

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA**

FILED UNDER SEAL

In re:
HERBERT S. MONCIER
BPR NO. 1910

**Respondent's Alternative Response To Limited Issues
Specified In The February 11 and 13, 2008 Orders**

On February 11 and 13, 2008 Orders were entered limiting Respondents EDTN LR 83.7(d) hearing:

The hearing shall be limited to a showing by respondent that the allegations in the show cause order are inaccurate, or if accurate, are not subject to disciplinary action.

Respondent has filed a complete response to the EDTN LR 83.7 issues. Respondent has also filed a motion a EDTN LR 83.7 hearing. In the event, however, this Court were to overrule Respondent's objections to the limitation of the hearing, Respondent files the following response to the limited issues set out in the February 11 and 13 Orders.

1. Respondent adopts my response to the Show Cause Order based on EDTN LR 83.7(d) issues sent to the Court by Fed-Ex on February 23, 2007.

2. Respondent admits that he appeared before District Judge J. Ronnie Greer in a sentencing proceeding on November 17, 2006 as an attorney representing Michael Vassar.

3. Respondent asserts and will offer evidence at a hearing that allegations of the show cause order at page 1 that Respondent's conduct constituted professional misconduct of a nature that may have violated the Rules of Professional Conduct adopted by the Supreme Court of Tennessee are inaccurate and are not subject to disciplinary action.

4. Respondent asserts and will offer evidence at a hearing that allegations of the show cause order at page 1 that Respondent's conduct constituted a violations of an order of the court are inaccurate and are not subject to disciplinary action.¹

5. Respondent asserts and will offer evidence at a hearing that allegations of the show cause order at page 1 that Respondent's conduct constituted abuse f the Court are inaccurate and are not subject to disciplinary action.

¹ Respondent admits that District Judge Greer made findings that Respondent's conduct did violate an order of the Court and Respondent has appealed those findings to the Sixth Circuit Court of Appeals.

6. Respondent asserts and will offer evidence at a hearing that allegations of the show cause order at page 1 that Respondent's conduct constituted disrespect for the Court are inaccurate and are not subject to disciplinary action.

7. Respondent asserts and will offer evidence at a hearing that allegations of the show cause order at page 1 that Respondent's conduct constituted contemptuous behavior directed at the court are inaccurate and are not subject to disciplinary action.

8. Respondent asserts and will offer evidence at a hearing that allegations of the show cause order at page 1 that Respondent's conduct constituted interference and needless prolongation of the proceeding before the court are inaccurate and are not subject to disciplinary action.

9. Respondent asserts and will offer evidence at a hearing that allegations of the show cause order at page 1 that Respondent's conduct constituted obstructive behavior are inaccurate and are not subject to disciplinary action.

10. Respondent asserts and will offer evidence at a hearing that allegations of the show cause order at page 1-2 that Respondent's conduct raises question about Respondent's fitness to practice before this Court are inaccurate and are not subject to disciplinary action.

11. Respondent asserts and will offer evidence at a hearing that allegations of the show cause order at page 1 that Respondent's conduct raises questions about Respondents fitness to practice before this Court are inaccurate and are not subject to disciplinary action.

12. Respondent asserts and will offer evidence at a hearing that allegations of the show cause order at page 2, first full paragraph that Respondent's conducted himself in an unprofessional manner are inaccurate and are not subject to disciplinary action.

13. Respondent asserts and will offer evidence at a hearing that allegations of the show cause order at page 2, second full paragraph that Respondent's conduct constituted professional misconduct of a nature that may have violated the Rules of Professional Conduct adopted by the Supreme Court of Tennessee are inaccurate and are not subject to disciplinary action.


14. Respondent asserts and will offer evidence at a hearing that allegations of the show cause order at page 2, third full paragraph that Respondent's conduct constituted professional misconduct of a nature that may have violated the Rules of Professional Conduct adopted by the Supreme Court of Tennessee are inaccurate and are not subject to disciplinary action.

15. Respondent asserts and will offer evidence at a hearing that allegations of the show cause order at page 2, fourth partial paragraph and partial paragraph on page 4 that Respondent's conduct constituted professional misconduct of a nature that may have violated the Rules of Professional Conduct adopted by the Supreme Court of Tennessee are inaccurate and are not subject to disciplinary action.

16. Respondent asserts and will offer evidence at a hearing that allegations of the show cause order at page 4, Section II are inaccurate and are not subject to disciplinary action.

17. Respondent adopts all affirmative defenses including res judicata, collateral estoppel, double jeopardy, laches and statute of limitations previously plead.


This 25th day of February 2008.


HERBERT S. MONCIER
Respondent

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BPR # 1910

Certificate

The undersigned certifies that on February 25, 2008, pursuant to the Court's directive, the foregoing Motion for Relief has been served only upon Geneva Ashby, Division Manager, 209 Joel. W. Solomon Federal Building and United States Courthouse, 900 Georgia Avenue, Chattanooga, TN 37402, by United States Mail, with proper postage thereon, to e filed under seal.


HERBERT S. MONCIER
Respondent