

THE STATE OF TEXAS
Ex rel. JANA DUTY,
COUNTY ATTORNEY OF
WILLIAMSON COUNTY, TEXAS

§
§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT

v.

WILLIAMSON COUNTY, TEXAS

DAN A. GATTIS, COUNTY
JUDGE OF WILLIAMSON COUNTY,
TEXAS

26TH DISTRICT COURT

**SPECIAL APPEARANCE URGING COURT TO REFUSE ISSUANCE OF CITATION
AND/OR TO DISMISS THE ORIGINAL PETITION FOR REMOVAL FROM OFFICE
OF WILLIAMSON COUNTY JUDGE DAN A. GATTIS**

TO THE HONORABLE JUDGE RICK MORRIS:

COMES NOW, Dan A. Gattis, County Judge of Williamson Country, Texas and files this Special Appearance, prior to issuance of citation, urging the Court to refuse issuance of citation and/or to dismiss the Original Petition of Removal from Office of Williamson County Judge Dan A. Gattis filed by County Attorney Jana Duty, and in support thereof, would show as follows:

I.

Pursuant to the Texas Local Government Code §87.001, "An officer may not be removed under this chapter for an act the officer committed before election to office." Texas Local Government Code §87.001 is applicable to a civil removal proceeding. *In re Bazan*, 251 S.W.3d 39, 44 (Tex. 2008). It is clear from the face of the Original Petition for Removal that all alleged actions supporting removal occurred prior to Judge Gattis's election to his current term of office. Judge Gattis was elected to his current term on November 4, 2010.

FILED
at _____ o'clock _____ M

JAN - 5 2011

Lisa David
District Clerk, Williamson Co., TX

II.

Ms. Duty alleges five separate grounds for removal, all of which contain significant misstatements of the actual facts.

Ground 1. Incompetence and official misconduct for hiring and paying Potts & Reilly, L.L.P.

The alleged misconduct for Ground 1 occurred in March 2007 through August 2007 during Judge Gattis' previous term in office.

Ground 2. The Incompetence and official misconduct for redacting invoices from Potts & Reilly, L.L.P.

The alleged misconduct for Ground 2 occurred in August 2007 during Judge Gattis' previous term in office.

Ground 3. Incompetence and official misconduct for unlawful payment of legal defense expenses to Steve Mierl on behalf of County Court at Law Judge Don Higginbotham

The alleged misconduct for Ground 3 occurred beginning in December 2009 through February 2010 during Judge Gattis' previous term in office.

Ground 4. Incompetence and official misconduct for unlawfully hiring and paying legal defense expenses to attorney Mike Davis on behalf of County Court at Law Judge Don Higginbotham

The alleged misconduct for Ground 4 occurred in January 2010 through May 2010 during Judge Gattis' previous term in office.

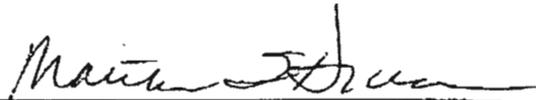
Ground 5. Incompetence and official misconduct for hiring and paying the Law Firm of Dietz & Jarrard

The alleged misconduct for Ground 5 occurred in August 2010 through October 2010 during Judge Gattis' previous term in office.

III.

Texas Local Government Code §87.001 bars the removal of officers for acts of alleged incompetence or official misconduct committed prior to their election or re-election. *State of Texas ex. Rel. Hugh Russell v. Knorpp*, 575 S.W.2d 401, 405 (Tex. Civ. App. - Amarillo 1978, writ ref. n.r.e.); *In re Buzan*, 251 S.W.3d 39, 44 (Tex. 2008). Each allegation against Judge Dan A. Gattis occurred prior to his re-election on November 4, 2010. Therefore, the original petition fails as a matter of law and this Court should refuse to issue the order for citation and dismiss the case at the cost of Jana Duty.

Respectfully submitted,



Martha S. Dickie
State Bar No. 00000081
Bo Blackburn
State Bar No. 24006853
Almanza, Blackburn & Dickie, L.P.
2301 S. Capital of Texas Hwy., Bldg. H
Austin, Texas 78746
(512) 474-9486
(512) 478-7151 FAX

ATTORNEYS FOR DAN A. GATTIS