and additional information from other state agencies, the list of 30 questions will be expanded. Let's see how long **Francis** can continue to blow these off. More to come...

UPDATE - No answer from Marty Stamey on any type of response to the 30 questions I handed to him at the last county commission meeting.

Legend: If any name is in **bold**, it can't be a good thing.

Monroe A. Miller Jr.,
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www.haywoodtp.net

Op-Ed. Response to Kirk Kirkpatrick threat of possible Unauthorized Practice of Law
by Art Patten, Waynesville, NC, December 8, 2012.

[Editors Note: This is an Op-Ed, (Opposite the Editorial page) on the subject of Kirk Kirkpatrick's accusations against this editor. Kirkpatrick's comments are transcribed from the Haywood County video of two commission meetings (re: www.haywoodnc.net), and are presented in <http://haywoodtp.net/pubTP/T121022SE.pdf>, and <http://haywoodtp.net/pubTP/T121127.pdf>]

This missive/Op Ed is in response to comments made by County Commissioner Kirk Kirkpatrick on two separate occasions, said comments were made, in response to questions poised by Monroe Miller, these questions were then misinterpreted as the possible Unauthorized Practice of Law hereafter in this missive abbreviated as UPL. Commissioner Kirkpatrick's comments pursuant to this matter are available on this site for your perusal.

After reviewing the entirety of Commissioner Kirkpatrick's comment's to Mr. Miller, I must surmise, that Commissioner Kirkpatrick was acting in the capacity of a legal Jurist, defined in **Black Law 4th edition** as "*One who is versed and skilled in the Law.* No where in the context of this definition does Blacks say one must be a licensed Attorney or a member of some elite, closed shop fraternity and private Guild known as a Bar Association, in order to be a Jurist. Hereafter in this missive Commissioner Kirkpatrick will be referred to as Jurist Kirkpatrick.

In Jurist Kirkpatrick's comments, he repeatedly implies Mr. Miller's questions may constitute the UPL, as he Mr. Miller, according to Jurist Kirkpatrick, may be acting in the venue of the commission's public comment section, as an unlicensed attorney.

Jurist Kirkpatrick's implied accusations, are so erroneously far a field from what in-fact constitutes the statutory definition of UPL, as defined in *N.C.G.S. Chapter 84*, as to beg the question, as to whether Jurist Kirkpatrick has a functional understanding of the elements of the charge of UPL.

First of all, let's address Jurist Kirkpatrick's implied accusations that Mr. Miller is an unlicensed Attorney. In point of fact, contrary to the brainwashing THE STATE and THE BAR would have you believe, there is no License to practice Law. License is defined as permission to do that which would otherwise be unlawful. Bar Agents / Attorner's such as Jurist Kirkpatrick have no document in their procession issued by THE STATE OF NORTH CAROLINA (a corporation) having the word License on any alleged document. What Bar Agents do have, is a Certification issued by The Supreme Court of The State of North Carolina, to practice law (*practice means they never really get it right as they are always practicing on us the hapless public*). The Supreme Court has no authority in Law or Statute to issue a License for anything, as all Licenses in This State, are issued under the authority of the Secretary of State. Certification/ Permission is defined in case Law at *Aldrich v. Syracuse 236 N.Y.S 614, 617, 134. 698*.

Ask any Bar Agent for his Bar Card and the word License never appears on this hallowed document. How can THE LAW, the real Law of The United States of America, which is the English common law, be licensed, as it applies to all men, who may use it unfettered, to govern their affairs and to chain the forays of an encroaching government into their personal affairs and liberties?

What Attorneys have done, is create an offshoot of THE LAW, which is private corporate By law. This inferior Statutory Scheme and By law, has been copy written by the American Bar the State Bar and by the Westlaw corporation, this By law was adopted when North Carolina formally accepted The North Carolina Bar Association and its copy written Statutes in 1933. This law only applies to Corporations, Trusts, Officers or Employees of Government, who by default, hold the political status as residents. These creations of THE STATE, are the only entities to which this Statutory Scheme applies! STATUTORY LAW IS NOT THE LAW OF THE UNITED STATES AND FREEMAN ARE NOT SUBJECT TO IT, UNLESS THEY AGREE BY MEANS OF DECEIT, TRICKERY AND RUSE, TO BE SUBJECT TO IT. THIS IS WHAT ATTORNEYS DO!

Maybe Mr. Miller had no standing to ask questions involving other Citizens problems with government within in the venue of the County Commissioners Meeting. Are County Commissioners' meetings undisclosed legal proceedings? It is a well known fact that County Commissioners in This State, were in fact magistrates, possibly as late as 1966. In many States, such as Tennessee, commissioners are magistrates, a booklet issued by the Tennessee school of government confirms this well known historical fact. Jurist Kirkpatrick, being a Bar Agent, is an officer of "The Court", by holding a second Office as vice-Chairman, is Jurist Kirkpatrick in violation of the Original intent of The Federal Constitution? This prohibition contained in the original 13th Amendment of the Federal Constitution, was in effect from 1819 to 1860 (*and may well still be in effect see hyper link*) forbid Attorneys / Esquires from holding any public office. Read about it here <http://www.thedailybeast.com/newsweek/2010/07/27/why-some-republicans-want-to-restore-the-13th-amendment.html>

While the aforementioned may be speculation, one thing is certain, Bar Agent Kirkpatrick has taken a oath to uphold the Statutes of THE STATE OF NORTH CAROLINA. This means that if Mr. Miller was committing an illegal act, such as UPL, Bar Agent/ Jurist Kirkpatrick, would be under a legal duty, much like a Police officer's who witnesses a crime, to then expeditiously report that crime. Failure to report a crime By a Public Officer could very well constitute a crime called Misprision, a very serious charge indeed. Jurist Kirkpatrick addresses Mr. Miller on this issue and says that he will not report Mr. Miller to the BAR for investigation for UPL. Is this because there is no crime to report? Mr. Miller, in point of fact, did nothing wrong.

Jurist Kirkpatrick then suggests Mr. Miller seek legal council in this matter. This is impressive! Jurist Kirkpatrick knows the difference between effective council as delineated in the 5th Article of Amendment of the U.S. constitution and legal representation which appears no where in any constitution. Representation is what an Attorney does for a corporation, when he enters into a case as the Attorney of Record. Council, which is a constitutional term, means anyone, such as a Lawyer and non Bar Agent, who is not required to be an Attorney, and who is also skilled and knowledgeable in The Law.

Under the doctrine of effective assistance of council, lead council does not have to be a member of the Bar fraternity. Lead Council/ Non Bar Agent may draft moving court papers ,which the Attorney of Record, then may submit. Plainly said again, you don't have to be a Bar Agent if you're listed as council on the moving court documents, and any Attorney of Record may submit said papers drafted By Non Bar Agents acting as council.

I mention this to illuminate the annotated histories regarding the UPL. The UPL statute in and of itself is **NOT** the law, under the Statutory Scheme, the case law pursuant to the Statute, is the law, along with the legislative intent, all these qualifiers and legal factors are carefully and surreptitiously tucked away in the Legislative Archives, in addition to the annotated histories regarding the Statute, which are available, only if one has a Westlaw Subscription, which will cost Non Bar Agents about \$1,500.00 per month. Luckily Super Citizen Miller has people who care about him and have such subscriptions and the legal expertise to prevent him from being railroaded by an elite monopoly and Guild, on a totally bogus charge.

A quick look in *N.C.G.S. Chapter 84* shows that UPL is the preparation of wills, trusts, and moving court papers, and the giving of a “legal opinion”, which translated, means speculation as to what the outcome of a case, or judgment may be. Mr. Miller, was **NOT** engaged in any of these essential elements aforementioned, while all he was merely exercising was his First Article of Amendment and Constitutionally Protected rights, under the Constitution of the United States of America, whilst he was addressing his public servants in the context of an ostensibly “Open public forum”.

The paramount question then arises, as to the intent of Jurist Kirkpatrick’s warnings and attempts to suppress Mr. Miller’s inquiries. Is Jurist Kirkpatrick attempting to shut down a line of questioning, which might reveal malfeasance on the part of the Commission? If Jurist Kirkpatrick believes Mr. Miller is committing a crime, why doesn’t Jurist Kirkpatrick report him? Attorneys don’t do things out of the kindness of their hearts; they do things out of expedience, greed, avarice, and political self aggrandizement.

Indeed the Prima Facie evidence, as to the intent of Jurist Kirkpatrick’s threats to Mr. Miller, appear to be baseless threats, in order to intimidate Mr. Miller and quash a line of questioning, that very well might reveal things Jurist Kirkpatrick doesn’t want the public to know. Public Shielding by an Officer of the court/public official, is addressed in *N.C.G.S. Chapter 14*.

There is an old adage that says if you point an accusatory finger at someone else, you may have three more pointing back at you. Jurist Kirkpatrick, in the act of insinuating that Mr. Miller may be engaged in UPL, is indeed himself, precariously treading into the very gray area, that he indirectly implies Mr. Miller has entered. The giving of a legal opinion while wearing the hat of a public official, is exactly why it was the intent of the framers of this Republic, through the original 13th amendment, that mandates Attorneys not hold any Public Office of trust, as an inevitable conflict would arise.

Not only has Mr. Miller received threats and harassment from the Commissioners, he has also received veiled threats of jury tampering by Haywood County District Attorney Michael Bonfoey. Mr. Miller, acting within the authority any public Citizen has under law, gave a verified criminal complainant against a Public Official, to the Foreman of the Grand Jury. No law precludes this act at all. The reader on this site can access audio link - http://haywoodtp.net/pubII/120511_004Bonfoey.MP3 - proving Mr., Bonfoey and his staff are subverting and misapplying Statutes, that apply and relate to the Grand Jury. During this recorded meeting, Mr. Bonfoey, again attempts to intimidate Citizen Miller and his witnesses, Terry Ramey, by saying that only he, Bonfoey, being D.A., has access to the Grand Jury. The Oath jurors take, allows them to take complainants from any Citizen who has knowledge of a crime committed by any Public Official and to say anything to the contrary, is legally absurd and goes against all the precepts of American Juris Prudence as it relates to the Grand Jury.

Inclosing the afore mentioned Public Officials, have engaged in an active pattern of legal harassment, intimidation and official oppression when dealing with Mr. Miller. This attitude of intimidation has thrived during a period of great public apathy over the last 80 years, as Citizens have acquiesced their primary responsibility in the exercising oversight, over those who are appointed to operate in the Public Trust. Public officials have a fiduciary responsibility and duty to protect the Public Trust.

Our Public Officials have been left unchecked to operate under their own devices for the last 80 years, since the socialist FDR, created all Republican Government into an Administrative Law State, which has then been ruled by a private closed shop Guild called the BAR Association, whose agents, have infested all three branches of Government and have relegated Citizens, to feudal serfs on a corporate government plantation.

What are 3 million Attorneys at the bottom of the ocean? A very good start indeed. In order to restore a Republican form of government, we must prevent the elite fraternity and closed shop Guild known as the BAR Association, from doing exactly what they have done, infect all three branches of the government our founders gave us. I urge people to research the original 13th amendment of the United States Constitution and to not vote for any Attorney who seeks any Public Office of Trust.

Art Patten
Waynesville, NC

May 10, 2012

Transcript of meeting with June Ray and Sam Hyde, Justice Center on April 30, 2012.

I requested an appointment to speak with June Ray, Clerk of the Superior Court on April 26, 2012. Sam Hyde made the appointment for April 30, 2012, and announced he would be also sitting in on the meeting.

June Ray is the Clerk of the Superior Court, and as it turns out, a Probate Judge.
Sam Hyde is the assistant Clerk of the Superior Court, and as it turns out, a lawyer.

The meeting was recorded, and the following is a partial transcript of the meeting.

I prepared a list of questions to go over. They are on page 2 of this transcript (before the transcript begins). Only the first three (3) topics on the list of questions has been transcribed. The audio of the entire meeting is available upon request.

Editors notes are inserted during the transcript for clarification, and denoted with [Editors Note: ...]

Monroe A. Miller Jr.
19 Big Spruce Lane
Waynesville, NC 28786

April 30, 2012
3 pm

Questions for June Ray
Sam Hyde in attendance

Judge who refused package.

- Name of the Judge on Duty on March 28, 2012, who refused my Priority USPS Registered Restricted package to the Foreman of the Grand Jury.

Grand Jury True Bill of Indictment's

- Have received static about accessing any True Bill of Indictment's. Would like to see list of all Bill's returned, most recent bunch, and would like to inspect a recent Bill of Indictment from the Grand Jury.
- When will the Grand Jury meet next, and how do I arrange to speak with the Grand Jury Foreman?

Oaths

- Background - I have a problem with a county official and he has taken the wrong oath. As soon as I see an example of a toppled elected official having taken the wrong oath, I will go after him.
- Ask June Ray discrepancies with her oaths, and why she administers invalid oaths.

Social Security Numbers.

- Point out Social Security Numbers handed out like popcorn around here, when a magistrate order or complaint is inspected, at this office.
- Point out that during the County Commissioner Budget Workshop that they are planning funding for Redaction of Social Security numbers on Register of Deeds documents.
- There is someone waiting in the wings to file a complaint with the NC Department of Justice for documents being released to the public with full social security numbers from this office. May behoove someone to fix this problem before a bunch of NCDOJ officials start swarming this place.

Case file(s)

- Problem accessing case files, showed up in court about a week and a half ago.

11CVS1124

- Case file - Gavin Brown sued for Legal Malpractice.
- How long does it take to update this folder when something is filed?

Begin Transcript.

Miller: I've got a bunch of questions here, I've saved them all up.

Ray: Like I said, I hope I can answer them.

Miller: If you can't, don't worry, I'll find somebody to answer them, but I thought you would be a good person to ask for most of them.

Ray: Ok.

Miller: Ok. First one, this is a ...

[Editors Note: I brought a USPS Priority Envelope that was sent Registered Restricted to the Foreman of the Grand Jury, mailed on March 27, 2012, that was refused at the Justice Center by a judge].

Ray: I remember we received this in the mail, and I had to -, I couldn't sign for it because ...

Miller: ... It's Registered Restricted. Yeah, it came here, I mailed in on the 27th, it came here on the 28th ...

Ray: Yes.

Miller: I got it returned to me the 29th. My question to you is, the mail carrier that returned it to me said that she got it third hand, but the judge had refused this package.

Ray: I'm assuming she probably meant me, because ... it was me.

Miller: No, she said a judge...

Ray: I'm a probate judge.

Miller: Oh. I didn't know that. Ok.

Ray: Yeah. To my knowledge, no other judge saw that.

Miller: Oh, ok.

Ray: Cause see, we receive the mail here, it was restricted and to a certain individual, so I didn't feel like I had the right to sign for it.

Miller: No you couldn't, that's why I sent it registered restricted. What I thought they would do, and this is was to the Grand Jury Foreman, ...

Ray: Yes.

Miller: What I thought they would do, and I gave instructions to Brad Letts, I understand he is the resident judge ...

Ray: Senior Resident...

Miller: ... that he would most likely know the name of the Grand Jury Foreman, and he would advise them of the date she would be here, and at that point the carrier could then deliver the package.

Ray: It's my understanding with the mail that when you get something like that, somebodies got to sign off of it when it arrives, it's not something that can lay around here for two or three days.

Miller: No. The postal carrier would have to take it back with the understanding that when this person showed up, bring it back, and then sign for it. That's ...

Ray: But there's really no guarantee, even though we have a grand jury foreperson, that there's no guarantee that they're going to be here each and every term. Because of illness or vacation, or those reasons.

Miller: Ok. I was willing to take my chances, but it was refused, and it's still sealed. So you were the one that refused it.

[Editors Note: Judge June Ray admitted to refusing a United States Post Office Priority Registered Restricted piece of mail that was not addressed to her, it was addressed to the Grand Jury Foreman].

Ray: Yes.

Miller: Ok. That answers that. That takes care of the first questions. Number two...

Ray: Ok.

Miller: I was looking to see, ... Oh, before we go any further, are you here because you are assistant to the Clerk to the Superior Court, or are you here because you are a lawyer?

Hyde: I'm assistant clerk to the Superior Court.

Miller: Ok, great.

Hyde: I happen to be a lawyer.

Miller: Oh, I know that. But I didn't know what capacity you were ...

Hyde: I do not practice law here.

Miller: Ok, great. I was trying to look at some true bills of indictments,

Ray: Uh-huh

Miller: ... there seem to be a couple of built in road blocks, that I have to know the name of person, the case file name, bla - bla -bla, which I don't know any of those. My feeling is that, well let me back up one step. In other states, when bill's of indictments are given to grand juries, it's my understanding that the grand jury foreman appears in court, and at some point during an administrative court session, bills are passed back and forth. New indictments are handed to the grand jury foreman, and the grand jury foreman hands those back to the judge. And then they get filled where ever they get filed.

Ray: Uh-huh.

Miller: Ok.

Ray: And that's similar to what happens here.

Miller: Ok. I only attended one time, that I know the grand jury was in session, and what happened is, there were some new folks that came in, potential, they were new jurors, but they hadn't been sworn in yet. They were not sworn in court, the judge stopped the court, ushered them into some back room, and that's where the oaths were administered, and I never saw those people again.

Ray: That was probably in the grand jury room, I'm assuming.

Miller: Probably, I know there is a grand jury room on the third floor. Then I was waiting patiently for the foreman to come in to transact business before the judge, and that never happened. The think I did notice, is there were two DA's, one woman and a man, they evidently took the indictments and carried them to the grand jury room. That's what happened to me, and that's as close as I got to the grand jury, ever, and I haven't been back periodically, because you said the next administrative hearing with the grand jury was May something.

[Editors Note: That Administrative Session was on March 19, 2012, and the (assistant) DA's were Jeff Jones, and a Ms. Groffsky].

Hyde: I'm not sure of the specific date, but if that's what I told you, ...

Miller: Yeah, like May 12th or something. No, I know it's on a Monday.

Ray: It's sometime in May, because they typically meet once a month.

Miller: But there wasn't any in April.

Ray: Usually, what happens, the District Attorney, will bring them before the court, the day we know the grand jury's scheduled, then I think the District Attorney, I don't know if they hand them off to the court or the District Attorney actually hands them to the grand jury officer.

Hyde: I think they hand them to a bailiff, and the bailiff hands them to the officer.

Ray: Yeah.

Miller: That didn't happen...

Ray: It's handed to the officer.

Miller: I was trying to ...

Hyde: I take that back, I apologize. What happens is the bailiff comes in with the indictments from the District Attorney's office. They will hand those to the judge, the judge will order the bailiff to hand those to the foreperson, where ever the grand jury may be at that time. In there room, where ever that may be. The bailiff takes it at that time.

Miller: Ok. Well, it looked like the two DA's that were there that day ...

Ray: And sometimes it is the DA that will hand it off to the foreman ...

Miller: It appeared to me because I was watching as closely as I could, and that's kind of what I gathered. OK, so ...

Ray: And usually when they are complete, the grand jury foreman will bring them into the courtroom, the bailiff or the grand jury officer brings the foreperson back to the courtroom. Ane he presents the indictments to the court, and the court goes through them to make sure that they are dated and signed ...

[Editors Note: Will bring this up to the assistant DA to see if we can make this happen the next time..]

Miller: And that's all in open court?

Ray: Now I used to do court twenty one years, but it's been ten years since I've been up there, you know, on a regular basis. But that was the ...

Miller: Could I get your help the next time they are up there, and you can kind of show me the ropes when that happens? Cause...

Ray: But see, I never know, I never know...

Miller: But you know when the grand jury's called.

Ray: I know when they are called, but I don't know when, like ...

Miller: When they would hand something back to the judge?

Ray: I don't know without just being up there, know when they come in.

Miller: Well, can I ask this? See, what I'd like to do, and the motivation for all this, I'd like to inspect a bill of indictment, and I can't do that, but I presume that you have some kind of list around here that when those bill's of indictment go to the judge, somehow they are catalogued, they go to the people down here and they stuff them in files.

Ray: Yeah, what we have is a grand jury list.

Miller: Of indictments?

Ray: Of the indictments, and the reason that's not public, is because there are indictments on that list that have probably been returned true that have not been served on the defendant. And until those are served, it's not public information. It's against the law to release those until the defendants are served.

Miller: Okay, once those defendants are served ...

Ray: Once they are served, it's public record.

Miller: Then, but the problem I'm running into is that the people out here, and I think you have told me the same thing, I need to know the person's name, or the file, otherwise they have no way to know ...

Ray: ... other than if you go back here and just go through the files, and find one.

Miller: That's right, but you've got a list.

Ray: Well, we get lists every time a grand jury meets.

Miller: Ok. So once they've been served, it should be okay for me to look at that list.

Ray: Yeah, that's what I'm saying. If you went back there today and pulled some superior court files, you would probably, you would probably find a defendant that had been indicted that you could actually see an indictment.

Miller: Oh.

Hyde: The list she's talking about, the list, she's not readily going to hand that to you, because those that have been served are on there and those that haven't been served are still on there, so that's a master list, and we don't have ...

Miller: But I could ask like one of you to pick a name and a file name and give me the file name ...

Hyde: Sure...

Ray: Yeah. Yeah, we could do that.

Miller: That's simply all I'm asking.

[Editors Note: At this point in time, both Ray and Hyde seemed more than amenable to providing me a true bill of indictment to inspect...]

Ray: Yeah. As long as the defendant's been served, you can see the indictment.

Miller: I don't know the ground rules, I'm not a lawyer. I'm just a casual observer here.

Ray: Yeah, it's kind of complicated.

Miller: Yeah, I'm just trying to go by the rules here.

Ray: But the list, those are kept in the minutes, and we don't typically, I mean, unless you go and pull every one and make sure they are served, just for precautionary reasons, we don't let people see the list...

Miller: I've got no problem with that.

Ray: Ok. If you want to see an indictment, I'll go pull one and let you look at it.

Miller: Frankly, what I'm interested in looking at is the signature.

Ray: On the indictment.

Miller: On the indictment. I believe that's going to, that's what I want to verify. The most recent indictment that's been served. Or if you want to have someone else after I get finished with these questions ...

Ray: See, ... I ... You know, ... That's the grand jury foreperson.

[Editors Note: Sudden realization by Ray that "That's the grand jury foreperson. Watch for a change of attitude.]

Miller: Un-huh. I've seen some already, I want to make sure that ..., I'm really kind of a guy that dots the i's and crosses the t's and I want to verify for myself ...

Ray: You want to know who the grand jury foreperson is.

Miller: I pretty much have an idea, but I want to verify it by looking at one of the most recent true bill of indictments that's been served on someone.

Hyde: Well, I think that ... I don't know how the clerk feels about this, but it puts us in a peculiar situation for anonymity of the grand jury to act. It's your purgative to come in here after the true bills of indictments have been served and go through the records, of public record. For us to purposely release the name of that person ...

[Editors Note: Is Hyde speaking now as assistant Clerk to the Superior Court, or a lawyer. I can't tell...]

Miller: You're not releasing the name, you're releasing ...

Hyde: What I'm saying is it's your purgative to through it, but for us to actively release something that may or not be protecting the anonymity of the grand jurors... You can understand the backlash of that as well.

[Editors Note: Is Hyde speaking now as assistant Clerk to the Superior Court, or a lawyer. I can't tell...]

Miller: Well, I understand ...

Hyde: We don't want a marquee on the front courthouse

Miller: I'm getting back lash, I'm betting push back.

Hyde: We don't want a marquee on the front of the courthouse with all the grand jurors names on it saying if you have a situation ...

Miller: That's way not my intention.

Hyde: I think that's kind of the position ...

Miller: Maybe I should step back just a little bit here, and discuss the motivation why I'm even here sitting in this room talking to you.

Ray: That would probably help.

Miller: Good. Ok, that's fair. I used to be a regular guy, minding my own business, sitting under my tree in a lawn chair drinking wine with my dog.

Ray: I wished we could do that more often than we do.

Miller: And then the Cameron lawsuit happened.

Ray: Cameron...

Miller: I don't know if you are familiar with that. Its, it was a lawsuit two and a half years ago. A county inspector from the Erosion and Sediment Control Department started beating up on one of the property owners. There was a big lawsuit involved, ...

Ray: Was that here in this county?

Miller: Yeah.

Ray: Ok.

Miller: The guy's name is Marc Pruett. Big lawsuit, the county lost a half million dollars, cause Pruett trampled on Cameron's due process rights.

Ray: Un-huh.

Miller: That blew my circuit breaker. And my circuit breaker is pretty simple. When somebody appointed or elected, either abuses or intimidates someone, I'll get involved and I'll do something. And I've been doing that since that lawsuit, and there are lots of people in this county that were doing things similar to what Pruett is doing, and I'm not happy with it. As just a simple casual observer, I've decided I'm going to do something about it.

Now how that gets back to this, and quite bluntly, there's a problem with some additional county personnel. I went to the Sheriff about it, with a report, and I wanted to see this go to the grand jury. And he had suggested that he would take it to the DA, his name is Bonfoey,

Ray: Not Bonfoey?

Miller: Bonfoey. And do you know what I've heard back from that?

Ray: I don't know. Nothing?

Miller: Now, grand juries are available to people in other states. People can access a grand jury foreman, present a criminal complaint, which is what's in there,

[Editors Note: Referring to the USPS Priority Registered Restricted envelope on the table that was refused by Judge Ray, which by the way, she had no right on God's green earth to refuse.]

and the grand jury will act on it, and it seems like to me the grand jury will act on it, and it seems like to me the grand jury is the playground of the DA right now. And if the DA is unwilling to present indictments of public officials, then I'm going to find another way to do that. My way is going directly to the grand jury. And there are people all over this country right now that are watching what I'm doing.

15:39

Ray: I guess one of the things that concerns me, and I don't know, I don't know, and I couldn't tell you right now who the grand jury foreperson is, because, like I say, I haven't been up there in ...

Miller: Here's a hint. Go look at a true bill of indictment.

Ray: Well Yeah, I could find it, I know exactly where to go to find out. But what I'm thinking in the back of my mind, is whether or not they're going to know what to do with that without taking it to the District Attorney.

Miller: I don't think they will. And do you know why? Because what I'm doing hasn't been done, so I'm told, in North Carolina for over seventy years.

Ray: See, I don't know that. I don't know how, unless ... Have you gone back in statistics through the Administrative Office of the Court?

Miller: I am working with a small army of people all over the United States on this.

Ray: Ok. Now. I think, criminal records are public, and I'm not, I don't want to hand you a case?

[Editors Note: Ray now makes a command decision that she has changed her mind, and is not going to provide me a true bill of indictment.]

Miller: Hand me a case?

Ray: A case.

Miller: I don't understand.

Ray: But this is a public office, and I don't see why he couldn't go back and pull a case.

Miller: I don't know what you are saying.

Ray: You can pull a file.

Miller: I've been doing that. I actually went back there, the first time I asked for 11CVS1124, the lady just walked me back there, and said here, here's the files.

Ray: It's public record. This office is open to the public.

Miller: Now, there are a lot of files there. So, I was a little bit daunted when you say, okay, you can just go back there and look at those files. Do you know how long that would take me? It would take me forever.

Ray: Well, now you know what, every one of those are all back there.

Miller: I need a little bit of ...

Ray: Yeah, you've got several different types.

Miller: So I'm looking for something very specific, and you know now the reason I am looking for. So if you can guide me along the way, and the next time the grand jury meets, find out if in fact the grand jury foreman is going to be presenting the true bill indictments to the judge, I would certainly like to sit in the courtroom at that point.

Ray: See, it's like I say, I don't know exactly when they're coming in.

Miller: Well ...

Ray: I don't personally, ...

Miller: I'm prepared to wait all day. I'm very patient.

Ray: Personally, they typically meet one day, sometimes it's two days, depending on ...

Miller: I've spoken to different people that have been on the grand jury and it seems like it's slightly different depending on ...

Ray: It depends on how many indictments they have. Sometimes if they have two hundred indictments it could take them all day.

Miller: The one day I was here, one of the deputies up there said they might break for lunch, I could speak to her then, that's when he referred to as a "her", here's a hint, so the grand jury foreperson I believe is a "her", but they never came out for lunch, I guess there's a back way they can get in and out...

Ray: Uh-huh

Miller: and I went home, came back at 2:30 and they were gone. So I was very disappointed. So I'm prepared to stay the whole day next time. So what I'll look for you is that the next day they are scheduled to meet, on the administrative hearing, and then a little guidance on watching the process of transferring the true bill of indictments.

Ray: To the court? When they bring it into the court?

Miller: Exactly.

Hyde: I think that, I think that what would probably, I certainly can't speak for the Clerk here, but from a legal standpoint, the statutes reads that ...

[Editors Note: "From a legal standpoint ..." What the hell? I thought Hyde said he was there in this meeting as the assistant Clerk to the Superior Court! What's this "From a legal standpoint ..." business. I thought he couldn't practice law in this building].

Miller: What statue is that?

Hyde: It's statue 15A-623 (e). It says Grand jury proceedings are secret and, except as expressly provided in this Article, members of the grand jury and all persons present during its sessions shall keep its secrets and refrain from disclosing anything which transpires during any of its sessions.

Miller: Uh-huh.

Hyde: There's language in there, if their secret, I want to find out what the law is behind that to say how much the clerk can tell you about that, because these proceedings are to be kept secret. Otherwise,

Miller: I'm not interested in the proceedings. I'm not interested in the names of the grand jurors.

Hyde: I don't know how far that takes it. If the proceedings are secret, that's one of the reasons the clerk doesn't know when they come and go, that's one of the reasons she doesn't know their schedule, because if On public policy standpoint, I think maybe what the statue's alluding to, I need to get some case law on this,

Miller: Yeah, and when you're looking that up, find out the case law where it says I specifically I can't talk to a grand jury foreman.

Hyde: I don't know if there's on that, but what I'm saying if, if, the ... secrecy, I don't know how that far - how that is defined. We need to look at that.

Miller: I ...

Hyde: Let me finish up... Let me finish up. Just a second.

Miller: Sorry.

Hyde: If, ... I don't think the clerk needs to put herself in a position, I certainly can't speak for her, to be in violation of the statue, simply because someone asks for something when these sessions are to be secret. That's why they bring them in the back way, because from a public policy standpoint, if you're indicting someone, and they've testified, and word gets out that these people are possibly going to end up indicting someone for murder, or something of that case, that puts the grand jurors at risk. And that's the reason, that's the policy reason behind having them secret. Now in a million years, I don't think that's the situation here, but if you make an exception for one person, then exceptions have to be made in the future. So, I think that it would, ... I'm certainly not in a position as an attorney, I'm not her attorney, but I think that it would behoove this office to get some direction from the superior court judge.

Miller: Smith. No, Letts.

Hyde: No, Judge Letts. And Administrative Office of the Courts about how they wish to proceed on this.

Miller: That would be Smith. And you've already checked with him...

Hyde: Yes. That's where the buck stops.

Miller: Because he's already told me you cannot provide me names of the grand jurors.

Hyde: That's correct.

Miller: Are you finished?

Hyde: Yes.

Miller: Ok. I don't believe I've asked the clerk, I'm speaking to you know in the third person,

Ray: Uh-huh. That's fine.

Miller: that I've asked anything improper of her. All I've asked is there's an administrative court that's open to the public up there,

Ray: Yes.

Miller: and transactions happen during that, I wanted to be alerted to when that happens. How can that possibly violate secret processes?

Well, you're going to look it up, right? Or somebody's going to look it up here?

Hyde: Yes.

Ray: Well, as far as the grand jury foreperson bringing the indictments back into the courtroom, I mean they do that, they put it on the record. So it's public ...

Miller: It has to be.

Ray: It's open to the public. I just can't ... I mean with my schedule down here, I just don't sit up there waiting for them to come back. So personally, I can't tell you when that's going to happen, cause I don't know.

Miller: I would at least like to know the date that there are here.

Ray: Sometime in May. I know they're meeting sometime ... It's probably around May the 14th, is what I'm guessing. We can find out. I can ask my jury clerk, but I think it's probably, if that's a civil, they usually meet like, most of the time they have been meeting on civil sessions. Because it's not quite as ...

Miller: Intense?

Ray: Yeah. Than criminal sessions.

Miller: Ok. Well that would be great. So two things are going to happen. You're going to get direction from Letts, ...

Ray: Yes.

Miller: and you'll let me know, or somebody will let me know ...

Ray: I'll find out about that before you leave on that. I want to think it's somebody ... Claudette can tell us...

Miller: So that I can sit in a courtroom and watch all of this happen. Ok. Great.

Ray: Anything else?

Miller: Oh, Yeah... We're down to here... You're very patient, thank you very much. Are we good Sam?

Hyde: Yeah. There's a lot of material to cover here, so ...

Miller: I'm sure, and it's unbelievable the number of legal minds that are

Ray: That are putting this together?

Miller: No, that are answering my questions on this. And what they've found is that there's no law which says I can't do what I'm doing. There are a lot of laws that put of roadblocks and obstacles which are pushback.

Hyde: I don't think you've been told no here, what I think the clerk is, from what I understand she is saying, ...

Miller: No. The only thing I've been told no on is when got feedback from Smith ...

Hyde: Right.

Miller: that you could not provide grand jury names to me. That wasn't a deal breaker, or anything.

Hyde: Sure.

Miller: And everything else was somewhat vague, ... I didn't get the answer I wanted, so that's why I'm here.

The next question or two is on oaths.

Ray: Ok.

Miller: and perhaps it would be beneficial for you, for me to drop back again and explain understand the rationale for my going into oaths.

Ray: Okay, that would probably be a good idea.

Miller: I want to make this as level a playing field as I can here. I'm looking for stuff to move forward.

Ray: Ok.

Miller: One of the elected officials in Haywood County I'm not happy with, and I've prepared in informal complaint on him. And the one method that I was looking at to make the thing go over the edge, was the validity of the oath that he took, the oath of office.

Ray: Uh-huh.

Miller: Since then, I've started looking at oaths...

Ray: There's lots of different oaths.

Miller: Well, there certainly appear to be. And again, I'm getting wide input from a variety of different people around the state, not so much country, because each state has their requirements.

Ray: Yeah.

Miller: And as far as public oaths, there are a couple of things that have to be on it. And this is on my web site, by the way. And one of the things was a templet of what the oath should be. And the templet follows this pretty closely. And basically it's a section from the state constitution, it's a section from the North Carolina General Statutes,

Ray: Uh-huh.

Miller: And then it's a section that's somewhat specific to the public office. And I started collecting oaths, and I've got them from Kirkpatrick, a county commissioner, for two years. Mark Swanger, he's the chairman, Bill Upton, these are oaths from the Board of Equalization and Review, This is Michael Bonfoey's oath, this is another oath from Michael Bonfoey - different oath - same day, same judge, different signature. This is the oath of Amanda Owens, the clerk of Haywood County, County Commissioners. This is one of yours, this is for the board of, something, alarms...

Ray: Alarms.

Miller: This is your oath of office here, and this is Gavin Browns oath of office. Now as I was looking through these, and I don't know if you know the punch line here, there's only one oath here that's correct.

Ray: And that being which one?

Miller: That being yours. I was flabbergasted. I read this, I looked at the templet, every word is correct. And there are only two people in this county, and I haven't seen the other one, that I know that have actually taken correct oaths.

Ray: Hmm. I think that's taken out of statue.

Hyde: [unintelligible] think that's taken out of state office. The only oath that's in there is state office. And the only two that's in there is the clerks, and Michael Bonfoey's.

[Editors Note: Here is a case where Hyde is flat wrong.]

Ray: Michael Bonfoey's.

Hyde: The others are not statewide office, so I'm not their oath requirements ...

Miller: What about the Sheriff?

Ray: [unintelligible]

Miller: And I haven't looked at his, but his is the other one I've been told that is correct. Bonfoey, Bonfoey ...

Ray: Which I'm, ... Mike's is probably by statute ...

Hyde: I don't, ... I'm not sure ... Where are you saying you are getting the templet from?

[Editors Note: Hyde should be more interested in the discrepancy of oaths, then challenging me on a templet].

Miller: The templet is from people that have studied this ...

Hyde: So there's no necessarily statutory authority on that templet, simply peoples opinions of what the oath should be.

[Editors Note: A little defensive here, aren't we Mr. Hyde?]

Miller: There's statutory requirements based on the North Carolina State Constitution, and there's statutory requirements based on the North Carolina General Statues. That's where this is lifted from, directly.

Hyde: For state office or for county office?

[Editors Note: Hyde should know there is no difference].

Miller: It doesn't matter. It doesn't matter. You get an "atta-girl" on that. However, you fail on this one.

[Editors Note: "fail on this one", referring to June Ray's oath for the Alarm Board].

Ray: I was appointed by the governor, and that came from her office.

Miller: You know, there's a lot of that going around, cause look at this. This is, this is from a guy named Reuben Young, I don't know if you know him or not...

Ray: [No].

Miller: At this point it was January, 2007, he was chief legal counsel for Michael Easley...

Ray: Easley...

Miller: It says, "Mr. Bonfoey, Please be advised that the previous oath taken did not track the language of N.C.G.S. 11-11 as it applies to district attorneys". The only thing that makes it applicable to district attorney's is the last paragraph.

Ray: Uh-huh.

Miller: "Therefore, I am checking, enclosing four new Oaths of Office to be executed as quickly as possible. Please sign these oaths and have them properly executed before a judge, clerk of court, register of deeds, ..." bla, bla, bla., and return three signed originals to my attention at Reuben Young, Governor's Legal Counsel, bla, bla, bla. Our office will forward one original oath of the Administrative Office of the Courts - to the Administrative Office of the Courts, to the Secretary of State's Office". And then he realized that the first oath he took wasn't

correct, he supplied another oath, that's wrong. This was signed on the same day ... this was mailed January second, these were executed on the first of the month, ...

Ray: Which I thought that these came from the governor's office. See, I don't know anything about Mr. Bonfoey's - I have no idea...

Miller: There's another letter that went from Young to Ronald Moore, he's the DA in ...

Ray: Buncombe County.

Miller: He got one of these. It looks like every DA in North Carolina got one of these. So it's not surprising to me that when you got handed ... this, that you signed it.

[Editors Note: again referring to the oath June Ray signed for the Alarm Board].

Ray: Uh-huh.

Miller: So, my question is, you administer oaths all the time.

Ray: Yes.

Miller: Why, ... in fact you administered this one.

Ray: Which they're brought to me. I don't prepare them. The oaths are brought to me.

Miller: Do you see any red flags going up? No?

Ray: No.

Miller: Ok.

Ray: No. I mean, like I say, they're prepared and brought to me and I have the authority ...

Miller: By who?

Ray: By whoever the people are that are appointed to these boards, or elected to these offices.

Miller: So they can pretty much make up their own oath?

Ray: Well, I would hope that their people are overseeing ...

Miller: See, you are in a position where you administer oaths.

Ray: Yes, along with a lot of other people.

Miller: Yes, Register of Deeds, can administer oaths, a lot of people can. But, you're in a good position here ...

Ray: I mean I think I read something, and it was just really, really bazar, but I mean, there again, they're public, you can go right back here and copy one. [Talking over each other]. Even though you administer an oath, that doesn't mean that Mark Swanger's, ... I mean he's gonna have the authority he's an elected official. His oath's recorded over here, I mean, I couldn't see Sam going over and just plop down in the county commissioners chair and decide all of a sudden he's going to be a county commissioner.

Miller: No, no. That's not the point. There's nobody taking over his job.

Ray: But you see what I'm saying.

Hyde: I not positive that you've showed us anything today that makes it incorrect. You've given us an opinion of people, do you know the statute number of that's from that I can look up and possibly see if that's correct?

[Editors Note: Here, Hyde sounds like a lawyer again. I subsequently provided Hyde with the following information on May 1, 2012, "Per our conference yesterday, you requested specific statues for the templet of oaths. The are: NC Constitution - Article 6, Section 7, N.C.G.S. Section 11-7 Oaths, N.C.G.S. Section 11-11"].

Miller: Yeah. That's uh, I can, I didn't bring that with me.

Hyde: I'm not positive the clerk is administering the oaths that are incorrect. So to say that, or accuse that ...

Miller: Well I didn't accuse!

Hyde: I'm not positive, you had mentioned, she has done any of that until, so I don't think she owes an explanation.

[Editors Note: IF I didn't know any better, I would have thought I was listening to a lawyer...]

Miller: So I think it's Article 6, Section 7 of the State Constitution, and I think it was in this letter, 11-11. That just rings a bell.

Hyde: Statute?

Miller: Right, North Carolina General Statute, 11-11.

Ray: Uh-huh.

Miller: I will get those to you.

Hyde: Please.

Miller: In fact, there's a whole section in there different types of oaths, like for general classifications of people, and in fact, your's was the proper one.

Ray: Uh-huh.

Miller: Like I said, I was ... my mind was blown when I read that, so this looks pretty good, then I compared it word for word, so, you get an atta-boy for that.

Ray: [chuckle].

[Editors Note: Subsequently, on May 10, 2012, I pulled Sam Hyde's oath of office, and it was nearly identical to June Ray's oath of office (exception being the title), so Sam Hyde also gets an atta-boy].

Miller: And so what happens, Sam, when I give you these, and you verify that the templet is correct, you should probably dig into that a little bit. I mean, here you are administering oaths, and they ought to be correct. How do you think they should be? And you're the best proponent of that because you've got one.

Ray: Ok.

Miller: All the rest are kind of easy.

Ray: Ok. [Laughter].

Miller: Social Security Numbers...

[Editors Note: The final three sets of questions are not included in this transcript, but may be included at a later time.]

Monroe A. Miller Jr.
19 Big Spruce Lane
Waynesville, NC 28786

April 20, 2012

Oath's of Office

- **James Weaver Kirkpatrick, III**, Haywood County Commissioner, a lawyer,
- **Mark S. Swanger**, Haywood County Commissioner,
- **Bill L. Upton**, Haywood County Commissioner,
- **Michael Bonfoey**, Haywood County District Attorney (DA), a lawyer,
- **Amanda Owens**, Administrative Assistant to the County Manager,
- **June L. Ray**, NC Alarm Systems Licensing Board, Haywood County Clerk of Superior Court.
- **Gavin Brown**, Mayor of Waynesville.
- Templet for Oaths.

Update

The most current oath added to this list is the oath taken by Gavin Brown (last one).

The following are copies of various Oath's of Office for Kirk Kirkpatrick, Mark Swanger, Bill Upton, Michael Bonfoey, Amanda Owens and June Ray.

There is one correctly administered and signed oath. Can you guess which one it is?

There is one set of oaths conspicuously missing. Can you guess whose that is?

- James Weaver Kirkpatrick, III, commissioner for the county of Haywood, sworn on December 2, 2002. It was obtained from the Haywood County clerk of court on October 14, 2010.
- James Weaver Kirkpatrick, III, commissioner for the county of Haywood, sworn on December 6, 2010. It was obtained from the Haywood County clerk of court on January 9, 2012.
- Mark S. Swanger, commissioner for the county of Haywood, sworn on December 6, 2010. It was obtained from the Haywood County clerk of court on January 9, 2012.
- Mark S. Swanger, member of the Board of Equalization and Review of Haywood County, sworn on March 28, 2011. It was obtained from the Haywood County clerk of court on January 9, 2012.
- Bill L. Upton, commissioner for the county of Haywood, sworn on December 6, 2010. It was obtained from the Haywood County clerk of court on January 12, 2012.
- Bill L. Upton, member of the Board of Equalization and Review of Haywood County, sworn on March 28, 2011. It was obtained from the Haywood County clerk of court on January 12, 2012.
- Michael Bonfoey, Haywood (and other counties) District Attorney, dated 1/1/2007, signed by Monica Leslie, District Court Judge.
- Michael Bonfoey, Haywood (and other counties) District Attorney, dated 1/1/2007, signed by Monica Leslie, different signature, District Court Judge. [Note: Different filing dates, different oaths, dated on same day.]
- Amanda Owens, Deputy Clerk of Haywood County, Feb. 6, 2012.

- June L. Ray, North Carolina Alarm Systems Licensing Board [what the ...?], dated June 28, 2010. Got this one by accident. From the Department of Justice (DOJ) website, “The purpose of the Alarm Systems Licensing Board is to administer the licensing, education and training requirements for persons, firms, associations and corporations engaged in the alarm systems business in North Carolina. The board is totally fee funded and staffed by departmental employees directed on a daily basis by the Director, who is appointed by the Attorney General.” This sounds like it might be a nice lucrative job/office. Wouldn't any of you like to be on this board?
- June L. Ray, Office for Clerk of Superior Court, dated December 6, 2010, signed by Brad Letts, Senior Resident Superior Court Judge. Note in the last paragraph: “ ... I also solemnly swear that I do not, directly or indirectly, hold any other lucrative office in the State; ...”.
- Gavin Brown, Mayor of Waynesville, Feb. 14, 2012 by Donna Forga.
- Finally, a templet of what an oath should look like [re: NC State Constitution, NC General Statues].

Does anyone notice anything striking about these oath's?

Only one (1) of these oaths comply with the requirements of the North Carolina State Constitution and North Carolina General Statues, as shown in the templet following these oaths. That is the oath by June Ray, Clerk of Superior Court. [re: NCGS § 11-11. Oaths of sundry persons; forms.]

So why is June Ray the only one to sign a correct oath? The oath that June Ray signed on June 28, 2010 for the North Carolina Alarm Systems Licensing Board is comically inept in comparison.

Why are the oaths that June Ray is administering to officials in Haywood County unlike the oath she herself signed for Clerk of Superior Court?

Where do these people get off by signing any oath that comes along, including June Ray? Are these people creating their own oaths? And Kirkpatrick and Bonfoey are lawyers.

Answer to previous question: “There is one set of oaths conspicuously missing. Can you guess whose it is?”

David Francis, Haywood County Tax Collector.

To my knowledge, there are only two individuals in Haywood County that have signed a proper oath of office.

What are the implications?

Monroe A. Miller Jr.
19 Big Spruce Lane
Waynesville, NC 28786

02R 169
02-34-58

OCT 14 2010

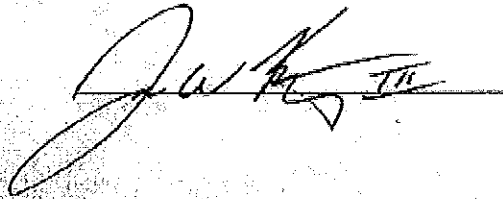
Oath of Office

N.C. General Statute §11-7 ~ Oath to Support Constitutions

I, **JAMES WEAVER KIRKPATRICK, III**, do solemnly and sincerely swear that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability, so help me, God.

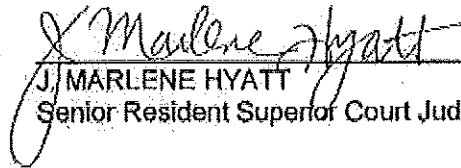
N.C. General Statute §11-11 ~ General Oath of Office

I, **JAMES WEAVER KIRKPATRICK, III**, do swear that I will well and truly execute the duties of the office of **COUNTY COMMISSIONER** according to the best of my skill and ability, according to law; so help me, God.

 (SEAL)

SUBSCRIBED AND SWORN to before me this 2nd day of December 2002.

EMED
2002 DEC -2 PM 4:39
WAYWOOD COUNTY, C.S.C.
BY

 (SEAL)
J. MARLENE HYATT
Senior Resident Superior Court Judge

10-18 JAN 9 2012
10 R 214

FILED



2010 DEC -6 A 10:45
HAYWOOD COUNTY, N.C.

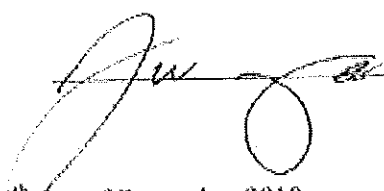
OATH OF OFFICE

N.C. General Statute §11-7 - Oath to Support Constitutions

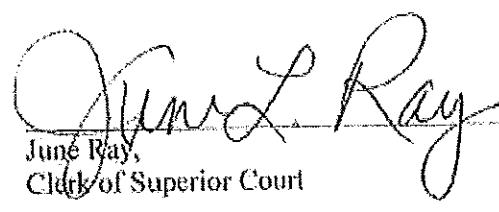
I, **JAMES WEAVER KIRKPATRICK, III**, do solemnly and sincerely swear that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; so help me, God.

N.C. General Statute §11-11 - General Oath of Office

I, **JAMES WEAVER KIRKPATRICK, III**, do swear that I will well and truly execute the duties of the office of **VICE-CHAIRMAN OF THE HAYWOOD BOARD OF COUNTY COMMISSIONERS**, according to the best of my skill and ability, according to law; so help me, God.

 (SEAL)

Sworn to and subscribed before me this 6th day of December 2010.

 (SEAL)
June Ray,
Clerk of Superior Court

10-18

JAN 9 2012

10R213



FILED

2010 DEC -6 A 10:45

HAYWOOD COUNTY, C.S.C.

OATH OF OFFICE

N.C. General Statute §11-7 – Oath to Support Constitutions

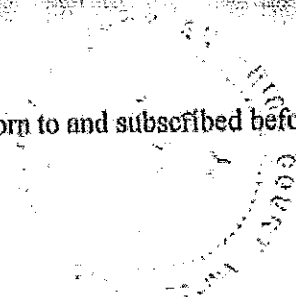
I, **MARK S. SWANGER**, do solemnly and sincerely swear that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; so help me, God.

N.C. General Statute §11-11 – General Oath of Office

I, **MARK S. SWANGER**, do swear that I will well and truly execute the duties of the office of **CHAIRMAN OF THE HAYWOOD BOARD OF COUNTY COMMISSIONERS**, according to the best of my skill and ability, according to law; so help me, God.

Mark Swanger (SEAL)

Sworn to and subscribed before me this 6th day of December 2010.



Jane L. Ray (SEAL)
Jane Ray,
Clerk of Superior Court

10-18 JAN 12 2012 10R211



2010 DEC -6 A 10:46

CITY C.S.C.

OATH OF OFFICE

N.C. General Statute §11-7 - Oath to Support Constitutions

I, **BILL L. UPTON**, do solemnly and sincerely swear that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; so help me, God.

N.C. General Statute §11-11 - General Oath of Office

I, **BILL L. UPTON**, do swear that I will well and truly execute the duties of the office of **HAYWOOD COUNTY COMMISSIONER** according to the best of my skill and ability, according to law; so help me, God.

Bill L. Upton (SEAL)

Sworn to and subscribed before me this 6th day of December 2010.

June L. Ray (SEAL)
June Ray,
Clerk of Superior Court

11-4

JAN 12 2012

11R 199

I, Bill L. Lyton, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent, therewith, and that I will faithfully discharge the duties of my office as a member of the Board of Equalization and Review of Haywood County, North Carolina, and that I will not allow my actions as a member of the Board of Equalization and Review to be influenced by personal or political friendships or obligations, so help me God.

Bill L. Lyton
(Signature)

SUBSCRIBED AND SWORN to before me, this the 28 day of March, 2011.

Jürgen C. Holland
CLERK SUPERIOR COURT

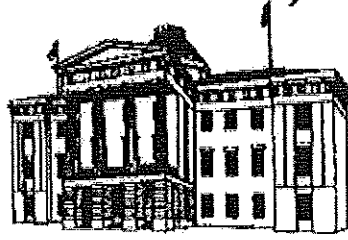
RECORDED
MAR 28 2011
CLERK SUPERIOR COURT

JAN 02 2007

07-02-116

07 R 1

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

FILED
2007 JAN -2 A 8:56
DISTRICT COURT, DISTRICT 1
BY _____

Oath of Office

I, Michael Bonfoey, do solemnly swear that I will support the Constitution of the United States, so help me God.

I, Michael Bonfoey, do solemnly and sincerely swear that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability, so help me God.

I, Michael Bonfoey, do solemnly swear that I will administer justice without favoritism to anyone or to the State; that I will not knowingly take, directly or indirectly, any fee, gift, gratuity or reward whatsoever, for any matter or thing done by me or to be done by me by virtue of my office, except the salary and allowances by law provided; and that I will faithfully and impartially discharge all the duties of District Attorney of the North Carolina General Court of Justice, to the best of my ability and understanding, and consistent with the Constitution and laws of the State; so help me God.

Michael Bonfoey

Michael Bonfoey

Sworn to and subscribed before me, this the 1st day of January, 2007.

Monica Leslie

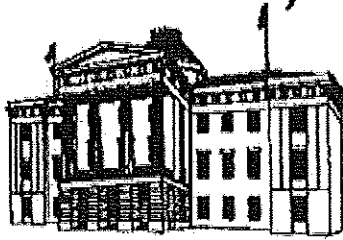
Monica Leslie, District Court Judge

JAN 12 2007

07-03-09

07R23

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

Oath of Office

I, Michael Bonfoey, do solemnly and sincerely swear that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain, and defend the Constitution of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; so help me God.

I, Michael Bonfoey, do solemnly swear that I will well and truly serve the State of North Carolina in the office of District Attorney for the State in the county(ies) of Cherokee, Clay, Graham, Haywood, Jackson, Macon, and Swain.

I, Michael Bonfoey, will, in the execution of my office, endeavor to have the criminal laws fairly and impartially administered, so far as in me lies, according to the best of my knowledge and ability; so help me, God.

Michael Bonfoey

Michael Bonfoey

Sworn to and subscribed before me, this the 1st day of January, 20 07

Monica H. Leslie

Monica Leslie, District Court Judge

FILED
2007 JAN 12 PM 4:15
HAYWOOD COUNTY, C.S.C.
BY _____

12R21

BOARD OF COMMISSIONERS

MARK S. SWANOFF, CHAIRMAN
J. W. "KIRK" KIRKPATRICK, III, VICE CHAIRMAN
L. KEVIN ENSLEY
BILL L. UPTON
MICHAEL T. SORRELLS



COUNTY MANAGER
MARTY STAMBY

LEON M. KILLIAN, III
COUNTY ATTORNEY

HAYWOOD COUNTY
STATE OF NORTH CAROLINA

FILED
2012 FEB -6 PM 12:14
BY HAYWOOD CO. C.S.C.

OATH OF OFFICE

DEPUTY CLERK OF HAYWOOD COUNTY

I, Amanda Owens, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as DEPUTY CLERK TO THE HAYWOOD COUNTY BOARD OF COUNTY COMMISSIONERS, so help me God.

Amanda W. Owens

Amanda Owens
Deputy Clerk

Sworn to and subscribed before me, this 6 day of Feb, 2012.

John L. Ray
John L. Ray
Clerk of Superior Court



MAR 12 2012

STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR
20301 MAIL SERVICE CENTER • RALEIGH, NC 27699-0301

BEVERLY EAVES PERDUE
GOVERNOR

FOR
RECORD
MAY 22 2012
11:11 AM '12

I, June L. Ray, do solemnly swear (affirm) that I will support the Constitution of the United States.

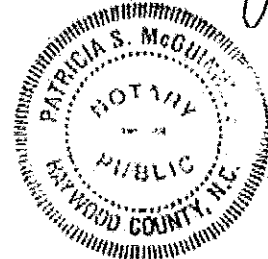
I, June L. Ray, do solemnly swear (affirm) that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said state, not inconsistent with the Constitution of the United States.

I, June L. Ray, do solemnly swear (affirm) that I will well and truly execute the duties of my office as a member of the North Carolina Alarm Systems Licensing Board according to the best of my skill and ability, according to law, so help me God.

June L. Ray
June L. Ray

Haywood County, NC
Sworn to and subscribed before me, this
the 28th day of June, 2010.

Patricia S. McGuinness
Signature



Patricia S. McGuinness
Print

My commission expires on May 22, 2012

For Office Use Only
I hereby certify that this is a true
and accurate copy of the
original Oath of Office executed
on the ___ day of ___, 20__.



1078

10R 242

FILED

MAR 12 2012

2010 DEC -6 P 4: 31

HAYWOOD COUNTY, C.S.C.

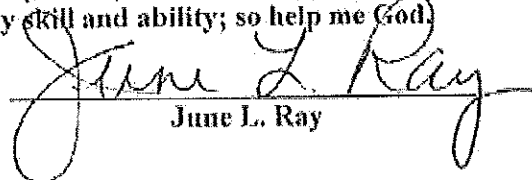
OATH OF OFFICE FOR CLERK

BY _____

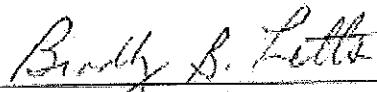
I, JUNE L. RAY, do solemnly swear that I will support and maintain the Constitution and laws of the United States and the Constitution and Laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as Clerk of Superior Court of Haywood County, so help me God.

I do solemnly and sincerely swear that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; so help me God.

I do swear that, by myself or any other person, I neither have given, nor will I give to any person whatsoever, any gratuity, fee, gift, or reward, in consideration of my election or appointment to the office of Clerk of Superior Court of the county of Haywood; nor have I sold or offered to sell, nor will I sell or offer to sell, my interest in the said office; I also solemnly swear that I do not, directly or indirectly, hold any other lucrative office in the State; and I do further swear that I will execute the office of Clerk of Superior Court for the County of Haywood without prejudice, favor, affection, or partiality, to the best of my skill and ability; so help me God.


June L. Ray

Sworn and subscribed to before me, this the 6th day of December, 2010.


Bradley B. Letts
Senior Resident Superior Court Judge

APR 18 2012

OATH

I, Gavin A. Brown, do solemnly swear (or affirm) that I will support the Constitution and laws of the United States of America, so help me, God.

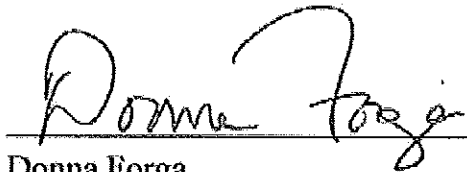
I, Gavin A. Brown, do further solemnly and sincerely swear (or affirm) that I will be faithful and bear true allegiance to the State of North Carolina, and to the Constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain, and defend the Constitution and laws of the United States, and the Constitution and laws of North Carolina, not inconsistent therewith, to the best of my knowledge and ability, so help me, God.

I, Gavin A. Brown, do further swear (or affirm) that I will well and truly execute the duties of the Office of Mayor of the Town of Waynesville, North Carolina, according to the best of my skill and ability, and according to law, so help me, God.

 (SEAL)

Gavin A. Brown

Subscribed and sworn to before me, this the 14th day of February, 2012



Donna Forga

District Court Judge

This example would properly reflect the execution and format for oaths which would be used by a person when delivering their oaths for public office, at the county level of government within the State of North Carolina;

LETTERHEAD
County of One of the One Hundred (Seal)

STATE OF NORTH CAROLINA
COUNTY OF ONE OF THE ONE HUNDRED
OATH OF PUBLIC OFFICIAL

"I, Jane/John Q. Public Official, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as *the appointed or elected Public Official in One of the One Hundred Counties*, so help me God.

Date _____ Signature: Jane/John Q. Public Official

Sworn and subscribed to before me this day of the month, in the year.

Signature: Jane/John Q. Public Official, Authorized by Law to Receive Lawfully Required Oaths

"I, Jane/John Q. Public Official, do solemnly and sincerely swear (or affirm) that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; so help me God."

"I, Jane/John Q. Public Official, do solemnly swear (or affirm) that I will well and truly execute the duties of the office of *appointed or elected Public Official in One of the One Hundred Counties*, according to the best of my skill and ability, according to law; so help me, God.

Date _____ Signature: Jane/John Q. Public Official

Sworn and subscribed to before me this day of the month, in the year.

Signature: Jane/John Q. Public Official, Authorized by Law to Receive Lawfully Required Oaths



The North Carolina State Bar
Grievance Committee

Margaret M. Hunt, Chair
208 Fayetteville St. (27601)
Post Office Box 25908
Raleigh, North Carolina 27611
Telephone (919) 828-4620
Fax: (919) 834-8156
Web: www.ncbar.gov

April 15, 2013

Mr. Monroe E. Miller, Jr.
19 Big Spruce Lane
Waynesville, NC 28786

Re: Grievance against Attorney James W. Kirkpatrick III
Our file number: 13G0087

Dear Mr. Miller:

Thank you for submitting the above-captioned grievance to the North Carolina State Bar for review.

Your grievance was reviewed by the Chair of the Grievance Committee and a staff attorney with the State Bar's Office of Counsel. After careful consideration of all of the material provided, it was determined that the available information did not show that the attorney's conduct violated the Rules of Professional Conduct. The grievance was therefore dismissed.

If you have questions about this matter you may contact Fern Gunn Simeon, the staff attorney assigned to this file. Again, thank you for writing to the State Bar with your concerns.

Sincerely yours,

Margaret M. Hunt, Chair
Grievance Committee

MMH/lr