

ELECTRONICALLY FILED
2019 Oct 24 1:33 PM - 19CV-1732
John A. W. Bratcher, Clerk & Master

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE
AT MURFREESBORO

MELISSA KILPATRICK,

Plaintiff,

VS.

RUTHERFORD COUNTY, TENNESSEE,

Defendant.

JURY DEMAND

CIVIL ACTION NO. _____

COMPLAINT

Comes now your Plaintiff, Melissa Kilpatrick, and as facts in support of her claims stated in this Complaint, would show unto the Court as follows:

1. Plaintiff has been a citizen and resident of Rutherford County, Tennessee, and an employee of the Defendant at times relevant to this litigation.

2. Defendant is a governmental entity created legislatively by the State of Tennessee.

3. This Court has jurisdiction of this Tennessee Human Rights Act (THRA) litigation pursuant to T.C.A. §4-21-311(a). For purposes of the THRA, Defendant has been Plaintiff's employer as that term is defined in T.C.A. §4-21-102(5) because it has employed more than eight persons.

4. Plaintiff served an internship with the Rutherford County Recovery Court in 2015. She was employed by the Rutherford County Recovery Court as a case manager from October 20, 2015, until 2018, and she was employed continuously by the Rutherford County Recovery Court since 2018 as a Recovery Court Counsellor until terminated without warning on October 18, 2019.

5. The position of Probation and Recovery Services Director became open in the spring of 2019.

6. Attached as Exhibit A hereto is a copy of an invitation for applications for the position of Probation and Recovery Services Director which reflects an opening date of April 23, 2019, and a closing date of May 7, 2019. (#14 in notebook, pages 1-5).

7. Attached as Exhibit B hereto is a copy of Plaintiff's application letter to the Honorable Bill Ketron, Rutherford County Mayor, dated May 4, 2019, which she submitted along with her application for the position of Probation and Recovery Services Director with Rutherford County. (#16)

8. Plaintiff also submitted with the application her resume which references her education, her training and experience in the addiction and recovery areas generally, and specifically with reference to her employment with the Rutherford County Recovery Court.

9. Also with her application, Plaintiff completed and submitted an additional form which stated in a more specific way her unique qualification for the position then open. (put a "c" on this document)

10. Plaintiff is a woman whose date of birth is February 24, 1975. Plaintiff was highly qualified for the position of Probation and Recovery Services Director at the time she applied and still is highly qualified for the position.

11. Plaintiff, another woman, and Steve Ervin, a man, were the three persons selected to be interviewed.

12. Mr. Ervin was selected by Rutherford County Mayor Bill Ketron even though Ervin was woefully unqualified for the position and both of the female applicants, including Plaintiff,

who were interviewed, were vastly more qualified and better in every relevant way for the position than was Mr. Ervin.

13. At the time Ervin was selected by Mayor Ketron, Ervin was a politician who was a member of the Rutherford County Commission. He continues to hold his position as a County Commissioner for which he receives income.

14. Attached as Exhibit C hereto is a copy of the notification letter received by Plaintiff on May 22, 2019, advising that she had not been selected.

15. Attached as Exhibit D hereto is a copy of the application submitted by Steve D. Ervin on April 23, 2019, which was the first date applications were to be received.

16. In Ervin's application, attached as Exhibit D hereto, among other things, it reflects that he had been employed as a civics and economics high school teacher and worked as a development director for a private church school since 1999. Prior to that, he had worked as a Metro police officer. To a question on the application that asked about the applicant's experience with the administration and assessment of clinical substance abuse and/or mental health treatment, he replied: "The only experience I have with drug abuse is dealing with my brother for the past fifteen years getting him help through drug programs."

17. At the time she applied for the position of Probation and Recovery Services Director, Plaintiff was a member of a protected class because she is a woman. She properly applied for the position. She was qualified for the position. She was allegedly considered for, but was denied, the promotion she requested. The rejection of her application was based on her sex.

18. On information and belief, Plaintiff submits that the position now held by Mr. Ervin pays him a salary of approximately \$72,000.00 a year and various employment benefits.

19. Plaintiff's salary at the time she was terminated was approximately \$45,900.00 per year. She is currently unemployed.

20. Plaintiff's application for promotion was denied by Rutherford County through the actions and decision of its County Mayor, because she is a woman, even though she is vastly more qualified than Ervin is.

21. Plaintiff is the recipient of intentional sex discrimination perpetrated by the Defendant's highest-ranking executive officer in violation of the THRA at T.C.A. §4-21-401(a)(1).

22. As a result of the Defendant's discriminatory practices toward Plaintiff, she has experienced an adverse effect as to the compensation, terms, conditions, and privileges of her employment.

23. Plaintiff has suffered actual damages as the direct and proximate result of the discriminatory practices of the Defendant. She has experienced a loss of back pay and the value of employment benefits, and will experience a loss of front pay.

24. In addition, Plaintiff has suffered extreme humiliation and embarrassment, emotional pain, suffering, inconvenience, mental anguish and loss of enjoyment of life by the Defendant's discriminatory acts toward her.

25. At all times relevant to this action, Defendant has employed more than 500 employees.

26. With reference to her THRA failure to promote claim, Plaintiff seeks the following damages:

- a. Back pay with interest;
- b. Front pay;
- c. The lost value, plus interest, of any relevant employment benefit or asset;

d. Pursuant to T.C.A. §4-21-311(b), promotion to the position of Director of Probation and Recovery Services, replacing Steve Ervin, along with all of the conditions, terms, rights and benefits of that position.

e. Non-economic damages for emotional pain, suffering, mental anguish, lost enjoyment of life, and for humiliation and embarrassment.

f. Plaintiff also requests an award of attorney's fees and litigation expenses for the filing and prosecution of this action. This request is made pursuant to the THRA at T.C.A. §4-21-311(b).

g. As to her failure to promote claim, Plaintiff requests a jury verdict for Seven Hundred Fifty Thousand and no/100 Dollars (\$750,000.00) in damages, plus attorney's fees and litigation expenses, along with injunctive/equitable relief of being placed by Court Order in the Director's position.

RETALIATION CLAIM:

27. All of the allegations in paragraph 1 through 26 are incorporated herein by reference.

28. Plaintiff was the victim of retaliatory treatment from Ervin, almost from the time he began working as Probation and Recovery Services Director, because she was a woman and she had applied for the Director's position.

29. On July 3, 2019, Plaintiff learned that there had been an improper disclosure of confidential client information that was made by Ervin.

30. Plaintiff, along with a co-worker, approached Ervin to bring the improper disclosure of confidential client information to his attention with the hope that civil liability against the Recovery Court Program and similar future mistakes could be avoided.

31. Within the first minute of the July 3, 2019, meeting with Ervin, he began shouting at Plaintiff in a way that represented an escalation in his intensity from a prior outburst he had toward her within the first few days of Ervin's assumption of the Director's position.

32. In the July 3, 2019, meeting, Plaintiff brought to Ervin's attention that his actions constituted a breach of Recovery Court Standard Operating Procedures as well as client confidentiality laws.

33. Ervin has also made sexist remarks insinuating that female employees are weak and more in need of protection than are male employees. In fact, his stated reason for installing an alarm system in the Recovery Court Offices was due to their being "many women" in the office.

34. Plaintiff, since she was in a protected class by being a woman, engaged in protected activity when she applied for the position of Probation and Recovery Services Director. Her having engaged in protected activity was the "but for" cause of the retaliation she received from Ervin after he assumed the Director's position.

35. Attached as Exhibit E is Plaintiff's July 4, 2019, letter to Sonya Stephenson, HR Director for Rutherford County. All statements in Exhibit E are incorporated herein by reference.

36. As stated in Exhibit E, Plaintiff complained of sexist remarks made by Ervin. A meeting was scheduled for Plaintiff to meet with HR Director Stephenson on the afternoon of August 23, 2019, at 3:00 p.m. to discuss her complaint stated in her July 4, 2019 letter to Stephenson, Exhibit E.

37. Exhibit F to this Complaint (#29-1) is a copy of an email from Ervin to Plaintiff and others stating it was a reminder there was a training session over the telephone scheduled for 2:00 p.m. to 3:00 p.m., and he said it was for the next day, which would have been August 22,

2019, but the training session was actually scheduled from 2:00 p.m. to 3:00 p.m. on Friday, August 23, 2019.

38. Exhibit G to this Complaint is an email from Plaintiff to Ervin sent on August 21, 2019, advising that she had an appointment on Friday (the meeting with Stephenson) and she asked if she could participate in the telephonic seminar until approximately 2:40 p.m. She also asked about rescheduling and apologized for any inconvenience.

39. Exhibit H to this Complaint is Ervin's August 22, 2019, email to Plaintiff in which he stated: "We will reschedule, thanks for letting me know."

40. Exhibit I to this Complaint is another August 22, 2019, email from Plaintiff to Ervin, sent at 2:15 p.m., in which she advises that she had contacted the appropriate persons who were providing the seminar information and that their recommendation was to: "join the training for as long as possible and hop off as needed." Plaintiff then stated to Ervin: "I think we are good."

41. Plaintiff had not advised Ervin specifically that she was meeting with Ms. Stephenson to discuss her complaint against Ervin set forth in her July 4, 2019, letter, but, clearly, he was aware of that meeting.

42. On August 23, 2019, shortly before Plaintiff was scheduled to meet with Stephenson, she was called into Ervin's office. Also present was Alissa Phillips, Assistant Director. Ervin was furious with Plaintiff and accused her of "going over his head" by contacting the State about her participation in the telephonic seminar.

43. Attached as Exhibit J is a copy of a Report of Action issued by Ervin on August 23, 2019, which constituted a letter of warning for alleged insubordination relating to Plaintiff's having successfully made an effort to attend the seminar as set forth in Exhibits attached to this

Complaint. In fact, in the written Report of Action, Ervin references that Plaintiff had told him that she had been successful in her efforts to participate in the seminar and to attend the meeting.

44. It is clear that Plaintiff was blind-sided by Ervin shortly before her scheduled August 23, 2019, meeting with Stephenson as a direct act of retribution and retaliation for her having complained to Stephenson of the events stated in her July 4, 2019, letter.

45. Attached as Exhibit K hereto is a copy of pages 23 – 25 from the Rutherford County Employee Handbook that was applicable at times relevant to this litigation.

46. Plaintiff is guilty of no employee malfeasance, nonfeasance, or workplace misconduct in any way with reference to her efforts to participate in the telephonic seminar or otherwise. In spite of this, Ervin found that she had been insubordinate and utilized the second level of disciplinary action provided in the Employee Handbook which is "Written Warning," even though she had received no prior disciplinary actions. The least serious disciplinary action is for a verbal warning. Under the paragraph "Written Warning" on page 24 of the Handbook, it provides that a written warning is used when an employee commits a more serious violation of County policy and/or the result of their action has more serious consequences or the employee has failed to comply with the corrective actions from a verbal warning. As indicated by Exhibit L, a written warning is the second step in the disciplinary process on the path toward suspension, demotion, and termination.

47. At the time she was given the written Report of Action on August 23, 2019, Exhibit J hereto, Plaintiff asked Ervin what he expected from her. He replied that she was to hear what he told her to do, say "yes, sir," and "that's it, just say yes sir and then do it." At several times during the disciplinary meeting on August 23, 2019, Ervin told Plaintiff to say "yes, sir" and then do exactly what he had told her to do without questions or comments.

48. Plaintiff was the recipient of a completely bogus and unwarranted disciplinary action given to her just minutes before she was to meet with Ms. Stephenson to discuss her complaint against Ervin. She was then repeatedly told in an intimidating and sexist way, that she was to only say "yes, sir" when given an instruction and to do exactly as she was told.

49. Ms. Stephenson was a member of the panel that interviewed Plaintiff when she was a finalist for the Director's position. It is obvious that she gave her tacit approval to Mayor Ketron's selection of the only male applicant in the final three, even though Ervin was and is totally unqualified for the position he was given because he is a man and a political associate of Mayor Ketron.

50. Plaintiff received from Stephenson an "Internal Investigation" report on October 11, 2019, a copy of which is attached as Exhibit L. On the last page of the report, Stephenson concluded that the issues raised by Plaintiff were unfounded though she did recommend a seminar on supervision for Ervin and an effective communication skills seminar for Plaintiff.

51. Curiously on the third page of the report, Stephenson states that the disciplinary session on August 23, 2019, was witnessed by Assistant Director Phillips who stated that Ms. Kilpatrick (Plaintiff) was frustrated and irritated, but both parties remained professionals. However, at the end of the meeting, Ms. Kilpatrick stated she was going straight to HR which Ervin and Phillips perceived as a threat. Plaintiff had an appointment to meet with Stephenson at 3:00 p.m. that day before she was ever aware that she was going to be the target of an unwarranted disciplinary action.

52. It is quite apparent that Plaintiff, because she engaged in protected activity by applying for the Director's job, and then engaged in protected activity by complaining to

Stephenson as stated in her July 4, 2019, letter, Exhibit E hereto, has suffered retaliation and she was clearly on the path to being victimized by the loss of her job.

53. Ms. Stephenson advised Plaintiff on October 14, 2019, she wanted to have a meeting, and it was scheduled for the afternoon of October 18, 2019. The meeting started at approximately 1:00 p.m. Stephenson advised Plaintiff that her employment was terminated immediately and ordered her to leave building keys and her telephone. Plaintiff complied.

54. Attached as Exhibit M hereto is a copy of the Separation Notice delivered to Plaintiff by Stephenson on October 18, 2019, which is signed by Stephenson. It states that Plaintiff was being terminated for inability to get along with others, "at will." While it is admitted that Plaintiff was an "at will" employee, it is a patent falsehood and pretext for Stephenson to state Plaintiff was being discharged for an inability to get along with others. This is clear, because she never received any disciplinary actions and did receive favorable comments from her supervisor about her employment before Ervin arrived. The termination was another act of retribution and retaliation by Defendant, through its legislative agent and Recovery Court Director, Steve Ervin, because she had engaged in protected activity.

55. Any reasonable person would find the discriminatory and retaliatory actions taken against Plaintiff, including her termination, to be materially adverse in that those actions might well have dissuaded a reasonable worker from making or supporting a charge of discrimination or retaliation, and from engaging in protected activity of any kind.

56. Defendant's progressive discipline policy as stated in its Handbook, Exhibit K. to this Complaint, envisions use of consecutive written warnings, a final warning, a suspension, and demotion between a written warning and termination. For spiteful reasons and in violation of its own policy, Defendant skipped four steps in that policy in its race to terminate Plaintiff.

57. As to her retaliation claim, Plaintiff seeks the following relief:

a. Injunctive relief as provided in the THRA at T.C.A. §4-21-311(b) by an order directing Defendant to place Plaintiff in the Director's position with the same pay and benefits that Ervin receives.

b. An award of back pay and the value of lost employment benefits, plus interest.

c. A finding that Plaintiff has been the recipient of retaliation which is proscribed by the THRA at T.C.A. §4-21-301(a)(1).

d. That Plaintiff additionally be awarded Three Hundred Thousand No/100 Dollars (\$300,000.00) in compensatory damages for humiliation, embarrassment, mental anguish, emotional pain, inconvenience, loss of enjoyment of life, and other non-pecuniary losses, which would be additional to the award of damages for her failure to promote claim and additional to an award of front and back pay.

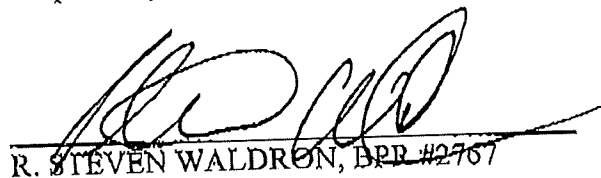
e. That she be awarded attorney's fees and litigation expenses pursuant to the THRA at T.C.A. §4-21-311(b).

f. Plaintiff demands Seven Hundred Fifty Thousand and No/100 Dollars (\$750,000.00) in compensatory damages, plus attorney's fees, discretionary/litigation expenses, and an order placing her in the Director's position which is the position to which she should have been promoted absent Defendant's discriminatory treatment of her.

PLAINTIFF DEMANDS A JURY TO TRY HER CAUSES OF ACTION.

THIS IS THE FIRST APPLICATION FOR INJUNCTIVE OR EXTRAORDINARY RELIEF.

Respectfully submitted,



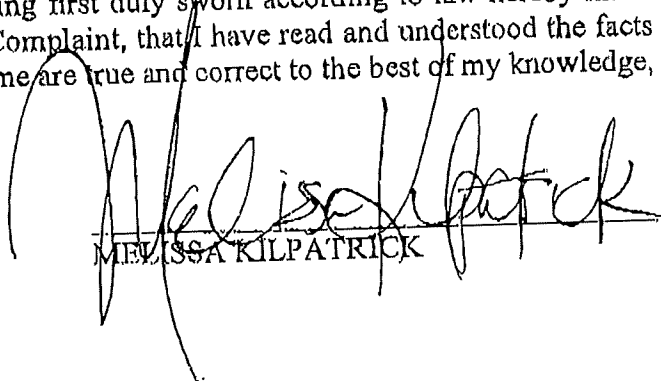
R. STEVEN WALDRON, DPP #2767
Attorney for Plaintiff
WALDRON, FANN & PARSLEY
101 N. Maple Street
Murfreesboro, TN 37130
(615) 890-7365; fax: (615) 848-1658
email: arlenesmith@wfpnlaw.com

OATH

STATE OF TENNESSEE)

COUNTY OF RUTHERFORD)

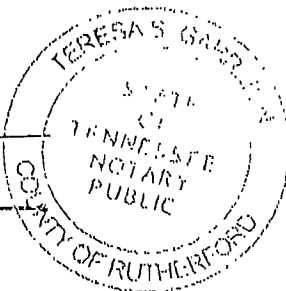
I, MELISSA KILPATRICK, after being first duly sworn according to law hereby make oath that I am the Plaintiff in the foregoing Complaint, that I have read and understood the facts and allegations contained therein, and that same are true and correct to the best of my knowledge, information and belief.


MELISSA KILPATRICK

Sworn to and subscribed before me,
on this the 24th day of October, 2019.

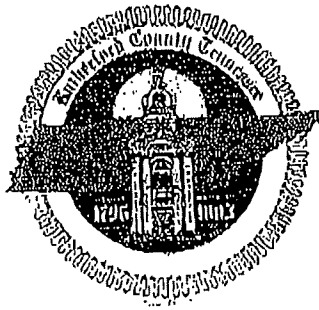

NOTARY PUBLIC

My Commission Expires: 8-22-22



4/23/2019

Job Bulletin



RUTHERFORD COUNTY GOVERNMENT
invites applications for the position of:

Probation & Recovery Services Director

SALARY: \$66,862.00 - \$78,377.00 Annually *--- increased 4.25% on 7/1/19*
OPENING DATE: 04/23/19
CLOSING DATE: 05/07/19 12:00 PM
DESCRIPTION:

The purpose of this classification is to perform highly responsible probation, recovery, and public administration work directing operations of the Adult Probation Department and Recovery Courts Departments to include Drug court, DUI court, Mental Health court, Veterans Treatment court, and TN Recovery Oriented Compliance Strategy. Duties and Responsibilities include planning, coordinating, implementing, and evaluating the misdemeanor adult probation program, managing activities between the Recovery Courts and participants in the Recovery Courts Program. Additional responsibilities include supervising assigned employees, directing departmental work activities, developing policies and procedures, training employees, attending court hearings, preparing and maintaining monthly reports, various associated education and counseling programs, budget preparation, and fiscal responsibility for program expenditures and revenues. Establishing and maintaining positive relationships with judges, law enforcement agencies and judicial officials, and assisting with grant applications and responses to Requests for proposals. Attending conferences, writing grants, preparing recommendations and referrals, serving on various boards, providing information and assistance, and performing other tasks as assigned. Reports to County Mayor.

EXAMPLES OF DUTIES:

The following duties are normal for this position. The omission of specific statements of the duties does not exclude them from the classification if the work is similar, related, or a logical assignment for this classification. Other duties may be required and assigned.

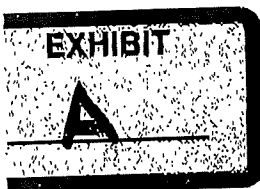
Oversees activities of department personnel through direct or delegated supervision of various programs; reviews, develops, and implements policies and procedures, as necessary, to improve department efficiency and ensuring that established policies, procedures and programs are planned and implemented in accordance with needs of the community relative to budgetary limitations, and according to directives of the District and Criminal Court Judges and state authorities.

Supervises, directs, and evaluates assigned staff ensuring adherence to established laws, regulations, policies and procedures; processes employee concerns and problems, directs work, counsels, appraises, and disciplines; recruits, interviews, hires, trains, schedules, grants leave, and submits records and reports as required for all employees in the Probation and Recovery Courts Departments, and makes decisions concerning hiring or termination of employment.

Plans, organizes, and directs operations and activities of the Probation and Recovery Courts Departments; establishes various goals and objectives for the departments. Enforces rules, regulations, policies, and procedures; maintains a secure and peaceful environment in the building.

Prepares and submits annual budget proposals; administers budget, ensuring proper general ledger monitoring, and processing of accounts payable and receivable; reviews all contracts entered into by the department pertaining to community-based correction issues, and advises county officials based on correction and public administration expertise.

Ensures compliance with all applicable laws, ordinances, rules, regulations, standards, policies and procedures; ensures adherence to established safety procedures; monitors work environment and use of safety equipment to ensure safety of employees and other individuals; initiates any actions



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Job Bulletin

provides the requisite knowledge, skills, and abilities for this job. Must possess a thorough knowledge of Tennessee Code Annotated (TCA) and criminal state statutes governing probation; social service agencies, court procedures and treatment facilities in the area; strong organizational, interpersonal, and decision-making skills, or any equivalent combination of education, training, and experience which provides the requested knowledge, skills, and abilities for this job. Must possess and maintain a valid Tennessee Class D Driver's License.

SUPPLEMENTAL INFORMATION:

Data Utilization: Requires the ability to coordinate, manage, and/or correlate data. Includes exercising judgment in determining time, place and/or sequence of operations, referencing data analyses to determine necessity for revision of organizational components, and in the formulation of operational strategy.

Human Interaction: Requires the ability to function in a managerial capacity for a division or organizational unit. Includes the ability to make decisions on procedural and technical levels.

Equipment, Machinery, Tools, and Materials Utilization: Requires the ability to operate, maneuver and/or control the actions of equipment, machinery, tools, and/or materials used in performing essential functions.

Verbal Aptitude: Requires the ability to utilize a wide variety of reference, descriptive, and/or advisory data and information.

Mathematical Aptitude: Requires the ability to perform addition, subtraction, multiplication, and division; ability to calculate decimals and percentages; may include ability to perform mathematical operations with fractions.

Functional Reasoning: Requires the ability to apply principles of influence systems, such as motivation, incentive, and leadership, and to exercise independent judgment to apply facts and principles for developing approaches and techniques to resolve problems.

Situational Reasoning: Requires the ability to exercise judgment, decisiveness and creativity in situations involving evaluation of information against sensory, judgmental, or subjective criteria, as opposed to that which is clearly measurable or verifiable.

ADA COMPLIANCE/PHYSICAL DEMANDS ANALYSIS

Physical Ability: Tasks require the regular and sustained performance of moderately physically demanding work, typically involving some combination of climbing and balancing, stooping, kneeling, crouching, and crawling, and that generally involves lifting, carrying, pushing, and/or pulling of moderately heavy objects and materials (20-50 pounds); may occasionally involve heavier objects and materials (up to 165 pounds).

Sensory Requirements: Some tasks require the ability to perceive and discriminate colors or shades of colors, sounds, odor, and visual cues or signals. Some tasks require the ability to communicate orally.

Environmental Factors: Performance of essential functions may require exposure to adverse environmental conditions, such as noise extremes, traffic hazards, bright/dim light, violence, disease, O.C. Spray or pathogenic substances.

PHYSICAL DEMANDS ANALYSIS

STANDING AND WALKING

Tasks: escorting detainees/participants, monitoring detainees/participants, maintaining safety/security of facility, leading groups, walking to and from judicial building

Surface: concrete, pavement, carpet, etc.

Estimated Total Hours: 2-3 **Maximum Continuous Time:** 6

SITTING

Tasks: Counselling, paperwork, computer, planning, data entry, medical files

Estimated Total Hours: 6.5 **Maximum Continuous Time:** 4

LIFTING/CARRYING

4/23/2019

Job Bulletin

Fine Motor I.e.: writing, twisting hands or wrist, etc.: Yes / dally

APPLICATIONS MAY BE FILED ONLINE AT:
<http://www.rutherfordcountynj.gov/>

Position #00307
PROBATION & RECOVERY SERVICES DIRECTOR
HA

303 N. Church Street
Ste. 200
Murfreesboro, TN 37130
615-494-4400

hrsa@rutherfordcountynj.gov

Probation & Recovery Services Director Supplemental Questionnaire

- * 1. What is your highest level of education?
 - ☐ Did not graduate high school/Do not have a GED
 - ☐ High School Diploma/GED
 - ☐ Vocational/Technical Degree
 - ☐ Associate's Degree
 - ☐ Bachelor's Degree
 - ☐ Master's Degree
 - ☐ Doctorate Degree
- * 2. Is your degree in Criminal Justice, Public Administration, Law, Psychology, Social Work, Behavioral Science or closely related field?
 - ☐ Yes
 - ☐ No
 - ☐ Not Applicable
- * 3. If you have a college degree, what did you major in?
- * 4. What is your level of experience and/or training involving probation?
 - ☐ No Experience
 - ☐ Less than three (3) years
 - ☐ Three (3) years but less than five (5) years
 - ☐ Five (5) years but less than seven (7) years
 - ☐ Seven (7) years but less than nine (9) years
 - ☐ Nine (9) years but less than eleven (11) years
 - ☐ Eleven (11) years or more
- * 5. What is your level of experience and/or training involving addiction?
 - ☐ No Experience
 - ☐ Less than three (3) years
 - ☐ Three (3) years but less than five (5) years
 - ☐ Five (5) years but less than seven (7) years
 - ☐ Seven (7) years but less than nine (9) years
 - ☐ Nine (9) years but less than eleven (11) years
 - ☐ Eleven (11) years or more
- * 6. What is your level of experience and/or training involving criminal behavior?
 - ☐ No Experience
 - ☐ Less than three (3) years
 - ☐ Three (3) years but less than five (5) years
 - ☐ Five (5) years but less than seven (7) years
 - ☐ Seven (7) years but less than nine (9) years
 - ☐ Nine (9) years but less than eleven (11) years
 - ☐ Eleven (11) years or more

4/23/2019

Job Bulletin

Weight	Hourly	Daily	Weekly	Monthly	Never
<10 lbs		X			
11-25 lbs					
X					
26-50 lbs				X	
51-75 lbs					X
76-100 lbs					X
>100 lbs					X

PUSHING/PULLING

Objects: doors, desk drawers, filing cabinets drawers, dolly
 Height of hands above floor during push: waist high, above head, knee

CLIMBING

Tasks: stairs, searches

Device: stairs, vehicles

Height: 6 flights

Frequency: daily

BENDING/SQUATTING/KNEELING

Tasks: Filing and inventory

Frequency: weekly

REACHING

Hands Used: RIGHT LEFT BOTH X

Distance	Direction	Frequency	Duration	Avg. Weight
0-20"	All	Daily	<10 Minutes	<5lbs
21-36"	All	Rarely	<10 Minutes	<5lbs

WORK CONDITIONS

Exposure to: Yes/No

Hot Temperatures: No

Cold Temperatures: No

Sudden Changes in Temperature: No

Noise: No

Fumes: No

Cramped Quarters: No

Cold Surfaces: No

Hot Surfaces: No

Sharp Edges: No

Vibration: No

Fluorescent Lighting: Yes

Computer Monitor Screen Glare: Yes

Inside Building 95 % of timeOutside 5 % of time**OTHER JOB DEMANDS**

Does Job Require: Yes/No

Crawling: No

Jumping: No

Lying on Back: No

Lying on Stomach: No

Twisting: Yes

Sweeping/Mopping: Yes

General Cleaning: Yes

Handling Trash: Yes

LIST TOOLS, EQUIPMENT AND MATERIALS USED

Includes but is not limited to computer, phone, fax machine, copy machine, scanner, stapler, staple remover, pen, etc.

HAND USE

Type of Use: Yes/No/Frequency

Keystrokes: Yes / daily

Grasp: Yes / daily

4/23/2019

Job Bulletin

- * 7. Please select the programs you have experience with:
 - ☐ Adult Probation
 - ☐ Drug Court
 - ☐ DUI Court
 - ☐ Mental Health Court
 - ☐ Veterans Court
 - ☐ TN Recovery Oriented Court
 - ☐ Offender Reentry Program
 - ☐ No Experience
- * 8. Please select the specialized services you have experience with:
 - ☐ Behavioral Intervention Programs
 - ☐ Substance Abuse Treatment
 - ☐ Mental Health Treatment
 - ☐ Medical Care
 - ☐ Vocational Training
 - ☐ Housing Assistance
 - ☐ Employment Assistance
 - ☐ No Experience
- * 9. Please select the roles you have held or supervised involving probation and recovery:
 - ☐ Intake
 - ☐ Case Manager
 - ☐ Probation Officer
 - ☐ Facilitator
 - ☐ Drug Screen
 - ☐ Counselor
 - ☐ Therapist
 - ☐ Supervisor
 - ☐ None
- * 10. Please list the professional certifications and licenses you possess and maintain in relation to law enforcement, criminal justice, substance abuse, and/or mental health treatment.
- * 11. Please detail your level of experience in a management role. Include your title (ex. Director, Manager, Supervisor) and the number of employees broken down by number of full-time, part-time, and volunteer.
- * 12. What is the largest budget amount you've been responsible for in a year?
- * 13. Please detail your experience in developing policies, procedures, and protocols.
- * 14. Please detail your experience involving criminal justice, law enforcement, and the judicial system.
- * 15. Please detail your experience with the administration and assessment of clinical substance abuse and/or mental health treatment.
- * 16. Please detail your experience in grant writing including the purpose, amount, and date of the grant received.

Job Bulletin

4/23/2019

* 17. Please explain in detail your knowledge of Tennessee Code Annotated (TCA) and criminal state statutes governing probation, social service agencies, court procedures and treatment facilities in the area.

* 18. This position requires you to live within the Rutherford County limits. If an applicant lives outside this area, he/she must relocate within 180 days of employment. Do you live, or will you move, within Rutherford County limits upon hire?

☐ Yes

☐ No

* 19. Do you possess and maintain a valid driver's license?

☐ Yes

☐ No

* Required Question

Melissa Kilpatrick, LADAC II, ADS, CCTP
433 Bethany Circle, Murfreesboro, TN 37128 | 615.801.0782 mldlpatrick@rutherfordcountytn.gov

May 4, 2019

The Honorable Bill Ketron
Mayor of Rutherford County
County Courthouse, One Public Square
Room 101
Murfreesboro, TN

Dear Mr. Mayor,

It is with great enthusiasm that I submit my application for the position of Probation and Recovery Services Director with Rutherford County. As a substance dependence specialist working with the Rutherford County Recovery Courts for more than four years, I know my diverse set of skills and experience makes me an asset that will have the ability to hit the ground running.

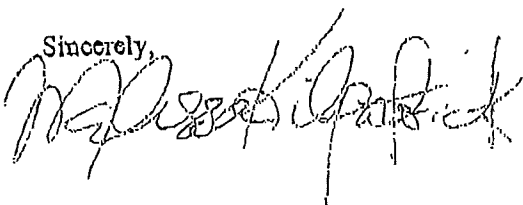
As you will see from the attached resume and job listing questionnaire, I have assumed many leadership roles at the Recovery Court. Couple that with my knowledge of the current diversionary strategies, recovery courts, probationary services, and reentry program, I am uniquely suited for this position.

Our judicial system has become overloaded with many low-level misdemeanor offenders having a history of comorbidity which leads to an increased rate of recidivism, thus the increase to the individual taxpayer. The services provided through probation, recovery courts, and other diversionary programs have become a way to promote positive change to the individual, the family, and the community. My passion is in people and the redemptive piece that education, support, and guidance can bring. Which is why I believe I am an ideal candidate suited for this position.

Mr. Mayor, I do want you to know that I thought long and hard and prayed many prayers before making application. While this may seem an odd statement at this moment, it is my belief that the services provided through these departments play an essential role in keeping our community safe, serving those in need, while being mindful of the total cost to the taxpayer. I make application with an understanding of this position and would love the opportunity to see what I could contribute as our county continues to grow.

Mr. Mayor, I do thank you for your consideration, and I look forward to hearing from you at your convenience.

Sincerely,



Melissa Kilpatrick
Rutherford County Recovery Court Counselor

EXHIBIT

B

Inbox - Message Details - Print Preview

<https://www.governmentjobs.com/inbox/PrintMessageDetails/>

GovernmentJobs Job Search Inbox

Probation & Recovery Services Director Position at Rutherford County Government

05/22/2019 at 09:01 AM

To: Melissa Kilpatrick (mkilpatrick@rutherfordcountyttn.gov)
From: Heather Abbott (habbott@rutherfordcountyttn.gov)

5/22/2019

Melissa Kilpatrick
433 BETHANY CIR
MURFREESBORO, Tennessee 37128-4126

Dear Melissa:

Thank you for submitting your application and interviewing for the Probation & Recovery Services Director position with Rutherford County Government. It is always difficult to choose among the many qualified candidates whom we receive. After reviewing the applications and interviews, we regret to inform you that you have not been selected for further consideration.

We appreciate the time you invested in your application and the interview process. We encourage you to apply for future open positions for which you qualify. Please visit our website at www.rutherfordcountyttn.gov/hr to view current position openings.

Best wishes for a successful job search. Thank you, again, for your interest in employment opportunities with Rutherford County.

Regards,

Rutherford County Government Human Resources Department

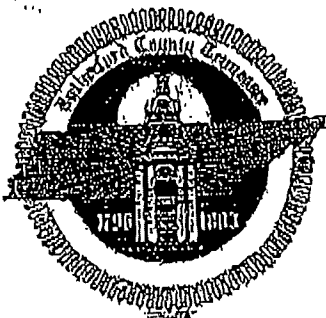


Steve Ervin

Person ID: 1439808

Received: 4/23/19 2:26 PM

EMPLOYMENT APPLICATION



RUTHERFORD COUNTY GOVERNMENT

303 N. Church Street Ste. 200
 Murfreesboro, Tennessee 37130
 615-494-4480

<http://www.rutherfordcountyttn.gov/>

Ervin, Steve D
 00387 PROBATION & RECOVERY SERVICES DIRECTOR

Received: 4/23/19 2:26 PM

For Official Use Only:

QUAL: _____

DNQ: _____

☐ Experience☐ Training☐ Other: _____

PERSONAL INFORMATION

POSITION TITLE:
 PROBATION & RECOVERY SERVICES DIRECTOR

NAME: (Last, First, Middle)
 Ervin, Steve D

ADDRESS: (Street, City, State, Zip Code)
 [REDACTED]

HOME PHONE:
 [REDACTED]

ALTERNATE PHONE:
 [REDACTED]

DRIVER'S LICENSE:
☐ Yes ☐ No

DRIVER'S LICENSE:
 State: [REDACTED] Number: [REDACTED]

EXAM ID#:
 00387

SOCIAL SECURITY NUMBER:
 N/A

EMAIL ADDRESS:
 [REDACTED]

NOTIFICATION PREFERENCE:
 Email

LEGAL RIGHT TO WORK IN THE UNITED STATES?
☐ Yes ☐ No

PREFERENCES

MINIMUM COMPENSATION:
 \$58,000.00 per year

ARE YOU WILLING TO RELOCATE?
☐ Yes ☐ No ☐ Maybe

WHAT TYPE OF JOB ARE YOU LOOKING FOR?
 Regular

TYPES OF WORK YOU WILL ACCEPT:
☐ Time

IS YOU WILL ACCEPT:
☐ Day, Evening, Night, Weekends

OBJECTIVE:
 Analytical and hardworking, with high level business acumen and experience successfully navigating business opportunities by application of problem-solving skills and through periods of continued growth. Collaborative communicator continually focused on building relationships and promoting synergy within the business organization.

EDUCATION

DATES:
 From: 5/2006 To: 12/2009

SCHOOL NAME:
 Middle Tennessee State University

LOCATION: (City, State)
 Murfreesboro, Tennessee

DID YOU GRADUATE?
☐ Yes ☐ No

DEGREE RECEIVED:
 Master's

MAJOR:
 Business

UNITS COMPLETED:
 6 - Semester

WORK EXPERIENCE

DATES:
 From: 8/1999 To: Present

EMPLOYER:
 Lighthouse Christian School

ADDRESS: (Street, City, State, Zip Code)
 5100 Blue Hole Road, Antioch, Tennessee, 37013

POSITION TITLE:
 DEVELOPMENT DIRECTOR / TEACHER
 COMPANY URL:

PHONE NUMBER:
 6153316248

SUPERVISOR:
 Debbie Enos - Principal

MAY WE CONTACT THIS EMPLOYER?
☐ Yes ☐ No

HOURS PER WEEK:
 50

SALARY:
 \$0.00/month

OF EMPLOYEES SUPERVISED:

DUTIES:
 Provide educational leadership and instruction to students in Civics and Economics courses at private academy campus. Develop new course curricula meeting needs of varying levels and abilities of students. Create and refine lesson plans with proper scope and sequence and instruct students in modern methodologies and delivery. Supervise, assess and evaluate student performance. Provide leadership and oversight as Social Studies Department Chair, conducting in-class assessments and providing guidance to teachers, ensuring no gaps in curricula.

REASON FOR LEAVING:

CERTIFICATES AND LICENSES

Nothing Entered For This Section

EXHIBIT

D

Steve Ervin

Person ID: 1439908

Received: 4/23/10 2:28 PM

Skills
Nothing Entered For This Section

ADDITIONAL INFORMATION

Honors & Awards
Received 7 commendations while I was employed by the police department.
I won the Annual Legacy of Leaders Awards for "Humble Heart" Civil Servant in 2018
I was made an Honorary Texan By President George W. Bush

REFERENCES

REFERENCE TYPE: Personal	NAME: Dr. Mark Moore	POSITION: Pastor
ADDRESS: (Street, City, State, Zip Code)		PHONE NUMBER:
EMAIL ADDRESS:		
REFERENCE TYPE: Personal	NAME: Charlie Cardwell	POSITION: Office of Trustee
ADDRESS: (Street, City, State, Zip Code)		PHONE NUMBER:
EMAIL ADDRESS:		

Steve Ervin

Person ID: 1430903

Received: 4/23/19 2:20 PM

Agency-Wide Questions

Where did you first hear about this opportunity?

Internet

2. Overtime will be necessary on occasion, are you willing to work overtime?

Yes

Steve Ewin

Person ID: 1429008

Received: 4/23/19 2:28 PM

Job Specific Supplemental Questions

1. What is your highest level of education?
Master's Degree
2. Is your degree in Criminal Justice, Public Administration, Law, Psychology, Social Work, Behavioral Science or closely related field?
Yes
3. If you have a college degree, what did you major in?
I have a Bachelor's in Political Science Pre-Law
I have a Master's In Business
I am currently working on my Doctorate In Educational Leadership
4. What is your level of experience and/or training involving probation?
Seven (7) years but less than nine (9) years
5. What is your level of experience and/or training involving addiction?
Three (3) years but less than five (5) years
6. What is your level of experience and/or training involving criminal behavior?
Nine (9) years but less than eleven (11) years
7. Please select the programs you have experience with:
DUI Court
8. Please select the specialized services you have experience with:
Vocational Training
9. Please select the roles you have held or supervised involving probation and recovery:
Intake
10. Please list the professional certifications and licenses you possess and maintain in relation to law enforcement, criminal justice, substance abuse, and/or mental health treatment.
PSID 1843-2827
11. Please detail your level of experience in a management role. Include your title (ex. Director, Manager, Supervisor) and the number of employees broken down by number of full-time, part-time, and volunteer.
I worked as a consultant working with management teams on how to increase productivity in their workforce.
What is the largest budget amount you've been responsible for in a year?
800,000
12. Please detail your experience in developing policies, procedures, and protocols.
I wrote the SOP manual for a Southeast Signature Motors
13. Please detail your experience involving criminal justice, law enforcement, and the judicial system.
I worked as a Metro Police and was responsible for going to court on my arrest. Which included but not limited to DUI's, Traffic Citations, Criminal Violations both misdemeanors and felonies.
14. Please detail your experience with the administration and assessment of clinical substance abuse and/or mental health treatment.
The only experience I have with drug abuse is dealing with my brother for the past 15 years getting him help through drug program
15. Please detail your experience in grant writing including the purpose, amount, and date of the grant received.
Nashville Predators Grant 10,000 for educational purposes in the 2010 flood
16. Please explain in detail your knowledge of Tennessee Code Annotated (TCA) and criminal state statutes governing probation, social service agencies, court procedures and treatment facilities in the area.
I had to know the T.C.A. codes for my job as a police officer
17. This position requires you to live within the Rutherford County limits. If an applicant lives outside this area, he/she must relocate within 180 days of employment. Do you live, or will you move, within Rutherford County limits upon hire?
Yes
18. Do you possess and maintain a valid driver's license?
Yes

The following terms were accepted by the applicant upon submitting the online application:

By clicking on the 'Accept & Submit' button, I hereby affirm that the information provided on this application and other accompanying documents are true and complete to the best of my knowledge. I understand that falsified or omitted information may disqualify me and my application from further considerations for employment and may be considered justification for dismissal if discovered at a later date.

I give any right of privilege, privacy, and/or confidentiality in the information provided by references or others deemed necessary. I understand because I am applying for a County position my application becomes part of public record and may be subject to the Tennessee Freedom of Information Act.

If offered employment, I understand my continued employment may be contingent upon successful completion of screening requirements.

Steve Ervin

Person ID: 1438808

Received: 4/23/19 2:26 PM

which may include, but not limited to, drug screening, background check, a physical, psychological exam, motor vehicle record check, reference check, written testing, criminal records check, and fingerprinting. I hereby authorize the County to conduct all employment inquiries and tests either pre or post employment. I release the County and all providers of information from any liability arising out of the hiring and use of such information.

This application was submitted by Steve D Ervin on 4/23/19 2:26 PM

Signature _____

Date _____

Melissa Kilpatrick, LADAC II, ADS, CCTP
Murfreesboro, TN 37130 | (o) 615.801.0782
(o) 615.217.7124 ext. 1146 | mkilpatrick@rutherfordcountyttn.gov

Sonya Stephenson
Human Resources Director
303 N. Church Street
Suite 200
Murfreesboro, TN

July 04, 2019

Dear Mrs. Stephenson,

It is with much disappointment I submit a formal report in writing regarding events that transpired over these last number of weeks, and specifically those events that occurred yesterday, July 3rd of 2019. Over my last 5 years with the Recovery Court Program I have had the experience to build some strong friendships with likeminded coworkers that truly care about the people in our community. Together we helped build a program that many of us believe to be vital to our community and those we serve. Like many of my fellow coworkers I was one of the lucky few who felt excited about coming to work every day. Unfortunately, and for many reasons that feeling has changed over these last few weeks.

To say that Mr. Ervin's entry into our department was less conventional is quite the understatement. Other than a DNJ article, neither myself, regarding my application, nor the Recovery Court program would have had any prior notice as to whom was chosen as the new director until he walked in the door.

Within Mr. Ervin's first few days I attempted to offer my support and to be helpful given he had little experience with substance dependence treatment and recovery. In our first conversation Mr. Ervin seemed to misunderstand my intent and quickly became angry. After I tried a number of times to convey my purpose in having this conversation was to be a team player and offer my support, Mr. Ervin remain irritated, his voice escalated, and the meeting ended abruptly given he had planned to attend DUI Court that morning. I was left confused that my attempt to be helpful was so wrongly received and worried that he viewed me as a threat of some kind verses an asset. With the hope of not being placed in that position again I began keeping my office door closed the majority of the time. I cannot help wondering if my experience with the Recovery Court and knowledge in treatment and recovery could have made me a target of some kind.

Now to the events occurring yesterday, July 3rd, 2019. It had been brought to my attention that the statutes governing disclosure of client information had not been followed properly. A coworker received a subpoena requesting copies of client records. My coworker went to Mr. Ervin for help. Mr. Ervin copied requested documentation and hand delivered the copies to the requesting attorney in violation of our internal regulations and statutes governing confidentiality of healthcare information and substance abuse. Together my coworker and I went to Mr. Ervin in order to bring this to his attention and with the hope that we could help and avoid bringing any liability to the Recovery Court Program. Our help was not well received. Within the first minute and without provocation, Mr. Ervin began shouting at me. Mr. Ervin's behavior once again proved to be unprofessional and had escalated in intensity from our last encounter described above.

EXHIBIT

E

Melissa Kilpatrick, LADAC II, ADS, CCTP
Murfreesboro, TN 37130 | (c) 615.801.0782
(o) 615.217.7124 ext. 1146 | mkilpatrick@rutherfordcountyttn.gov

It was also brought to my attention that later in the day on July 3rd the subpoena and possibly the standard ROI was scanned and emailed without redaction. Once again this would be a breach of our standard operating procedures and confidentiality laws.

The possibility I may be the recipient of a verbal assault for simply doing my job and attempting to be a team member certainly makes for an unsafe working environment. Our Director, Mr. Ervin broke the laws that protect our clients, and he seems to have no problem yelling in the presence of and at his female employees. Mr. Ervin has made a number of sexist remarks, insinuating women are weak and need protection. The most recent during our staff meeting on Tuesday, July 2nd. His reasoning for an installing an alarm system is due to there being "many women" in our office. Mr. Ervin has also shared with a number of staff members his views regarding yoga being "for women only." I do not believe Mr. Ervin would raise his voice and shout at a male employee in the same manner.

My attempt to be helpful has been met with a verbal assault on more than one occasion. It is my responsibility to report Mr. Ervin's violation of the laws that protect our clients and govern over our program; specifically, HIPAA and 42 CFR Part 2. Once again, I'm afraid that my reporting breach in confidentiality, the fact I am a woman, and my attempt to do my job to the best of my ability makes me vulnerable to retaliation of some kind.

Mrs. Stephenson, I do hope my complaint will be taken in earnest. I cannot continue to go to work feeling vulnerable for an attack or at risk of being fired. I look forward to a resolution so I'm able to get back to work under professional working conditions. I thank you for your time and attention to this matter.

Respectfully,

Melissa Kilpatrick, LADAC II, ADS, CCTP

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From: Steve Ervin <servin@rutherfordcountytg.gov>
Sent: Wednesday, August 21, 2019 3:05 PM
To: Recovery Court <RecoveryCourt@RutherfordCountyGovt.onmicrosoft.com>
Subject: TN Recover App

Good Afternoon, (1)

This is a reminder that training for the TN Recover App will be tomorrow from 2-3 PM for all employees so please mark your calendars accordingly. Here is a link for registration:

https://zoom.us/webinar/register/WN_6kdCelpdTN5565PIbaGR1Q. This is a webinar for training purposes. Thank you for taking time out of your day to complete this training sessions. Have a Great Day!

Steve



To: Steve Ervin <servin@rutherfordcountyttn.gov>
Subject: Re: TN Recover App

Steve,

I have an appointment on Friday that came up that I cannot change. I Can be here until 2:40-ish? Will that be enough time or can I reschedule? I do apologize for the inconvenience.

Melissa Kilpatrick, BSW, LADAC II, CCTP, ADS
Counselor
16th Judicial Recovery Courts
525 N University St.,
Murfreesboro, TN 37130
Phone: 615.217.7124 ext. 1146
Fax: 615.217.7127
http://www.rutherfordcountyttn.gov/drug_court/



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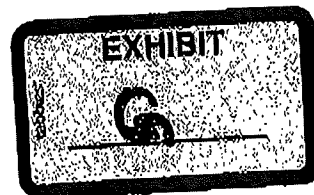
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Steve



Steve Ervin

From: Steve Ervin
Sent: Thursday, August 22, 2019 6:43 AM
To: Melissa Kilpatrick
Subject: RE: TN Recover App

Melissa,

③

We will reschedule, thanks for letting me know.

Steve

From: Melissa Kilpatrick <mkilpatrick@rutherfordcountyttn.gov>
Sent: Wednesday, August 21, 2019 5:02 PM
To: Steve Ervin <servin@rutherfordcountyttn.gov>
Subject: Re: TN Recover App

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Melissa Kilpatrick, BSW, LADAC II, CCTP, ADS

Counselor

16th Judicial Recovery Courts

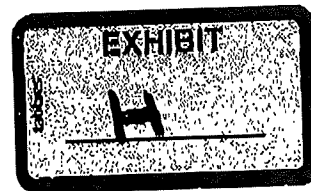
525 N University St.,

Murfreesboro, TN 37130

Phone: 615.217.7124 ext. 1146

Fax: 615.217.7127

http://www.rutherfordcountyttn.gov/drug_court/



* * * Error Report (Nov. 6. 2019 1:24PM) * * *

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P. 32

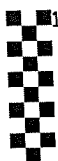
00-20

: Batch
M : Memory
S : Standard
V : Reduction
Q : RX Notice Req.
A : IP-FAX

C : Confidential
L : Send later
D : Detail
H : Stored/D. Server
A : RX Notice
F : Folder

\$: Transfer
@ : Forwarding
F : Fine
* : LAN-Fax
N : NGN

P : SEP Code
E : ECM
U : Super Fine
+ : Delivery
M : Mail



Chancery Court OF RUTHERFORD COUNTY

Howard W. Wilson, Chancellor
John A. W. Bratcher, Clerk and Master
Joanna Riggs, Chief Deputy

Telephone: (615) 898-7860
Fax: (615) 691-5964

Suite 5101, Judicial Center
116 West Lytle Street
Murfreesboro, Tennessee 37130

To: Emerald

fax fee pd \$22.50

\$39 pgs + cover

Steve Ervin

From: Steve Ervin
Sent: Thursday, August 22, 2019 6:43 AM
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Subject: RE: TN Recover App

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Melissa Kilpatrick, BSW, LADAC II, CCTP, ADS

Counselor

16th Judicial Recovery Courts

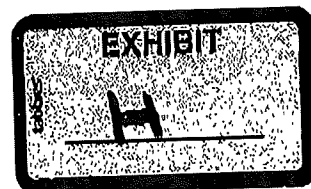
525 N University St.,

Murfreesboro, TN 37130

Phone: 615.217.7124 ext. 1146

Fax: 615.217.7127

http://www.rutherfordcountyttn.gov/drug_court/



Steve Ervin

From: Melissa Kilpatrick
Sent: Thursday, August 22, 2019 2:15 PM
To: Steve Ervin
Subject: Re: TN Recover App

(4)

Never mind. I contacted them and their recommendation was to, "Join the training for as long as possible and hop off as needed." I think we are good. :)

Thank you!

*Melissa Kilpatrick, BSW, LADAC II, CCTP, ADS
Counselor*

16th Judicial Recovery Courts

525 N University St.,

Murfreesboro, TN 37130

Phone: 615.217.7124 ext. 1146

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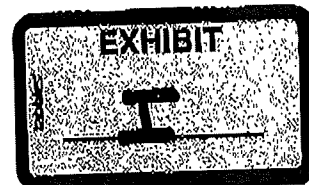
From: Steve Ervin <servin@rutherfordcountyttn.gov>
Sent: Thursday, August 22, 2019 6:42 AM
To: Melissa Kilpatrick <mkilpatrick@rutherfordcountyttn.gov>
Subject: RE: TN Recover App

Melissa,

We will reschedule, thanks for letting me know.

Steve

From: Melissa Kilpatrick <mkilpatrick@rutherfordcountyttn.gov>
Sent: Wednesday, August 21, 2019 5:02 PM





Rutherford County, Tennessee Report of Action

Employee Name MELISSA KILPATRICK
Employee Number 832

Date of Notice AUGUST 23, 2019
Date of Hire 10/20/15

Type of Report:

☐ Letter of Commendation ☐ Letter of Verbal Corrective Action ☒ Letter of Warning ☐ Letter of Separation
☐ Meeting Notes ☐ Reinforcement Training

Type of Action:

☐ 1st Written Warning ☐ 2nd Written Warning ☐ Final Written Warning ☐ Demotion
☐ Suspension without Pay ☐ Suspension with Pay (pending investigation) ☐ Separation

Reason for Corrective Action/Warning/Separation:

☐ Attendance/Tardy ☐ Destruction or Misuse of County Property ☐ Theft
☐ Unsatisfactory Performance ☐ Violation of Employee Handbook ☐ Harassment
☒ Insubordination ☐ Violation of Drug Free Workplace ☐ Work Place Violence
☐ Dishonesty ☐ Falsifying any County Document ☐ Unsafe work Habit
☐ Other: _____

Future incidents may lead up to and including discharge.

Description of Events that Caused Report of Action:

Date of Incident AUGUST 22, 2019 Time of Incident 2:15 PM

Place of Incident RECOVERY COURT

Description in Detail (What and How) – if additional space is needed please use back of form

I sent an email out to all employees reminding them about a webinar taking place @ 2:30PM on August 23, 2019. Melissa responded and stated she had an appointment on Friday that she couldn't change. She stated she could stay until 2:40-ish and asked if that would be enough time or could she reschedule it? I emailed her back and stated I would reschedule and thanked her for letting me know. I receive another email from Melissa that stated "Never mind. I contacted them and their recommendation was to join the training for as long as possible and hop off as needed." I think we are good! Melissa was informed by me that I would reschedule the webinar and after receiving my email she went over my head and called the state to get their recommendation. As Director of Recovery Court I informed her that I would reschedule there was no need to call the state and get another opinion. In the future Melissa needs to follow the chain of command and come to me first if she has a problem with the directions she is given.

Witness ('s) to incident: ALISSA PHILLIPS, ASSISTANT DIRECTOR

Prior Corrective Actions/Warnings:

Has the employee had prior warning(s)? YES ☐ NO ☒
If so, what was (were) the date(s)? _____

Employee Statement:

I have read and understand this Report of Action.

MELISSA KILPATRICK

Print Name of Employee
STEVE ERVIN

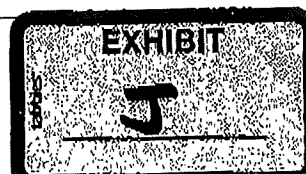
Print Name of EO/Director delivering discipline
ALISSA PHILLIPS

Print Name of Witness

Employee Signature and Date

Signature of EO/Director and Date

Signature of Witness and Date



Revised November 2016

1024 PERSONNEL RECORDS

Personnel records are maintained on all employees as required by current employment laws. He/she are treated in a confidential manner and are subject to State Law. By the nature of local government, these records are considered public records. Notification may be sent to employees whose personnel file has been requested by the public. Employment information may also be given in response to a simple employment verification request; or if information is requested by authorized law enforcement agencies or local, state, or federal agencies conducting official investigations or audits.

The Human Resources office has the responsibility of establishing and maintaining an up-to-date personnel record for each employee, according to law, documenting job classification, performance record, leave record, training, accident and injury record and disciplinary record. All pre-employment inquiry information, including but not limited to physicals, background screenings, and reference checking records conducted on employees shall be maintained as part of the employee's file. Medical records or medical information must be kept in a separate file in accordance with the Health Insurance Portability and Accountability Act of 1996. Elected Officials do not have to utilize the Human Resources office for maintaining employee records but are required by law to have and maintain same information and records for each of their employees.

The employee is responsible for notifying his/her supervisor as soon as possible of any change of name, address, telephone number, marital or dependent status, emergency contacts, beneficiary, changes in education or training, and so forth. Failure to report such changes may result in loss of benefits for the employee and/or his/her dependents. The Elected Official or Director is to complete a *Personal Action Form* (Appendix D) and submit the form along with supporting documentation to the Human Resources Department for personnel records to be updated.

Each employee has the right of reasonable and timely access to view personal information in their records. The Elected Official, Director, or Department Head allows each employee to correct inaccurate information or informally express disagreement with the information retained in the records. Personnel files are the property of the County and therefore cannot be removed from the office in which he/she are maintained. Terminated employees may have a copy of their file but will be assessed the typical charge for copies as the general public.

1025 CORRECTIVE ACTION

The purpose of discipline is to correct and modify unacceptable behavior or actions. Corrective Action discipline is used to give the employee warnings of their actions and allows time to correct or modify behavior or actions and to enable employees to perform at a level that is satisfactory or above. All disciplinary counseling should be done in private with one witness when possible. The Elected Officials, Directors, or Department Heads are responsible for maintaining the proper performance level, conduct and discipline of the employees under his/her supervision. When corrective action is necessary, the Elected Official, Director, or Department Head may administer one of the corrective actions below or other types of discipline may be imposed as deemed appropriate:

Verbal Warning

The Elected Official, Director, or Department Head will meet with the employee and explain to the employee how he/she has not met the requirements and why present conduct or performance

is unacceptable. Verbal counseling will still be documented on the *Corrective Action Form* (Appendix J) and shall include the date and time of the session so that it can be referred to subsequently along with supporting documentation and any witnesses to the counseling. The employee should be told that it is a verbal counseling session but the form should be signed as documentation verifying he/she were notified of the corrective action. This documentation will be placed in the employee's file. This Step may be skipped depending on the severity of the infraction.

Written Warning

A written warning is used when an employee commits a more serious violation of County policy and/or the result of their action has more serious negative consequences or the employee has failed to comply with the corrective actions from a verbal warning. The Elected Official, Director, or Department Head will meet with the employee and explain to the employee how he/she has not met requirements and why present conduct or performance is unacceptable. The supervisor shall complete the *Corrective Action Form* documenting the nature of the offense, date, efforts made previously to correct the problem (if applicable), witness statements to offense (if applicable), supporting documentation, and warning of the consequence of the failure to correct the behavior; have the employee sign the form verifying he/she were notified of the corrective action; and keep a copy of the written warning in the employee's personnel file. The employee has the right to offer a written response to be attached to the reprimand in his/her personnel file. This Step may be skipped depending on the severity of the infraction.

Consecutive Written Warning

A consecutive written warning is used when an employee commits a similar or same violation of County policy and the employee has failed to comply with the corrective actions from a the first written warning. The Elected Official, Director, or Department Head will meet with the employee and explain to the employee how he/she has not met requirements and why present conduct or performance is unacceptable. The supervisor shall complete the *Corrective Action Form* documenting the nature of the offense, date, efforts made previously to correct the problem (if applicable), witness statements to offense (if applicable), supporting documentation, and warning of the consequence of the failure to correct the behavior; have the employee sign the form verifying he/she were notified of the corrective action; and keep a copy of the written warning in the employee's personnel file. The employee has the right to offer a written response to be attached to the reprimand in his/her personnel file. This Step may be skipped depending on the severity of the infraction.

Final Warning

A final written warning may be issued for the same or for other performance/conduct concerns. The employee shall be warned in writing that further infractions could lead up to and include termination. Final Warning is given to encourage the employee to correct their behavior or performance in order to maintain his/her position with the County. Should this action result in correcting conduct and increasing performance to the required levels then the Final Warning will be annulled after one (1) year but will not be removed from the employee's permanent record. All procedures outlined for the written warning should be followed. The final written warning is usually issued before or in combination with a suspension and before termination is considered on most offenses. This Step may be skipped depending on the severity of the infraction.

Suspension

A suspension without pay may be issued by the Elected Official, Director, or Department Head for one (1) to 30 days based upon the nature of the offense and employee's employment history. If there is a court action pending, a suspension may be extended until the court action is resolved.

A suspension with pay can only be authorized by the County Mayor or Elected Official and typically will be allowed only on those situations that are pending the outcome of an investigation. The supervisor shall complete the *Corrective Action Form* and provide a copy of the notice to the employee; have the employee sign verifying he/she were notified of the suspension; and keep a copy of the corrective action form in the employee's personnel file. Documentation of current issue and prior issues should be kept with Suspension Corrective Action Form in employee file. Non-exempt employees may not take annual leave, sick leave, or compensatory leave while on suspension.

Demotion

If it is determined by the Elected Official, Director, or Department Head that an employee's ability to satisfactorily perform his/her duties is beyond the capabilities of the employee or the employee has been compromised by unacceptable conduct to the extent that he/she is ineffective in his/her position, the employee may be demoted to a position that is more appropriate for which he/she is qualified. A demotion is the re-assignment of an employee to a classification in a lower skill level of the pay plan. An employee may be demoted for disciplinary reasons when an employee's behavior is deemed to be serious in conduct. The supervisor shall complete the *Corrective Action Form* and provide a copy to the employee; have the employee sign to verify he/she were notified of the demotion; keep a copy in the employee's file.

Termination

An employee may be terminated by the Elected Official, Director, or Department Head from his/her position as the strongest kind of corrective action. Acts that may lead to termination without prior warning are but are not limited to theft of any type, dishonesty, drunkenness, harassment, workplace violence, flagrant off the job misconduct, and drug activity to include possession or under the influence. Termination may also occur because of the accumulation of a series of events for which corrective actions have been taken. The Elected Official, Director, or Department Head shall complete the *Corrective Action Form*, *Separation Notice* (Appendix K), and *Personal Action Form* and send to Human Resources along with the employee's last timesheet.

1026 SEPARATION OF EMPLOYMENT

Employment with Rutherford County is based on mutual consent; both the employee and Rutherford County have the right to terminate employment at will, with or without cause, at any time.

To resign in good standing, employees should give their Elected Official, Director, or Department Head at least fourteen (14) calendar days notice. Accrued but unused annual leave and accrued but unused compensatory time will be paid in the last paycheck provided all County property is returned, including but not limited to uniforms, cell phones, keys, PCs and identification cards. Employees are encouraged to contact the Insurance Department to get information about continuing benefits.

There are times when an employee commits an act of a serious nature and may be terminated immediately and without prior warning. These types of acts, offenses or behaviors include, but is not limited to: violation of the Drug Free policy, fighting, theft of property or time from County, theft of property of fellow employee or citizen, unauthorized possession of a firearm, blatant disregard for safety of self or others, insubordination, falsifying County documents to include timesheets, harassment, convictions of criminal acts on or off the job, etc.

RUTHERFORD COUNTY GOVERNMENT

HUMAN RESOURCES

Internal Investigation

Melissa Kilpatrick

SUMMARY

On or around July 9, 2019, the Human Resources Department received a document from Melissa Kilpatrick. In the document, Ms. Kilpatrick stated the employees of the Recovery Court Department were not made aware of who their new director would be and only found out as a result of a newspaper article.

Next, Ms. Kilpatrick reported the new director, Steve Ervin, was not receptive to her feedback or help and at times became upset with her. On July 3rd, 2019, there was a situation involving a co-worker and a subpoena, which resulted in what she stated was unprofessional behavior by Mr. Ervin and that he had violated standard operating procedures and confidentiality laws.

Additionally, Ms. Kilpatrick alleges Mr. Ervin has made sexist comments and she believes the working environment is unsafe due to what she labels as "a verbal assault for doing her job".

Finally, Ms. Kilpatrick received a corrective action for insubordination on August 23rd and believes her actions did not warrant a disciplinary action.

Findings:

On August 23, 2019, I met with Melissa Kilpatrick to discuss and to ensure I understood the basis for her report. I interviewed individuals she named as witnesses and additional persons named by those witnesses. During and after the interviews, I reviewed the Recovery Court department policies, standard operating procedures, and forms.

Trey King, previous Probation & Recovery Court Director, volunteered and asked Mayor Kotron if he could relay the news that Steve Ervin had been selected to succeed Mr. King as the new director. It was confirmed Mr. King did in fact inform members of both departments on or around May 15th that Mr. Ervin would be succeeding him, which was six days before The Daily News Journal article was posted on May 21st. On June 3rd, Mr. Ervin's first day, I took Mr. Ervin on a tour of the departments and introduced him to employees in each area.

It is true an employee and Ms. Kilpatrick came to Mr. Ervin regarding the receipt of the subpoena to appear in court. The other employee went to Mr. Ervin with the subpoena for two reasons: the employee had never appeared in court for a subpoena and the employee had planned

Melissa Kilpatrick Report



Completed October 11, 2019

to be out of town the date of the court appearance. Mr. Ervin asked several employees in the department how the department had handled such requests in the past and it was determined this may be a first for the department. Mr. Ervin contacted the attorney who issued the subpoena (who was the attorney for the person whose records had been subpoenaed) and asked if records could be provided as opposed to the employee's presence in court, to which the attorney responded yes. Mr. Ervin gathered the records in the subpoena and delivered to the requesting attorney. Ms. Kilpatrick states Mr. Ervin violated certain confidentiality laws and the department's standard operating procedures. However, the client had signed an Authorization for Release of Information for the attorney in the subpoena and gave permission for Recovery Court to share the client's records, which means Mr. Ervin did not violate confidentiality laws nor the department's standard operating procedures.

At some point early in the position, Mr. Ervin held a department meeting, ordered in pizza, and discussed safety protocols. During this meeting, Mr. Ervin discussed several items, such as: securing the building; advising him if employees were leaving the building to go to the jail, a client's home, court, lunch, etc.; installing an alarm system; and identifying processes in the event of a fire. Ms. Kilpatrick took Mr. Ervin's communication as being "sexist"; however, most of the employees in the department do not concur with her. In fact, others perceived his concern as genuine for the safety of all the employees regardless of sex. Employees stated there were generally little to no rules prior to Mr. Ervin's arrival as the director and employees would come and go as they please, which is why Mr. Ervin received push back when he inquired about the whereabouts of the department's employees. Additionally, the interviews revealed there had been some issues with employees coming into work and doors being open, which is what prompted the conversation about securing the building and not entering the building if an employee was the first one there and found the door open or not locked. I find that this type of directive was appropriate considering the nature of the work and interaction with the public by the department.

Ms. Kilpatrick stated she has tried to offer assistance and support to Mr. Ervin and her efforts were met with anger. However, Mr. Ervin interprets her efforts much differently. Mr. Ervin states Ms. Kilpatrick has repeatedly questioned his ability, intelligence, and authority as it relates to the department. He further states the day Ms. Kilpatrick and the other employee entered his office after he had responded to the subpoena was quite confrontational and accusatory. He felt he had been misled because he had asked others in the department about the process to which he received no feedback. Mr. Ervin admits he became upset, but that he later apologized.

After speaking with all the witnesses, it was determined there was one other incident when Mr. Ervin became upset with an employee, but the employee stated they felt the issue was resolved. Others state Mr. Ervin has a deep voice and when he gets excited it could appear to some that he is upset, but they have never felt threatened or verbally assaulted. The majority of the employees state Mr. Ervin is easy to get along with and a nice guy and they don't feel he has been given a chance to be good or bad. The environment is extremely tense for everyone, including Mr. Ervin. The tense environment is created in large part by Ms. Kilpatrick.

When asked what the atmosphere and relationships with prior director, Trey King, was like, it was reported by many employees that the relationship between Ms. Kilpatrick and Mr. King was

volatile, at times leading to yelling, cursing, flipping him off, and general manipulating him to get her way. Further, it was reported Ms. Kilpatrick was given too much power and too many liberties in the office, which lead some of the other employees to not go to Mr. King when problems arose for fear of the retribution from Ms. Kilpatrick.

Finally, it is true Ms. Kilpatrick was written up on August 23rd for insubordination. On August 21st, Mr. Ervin sent an email reminding the employees about a webinar. Ms. Kilpatrick responded that she had an appointment that day. At 6:43am on the 22nd, Mr. Ervin advised he would reschedule and thanked her for letting him know. Then at 2:15pm the same day, Ms. Kilpatrick, without first obtaining permission from her supervisor, Mr. Ervin, proceeded to ask the organization conducting the webinar how long the session would be and that she had an appointment and could only attend for 40 minutes. The organization did tell her she could exit the webinar when she needed to, but Mr. Ervin had already told her he would reschedule the time. Mr. Ervin states this is a prime example of Ms. Kilpatrick's constant attempts at undermining his decisions, which is a similar observation of the other employees in their description of her interactions with the prior director. The discussion on August 23rd was witnessed by Assistant Director Alissa Phillips, who states Ms. Kilpatrick was frustrated and irritated but both parties remained professional. However, at the end of the meeting Ms. Kilpatrick stated she was going straight to HR, to which both Mr. Ervin and Ms. Phillips perceived as a threat.

Based upon the interviews and other data reviewed, it is my determination that the concerns and issues raised by Ms. Kilpatrick in her report to the Human Resources Department, as well as in my meeting with her, are unfounded. The events outlined in Ms. Kilpatrick's report did not occur in the manner described by Ms. Kilpatrick nor as relayed to me by most of the witnesses and Mr. Ervin.

I am recommending a seminar on supervision for Mr. Ervin to be determined by the Human Resources Department.

With respect to Ms. Kilpatrick, I am recommending a seminar on effective communicating skills to also be determined by the Human Resources Department.

Sonya Stephenson – HR Director

Date

STATE OF TENNESSEE
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF EMPLOYMENT SECURITY
SEPARATION NOTICE



1. Employee's Name: Melissa D Kilpatrick 2. SSN 256-29-1046
First Middle Initial Last
3. Last Employed: From: 10/19/15 to 10/18/19 Occupation: Recovery Court Counselor
(mm/dd/yy) (mm/dd/yy)
4. Where was work performed? Rutherford County Government

5. Reason for Separation: ☐ Lack of Work ☒ Discharge ☐ Quit
If lack of work, indicate if layoff is ☐ Permanent ☐ Temporary - Recall Date (mm/dd/yy)
If temporary, report any vacation pay that will be paid. Week Ending Date (mm/dd/yy) Amount \$
If layoff is indefinite vacation pay should not be reported.

COPY

6. Employee received: ☐ Wages in Lieu of Notice ☐ Severance Pay
In the amount of \$ for period from (mm/dd/yy) to (mm/dd/yy)
If other than lack of work, explain the circumstances of this separation:

Inability to get along with others; "At Will"

Employer's Name: Rutherford County Government

Address where additional information may be obtained:

303 N. Church Street, Suite 200
Murfreesboro, TN 37130

Employer's Telephone Number:

(615) 494-4480

Employer's Email Address:

estephenson@rutherfordcountyttn.gov

Employer's Account Number:

06502913

Number shown on State Quarterly Wage Report (LB-0851) and
Premium Report (LB-0456)

I certify that the above worker has been separated from work and the information furnished hereon is true and correct. This report
has been handed to or mailed to the worker.

Signature of Official or Representative of the Employer
who has first-hand knowledge of the separation

Title of Person Signing

Date Completed and Released
to Employee

[Signature]

HR Director

10/18/19
(mm/dd/yy)

NOTICE TO EMPLOYER

Within 24 hours of the time of separation, you are required by Rule 0800-09-01-.02 of the Tennessee Employment Security Law to provide the employee with this document, properly executed, giving the reasons for separation. If you subsequently receive a time sensitive request for separation information for the same information please give complete information in your response.

NOTICE TO EMPLOYEE

YOU MAY BE INSTRUCTED TO MAIL OR FAX THE SEPARATION NOTICE TO TENNESSEE CLAIMS OPERATIONS IF YOU FILE A CLAIM FOR UNEMPLOYMENT INSURANCE BENEFITS,

