

**Marshall City Police Department
Office of Internal Affairs
Marshall City, Thompson County, State of Marshall**

**Statement of Terry Smith
4544 N. Dover Street
Marshall City, Marshall
November 25, 2008, 2:45 PM
Office of Internal Affairs**

I am Terry Smith, 4544 N. Dover Street, Marshall City. I am submitting this written statement under oath.

On October 31, 2008, at about 8:30 PM, I called the police about a dog that was constantly barking in the back of the house next to me, at 4540 N. Dover. At about 9 PM, I was waiting in my home at 4544 N. Dover, looking out the front window, waiting for the police to arrive when I saw a police car pull up outside I thought the police had come in response to my call regarding the barking dog. I saw the police officer get out of the car, and I went out onto the front sidewalk. That's when I saw that the officer was talking to someone standing next to a car that was parked in the middle of the street with the engine on, and the emergency lights flashing. At first I was not sure who the person arrested was, but a few seconds of my going outside I realized that the person was Judge Chris Dunkirk. Because of the light, I did not see what was going on at first, and I actually thought that the police car came because of my call about a half hour earlier. The officer writing a ticket for the double-parked car, and was writing down the license number when I heard Judge Dunkirk saying, "It's OK, officer. I'm Judge Dunkirk. It's OK." The police officer then opened the car door, turned off the engine and lights, and gave Judge Dunkirk the ticket and what looked to be the keys to the car. I heard the officer say that the judge had to get someone to drive the car into the driveway, and the judge should not drive. The police car pulled away. I did not say anything, and I am pretty sure that judge Dunkirk did not see me. I was a little upset because I wanted to talk to the police about Dunkirk's dog being loose again, but the dog was not barking anymore and I figured that Dunkirk already had enough problems for one night. Then I noticed that judge Dunkirk got into the automobile and turned on the engine. I was surprised because I knew the police officer had said to get someone else to drive the car. The car did not move for a half minute or so, then I saw that the car lights went off and the judge quickly got out of the car. That is when I saw that a police car was coming up the street from the south. It was the same police car that had just been there. The officer pulled up in front of my house, and the officer got out. I heard the officer say that the judge had been in the car and was intoxicated. The judge denied this. Dunkirk was saying, "I am judge Dunkirk, and it's OK, Officer." The officer was being pretty patient and calm. I stepped closer to watch, as I know Dunkirk pretty well. No one

else was around, or at least nearby, probably because it was getting late and it was kind of cold. I could see some frost on the ground.

The officer told Dunkirk to hand over the car keys. The officer then told Dunkirk to do a finger-to-nose test, and Dunkirk's finger couldn't find any part of the nose. The officer asked Dunkirk to walk a straight line for about ten feet, and Dunkirk was stumbling. The officer put handcuffs on Judge Dunkirk before they left together in the police car.

The officer was very calm, patient, professional all this time.

I did speak to the officer briefly before the police car left. I did not notice whether there was anyone else in the car besides the officer and Dunkirk. Dunkirk was in the back seat and sort of hunched over and drunk. I went to the driver's side, which was facing the houses, and I asked the officer if anyone was coming to do something about the barking dog in the back yard. The officer did not know, but said that it was a busy night so who knew.

I waited another ten minutes, then called the police again to tell them that the dog had stopped barking and that the owner of the house next door had just been arrested for something, probably drunkenness. The operator thanked me, and said I could come to the station in the morning to make a report if I wanted to. I went back into my house and went to bed. The next morning, Dunkirk was out in the back yard with the dog, but I did not say anything. I did go to the police station later and made a report of what I saw the night before.

On Sunday morning, I read about the judge's arrest in The Marshall City Star. It was in one of the columns. A few days later I learned that judge Dunkirk has been put onto some kind of administrative job and is not a courtroom judge until all this is sorted out.

The officer's name is Davis.

In my opinion, the officer did not do anything improper. Dunkirk, at least at first, was sort of abusive but settled down due to the officer's calm and professional demeanor.


Terry Smith

Submitted under oath: 
Witness.

Transcript of additional information obtained through questioning by investigating officer Rabun ski, star # 29931, IAD.

Q: (Officer Rabunski, star # 29931, Office of Internal Affairs): How long have you known Judge Chris Dunkirk?

A: Maybe a year. From when I moved in, although I think I knew Dunkirk from before, sort of by reputation and being around that neighborhood. When I moved in I moved from an apartment one-half mile away. This is the first home I ever bought, and I knew some of the people down the block. In fact they were the ones who told me about the house being for sale, being on the market. I did not know that I was buying a loony tunes neighbor at the time.

Q: "Loony tunes neighbor?"

A: Yep. The Honorable Chris Dunkirk.

Q: How so?

A: I don't know how Dunkirk operates as a judge, but that house is a pig sty. It looks nice on the outside, but inside it smells terrible, there is almost no furniture, just folding chairs and bare floors. Also there is a big old sofa and a big, maybe 42 inch, TV set. There were beer cans and ash trays on the floor. The front room and adjacent dining room are big, but almost empty. In back there is a kitchen and bathroom. I guess the bedrooms are upstairs. They used to keep all sorts of animal pets in there, and I think nobody ever really cleaned it up because it smelled so bad. I have slight allergies to animals, but I knew within maybe 30 seconds I had to get out of there or I was going to be sneezing and wheezing for the rest of the day. I was in there just once, shortly after we moved next door. The judge was separated by that time, I think, and asked me if I would like to buy a dog. I saw maybe four or five dogs going in and out of the dining room; that's where their dishes of food were. They were some kind of terrier dog. They all had names of Norse gods, like Thor and Odin. Also, Dunkirk owns a couple of apartment buildings, you know, two flats – two tenant rental buildings. I hear that the buildings were run down and that the tenants were not paying rent, and I also hear that the judge was spaced out on drugs and liquor most of the time on weekends. I never saw any drugs, just beer cans, and sometimes these were in my back yard, too. I really did not have anything to do with Dunkirk after that until this spring when the dog problem started.

Q: What's that all about?

A: Look, in the fall of 2007 I moved into this nice house I just bought. This neighborhood is on the upswing. Older houses are being fixed up, and the area is getting pretty safe. There is a grammar school a block away. I . . . we have two children, 5 and 3 years old, and we wanted a

nice back yard for them to play in. During the winter of 2007 - 2008, I did not notice anything to complain about, but as soon as the weather got nicer and the snow melted, I noticed that there was a lot of dog mess in my back yard. I don't own a dog.

Q: Dog mess?

A: Yeah. You know. Dog doo. There was a lot of it. Anyway, I cleaned it up, then checked the fence to the south of my lot, and saw that there were some boards missing. I replaced the boards, reseeded and sanitized the backyard lawn, and thought the problem was solved. Next thing I know, I am hearing a dog barking at midnight. See, as soon as the weather got nice, Judge Dunkirk started leaving the dog out all night, and the dog wanted back in, so it would bark and bark. After a couple of nights of this, I went over next door and tried to talk to Dunkirk – the judge. I tried the front doorbell, but I could not hear any bell inside. I knocked pretty hard, but no one answered. So, I left a note on the door asking that Dunkirk give me a call or stop by for a cup of coffee. I wanted to be neighborly, but I also wanted to solve the problem. There was no answer, but late that night I was going to bed when I started hearing the dog in the back yard barking. So I figured that somebody had just come in. I got dressed and went next door. No sound from the doorbell. No one answered my knocking, although I was pretty loud. I went back in and tried phoning, but the operator said that the number was unlisted. I finally fell asleep. When I woke up the next morning, the dog was still barking. By the time I got dressed and ready to go next door again, the dog was no longer out. I went to the front door, tried again, and had no luck.

Now this went on for a couple of nights, and then I noticed on Saturday morning that a dog had somehow gotten into my backyard and done its business, you know, dog mess. I have two children that I want to be able to go out and play in that yard, and there is dog doo there. Even if I clean it up, I don't want my children going out there to play unless I sterilize the area, you know, water and Clorox.

So I go next door and ring and knock, and now for the first time the judge comes to the door, and I try to be nice, so I say, judge, you know me, I have the house next door, and I want to be a good neighbor. There is a problem, however, and that is the matter of your dog.

The judge says, "I am getting rid of the dog."

So I say, "Dog?" OK, how soon?" And Dunkirk says, as soon as I can sell it. I breed these terriers, and I make a little pocket change when I sell them." I say that the dog or dogs bark all through the night, making it hard for me to go to sleep, and frankly the barking keeps me, my spouse, and the kids awake, too. My younger son has a bedroom window

right next to the areas between our two houses, and the dogs are particularly loud there. Also, I say, the dog or dogs are getting into my back yard and leaving their nesses there.

The judge says that those are somebody else's dogs.

What can I say?

So the judge assures me that in a couple of days all the dogs – like, there are more dogs every time we talk about this – will be gone.

Well on Sunday morning I noticed that someone was out front with a dog, leaving the judge's house, and I am happy that maybe the problem will go away.

A couple of days later – now we are getting into May, I see that some dog or dogs have been visiting my back yard. There is dog mess in a couple of places, and some of the yard has been torn up, which is what a terrier will do, and I also see upon inspection that one of the old boards on our fence has been broken through in a weak spot as there was some wood rot or something there for the dog to claw through. I am now upset, so I call the police. I want to file a complaint against the judge. The police arrive. It is a nice day, and the judge is home and comes out and apologizes, and the police say it is better to settle this as neighbors. I agree. Reluctantly, but I agree. I clean up the back yard, repair the fence, and hope for the best. The next morning, there is another mess and I find that a dog has dug a hole under the fence and come in. I never see any dog in my back yard, but I know darn well that a dog has been there. So I go through the same drill again. I knock on the door, try to ring a doorbell that does not work, and I finally take a fishing pole and tap it against the window in hope that I can wake up somebody. One of my neighbors tells me I am wasting my time because the judge is probably drunk or on drugs, going through a very stormy divorce, losing the rental properties, and is probably going to get thrown off the bench.

I still have a back yard that I cannot let the kids go into unless I first inspect it, check the fence, and fix and clean up if necessary.

On October 31, I go out to the back yard and find another mess. I call the police again. They come over, but they seem to think it is kind of funny. They also tell me that my neighbor is a judge, and to work things out. Anyway, they knock on the judge's front door and back door, and of course the judge comes out from the back and bright eyed, clear speaking, and appearing very cooperative. Again, apologies. The judge says that the dog will be gone by the end of the day.

That night the dog is barking in the back yard. It is 8:30, and I am totally fed up even though I am home alone as my spouse took the kids

to my parents' home in the suburbs for a trick or treat party. I call the police and I go outside in front and I wait. Well, I notice that there is a car with the emergency lights flashing in the middle of the street, but I am not paying much attention until I realize that the car is the judge's car and the person next to the car is a police officer writing a ticket. The judge comes out. I told you the rest. The police car came from the south, and the judge's car was parked facing south, the judge said something that sounded like, "I'm judge Dunkirk, it's all right." The when the officer came back the officer said, "O.K., let's try a couple of tests, and asked the judge to do the index finger to nose test, which the judge could not do. The judge had trouble walking. The judge could not count backwards from ten. The officer gave Dunkirk a breath test, and then they left in the police car.

Any questions?

Officer Rabunski: No. That's more than I expected. O.K. Thank you for coming in. We will call you if we need you to give more information.

Transcribed by 
[February 8, 2009]