

1 IN THE CHANCERY COURT OF MCMINN COUNTY, TENNESSEE

2 SAMUEL MCNELLEY,
3 Plaintiff,

4 -vs-

5
6 STATE OF TENNESSEE & THE TENTH
7 JUDICIAL DISTRICT DRUG TASK
8 FORCE,
9 Defendants.

*
* Condensed Transcript
* FILED
* No. 09-CV-7330

OCT 11 2011

BY M. GAINES
CLERK AND MASTER

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14 THE DEPOSITION OF
15 DISTRICT ATTORNEY ROBERT STEVEN BEBB
16 April 15, 2011
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22
23 Sue Anne Vaughn, Court Reporter
24 Angel & Associates Court Reporting
25 1043 Executive Drive, Suite 102
Hixson, Tennessee 37343
Telephone 423-876-4435 and 800-298-DEPO (3376)

1 INDEX OF EXAMINATION
2 DISTRICT ATTORNEY ROBERT STEVEN BEBB
3 Examination by Mr. Hoss.....4

4 INDEX OF EXHIBITS

5 (No exhibits were tendered to said deposition.)

6 APPEARANCES:

7 FOR THE PLAINTIFF:

8 BRYAN H. HOSS, ESQUIRE
9 Davis & Hoss, PC
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11 Chattanooga, Tennessee 37403
12 (423) 266-0605

13 FOR THE DEFENDANTS:

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15 Senior Counsel, Attorney General
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17 P.O. Box 20207
18 Nashville, Tennessee 37202-0207
19 (615) 741-5031
20 ALSO PRESENT: Samuel McNelley
21 Wencke West
22
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25

1 DISTRICT ATTORNEY ROBERT STEVEN BEBB,
2 called at the instance of the Plaintiff, being first duly
3 sworn, was examined and testified as follows:

4 EXAMINATION

5 BY MR. HOSS:

6 Q Please state your full name.

7 A My full name is Robert Steven Bebb.

8 Q And General Bebb, what is your current job
9 title?

10 A District attorney.

11 Q And you were elected on what date?

12 A August of 2006, elected, but I took an oath on
13 September 1st.

14 Q Of 2006?

15 A Yes.

16 Q And that's in the 10th Judicial District; is
17 that correct?

18 A That's correct.

19 Q And that includes the counties -- which
20 counties does that include?

21 A McMinn, Monroe, Bradley and Polk.

22 Q And that's your current position today; is
23 that correct?

24 A Yes.

25 Q Is that a six-year term?

1 The deposition of DISTRICT ATTORNEY ROBERT
2 STEVEN BEBB, called as a witness at the instance of the
3 Plaintiff for purposes of discovery, pursuant to the
4 Tennessee Rules of Civil Procedure, taken by agreement
5 on the 15th day of April 2011, at the District Attorney's
6 Office, 130 Washington Avenue, N.E., Suite 1, Athens,
7 Tennessee 37371, commencing at 9:00 a.m., before Sue Anne
8 Vaughn, Court Reporter and Notary Public.

9 STIPULATION

10 It being agreed between counsel for the
11 respective parties that Sue Anne Vaughn, Notary Public
12 and Shorthand Reporter, may swear the witness, take his
13 deposition in machine shorthand, afterwards reducing the
14 same to typewriting.

15 All objections, except as to the form of the
16 question and responsiveness of the answer, are reserved
17 to on or before the hearing.

18 It being further agreed that all formalities
19 as to notice, caption, certificate, transmission,
20 et cetera, including the reading of the completed
21 deposition by the witness and the signature of the
22 witness are expressly waived.

23 /////
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1 A Eight.

2 Q Eight-year term.

3 A I wish it were six now.

4 Q You are an attorney licensed to practice in
5 the state of Tennessee; is that correct?

6 A Yes.

7 Q And you've been an attorney licensed to
8 practice in the state of Tennessee for how many years?

9 A My number is 1916, so that makes it -- I've
10 probably practiced 30-something years.

11 Q All right. When you -- did you have any
12 involvement with the drug task force prior to becoming
13 DA?

14 A No.

15 Q And so September 1st, 2006 was basically the
16 first time you became involved with the 10th DTF?

17 A No. I became involved I think the day of the
18 election. The next day General Estes called me and said
19 that he thought there was a problem with Roxanne and that
20 he had planned -- he thought Steve would win, and I
21 understood that, but he had planned to do drug tests that
22 day.

23 And I told him, I said, you're still DA. Do
24 what you're planning to do.

25 So it all developed that he suspended her.

1 They broke into the evidence room, and there were issues
2 there. And Jerry kept me apprised of the whole thing up
3 until -- and then I had to conduct the meeting where
4 Roxanne was relieved of her position by the board.

5 Q So you inherited a DTF that was in trouble; is
6 that correct?

7 A I did.

8 Q Okay. But prior to that, prior to becoming
9 elected DA, you had no involvement?

10 A None at all, just saw them up and down the
11 interstate.

12 Q Okay. As an elected district attorney, what
13 is your job position within the DTF, or what is your
14 title?

15 A I'm chairman of the board by statute, I think.

16 Q And by chairman of the board, what duties does
17 that include?

18 A Well, it includes a lot of duties that I
19 wasn't aware of when I came in. My job, as I understand
20 it, is that I have to supervise the DTF, work with the
21 director and assistant director or whoever it is and
22 supervise that body.

23 Q Is that on a day-to-day basis?

24 A I do not do it on a day-to-day basis and I --
25 and a lot has changed in the last little while because

1 A Well, you know, I can't remember the date.

2 But after Roxanne was relieved by the board, I
3 appointed -- Jerry had appointed Bobby Queen when he
4 suspended Roxanne. But it became my duty after September
5 1st or after she was relieved to appoint someone, and I
6 picked Mike Hall on a temporary basis subject to the
7 approval of the board.

8 Q So that would have happened fairly quickly
9 after your election, sometime in the fall of 2006?

10 A Yes.

11 Q Okay. And it's fair to say Mike Hall stayed
12 as executive director of the 10th DTF from the fall of
13 2006 up until the fall of 2010?

14 A That's correct.

15 Q Okay. And then when you took over the 10th
16 DTF, Mr. McNelley, he was already an employee of the 10th
17 DTF?

18 A He was an employee.

19 Q And you were not even part of the 10th DTF
20 when he was originally hired; is that correct?

21 A No.

22 Q Okay. Just so we have it in the record, the
23 10th DTF consists of several different law enforcement
24 departments; is that correct?

25 A Every law enforcement agency in the 10th

1 now I have -- the director now, if he wants to spend any
2 money, he calls me and runs it by me. We have a little
3 committee if we need to do something that can decide it
4 in a hurry. We've made a few changes.

5 Q Who makes personnel decisions?

6 A Director.

7 Q And you're talking about the executive
8 director of the 10th DTF; right?

9 A Yes.

10 Q And the executive director is who manages the
11 employees on a day-to-day basis?

12 A Yes.

13 Q Does he make hiring decisions?

14 A Yes.

15 Q Does he make firing decisions?

16 A Yes.

17 Q Do you give input on those decisions as the
18 chairman of the board?

19 A No.

20 Q In this case when you inherited the 10th DTF
21 because of your election in 2006, Mike Hall was not the
22 executive director at that time; correct?

23 A No. He was an employee there.

24 Q He was an employee. And then he became the
25 executive director approximately when?

1 district is a member. Those who contribute money or
2 men -- well, not men anymore, but space or equipment are
3 voting members. I believe we have nine voting members.
4 No. It may be ten or eleven now.

5 Q Nine, ten or eleven or so?

6 A Yeah. Etowah joined. Vonore joined. I'm not
7 sure how many we have.

8 Q And is it fair to say the chiefs and sheriffs
9 of these departments, those are who make up the board of
10 directors?

11 A Correct.

12 Q And you're the chairman of the board of
13 directors?

14 A Right.

15 Q Okay. Has it always been set up as the
16 district attorney being the head of the board of
17 directors?

18 A As far as I know.

19 Q And you played no role in the formation of
20 this --

21 A No.

22 Q -- of this 10th DTF; is that correct?

23 A None whatsoever.

24 Q Do you have any knowledge of how this 10th DTF
25 was formed?

1 A No.
 2 Q Okay. Were you aware that Mr. McNelley had
 3 been assigned to the DEA office in Chattanooga at the
 4 time of that meeting, that December 4th, 2009 meeting?
 5 A I think I was. I think I was aware of that.
 6 What's his name that works down there, an old friend of
 7 mine, used to be a TBI agent?
 8 (To Mr. McNelley) You know who it is, Sam. I
 9 can't think of his name, but I think one day he told me
 10 you were working down there.
 11 Q Okay. And, in fact, he had been down there
 12 for about 14 months?
 13 A No idea.
 14 Q Okay. Do you recall, I guess, what was
 15 discussed during that December 4th, '09 meeting?
 16 A Yes, a little. I mean, yes.
 17 Q Why don't you tell me about it. Tell me what
 18 happened.
 19 A Well, all I remember -- I mean, what I
 20 remember is that either Don or Mike were explaining that
 21 they had allowed him to use that number on a little sign
 22 at the gate of this development until he could get some
 23 partners and then he wouldn't use it anymore, and then
 24 they saw three big billboards with other people's names
 25 on it, his partners, but still using the DTF phone

1 for personal reasons, they're just instructed to use it
 2 minimally?
 3 A I really don't know.
 4 Q And then --
 5 A I would assume that that would be correct.
 6 You know, if they use the vehicle, it ought to be for law
 7 enforcement purposes --
 8 Q Right, but --
 9 A -- unless they've got to run by and pick up
 10 milk on the way home or do something like that.
 11 Q Have you ever been asked by any DTF employee
 12 to use their vehicles for personal reasons?
 13 A They don't ask me. If anybody asks me
 14 anything, I say, go see the director.
 15 Q What about Mike Hall? I mean, what if Mike
 16 Hall wanted to use his vehicle for personal reasons?
 17 Would he ask you or has he ever asked you?
 18 A No. I wouldn't require him to ask me.
 19 Q But he does -- I guess he does approach you
 20 when there's money issues. And there's a committee
 21 that's set up in place to make that decision if it's an
 22 expenditure above a certain amount; is that fair?
 23 A Yes.
 24 Q Cell phone, are you familiar with the cell
 25 phone policy within the 10th DTF?

1 number.
 2 Q What else about that meeting do you recall?
 3 A Well, I don't recall a lot more about it.
 4 Sammie had a lot of things to say, and they talked back
 5 and forth.
 6 Q Do you recall any conversation about -- do you
 7 recall the meeting starting with Mike Hall stating that
 8 basically we have one big issue and it was how you were
 9 using the cell phone? Do you remember Mike Hall stating
 10 that?
 11 A I really don't remember.
 12 Q What is the 10th DTF, their policy on
 13 take-home vehicles? Do you know what that policy is?
 14 A I do not.
 15 Q The policy that we admitted to the appeal
 16 panel hearing on pages 47 and 48 talk about using
 17 take-home vehicles, how -- it says, personal use of
 18 take-home vehicles owned or leased by the task force must
 19 be incident to law enforcement functions and should be
 20 restricted during off-duty usage to short, infrequent and
 21 irregular purposes. It talks about minimal personal use
 22 for short, infrequent and regular use.
 23 And I guess my question is, General, I guess
 24 is that a fair description that employees of the task
 25 force are not banned from using their take-home vehicles

1 A At the present time or back then?
 2 Q Has it changed?
 3 A I think so.
 4 Q You think it has?
 5 A I think it has.
 6 Q Well, I guess the policy as applied to
 7 Mr. McNelley, the --
 8 A All I know is what was said to me that day and
 9 said to Sammie that day in that meeting, that they had
 10 given him permission to put that number on a small sign
 11 at the gate of the subdivision until he had some
 12 partners, and then they said they saw these three big
 13 billboards with other names on there and phone numbers
 14 and the DTF number.
 15 Q Eventually in the meeting, is it fair to say
 16 that the meeting turned to not just a conversation about
 17 him using the cell phone but about him causing some type
 18 of dissension --
 19 A Yes.
 20 Q -- within the DTF? Is that fair?
 21 A Yes.
 22 Q Okay. Can you tell me about that, what was
 23 discussed?
 24 A All I know is that Mike Hall and Don Williams
 25 both said that Sammie McNelley was the cause of

1 dissension within the DTF.
 2 Q Had you ever been told that by anybody?
 3 A Not that I'm aware of. I mean, I'm not saying
 4 I haven't, but I don't remember anything like that.
 5 Q In the meeting, did you mention that maybe
 6 another DTF officer had approached you before and
 7 complained about McNelley? Do you recall that?
 8 A I don't recall it, but it could have happened.
 9 Q Okay. In the meeting, do you recall a
 10 Cleveland police officer -- saying that a Cleveland
 11 police officer approached you about Mr. McNelley? Do you
 12 recall that?
 13 A I don't recall that.
 14 Q And I know you're not saying that it didn't
 15 happen --
 16 A Right.
 17 Q -- in that meeting. But as we sit here today,
 18 do you have any memory of any specific complaints that
 19 any other law enforcement officer gave you about
 20 Mr. McNelley causing dissension within the task force?
 21 A I do not remember. I'm turning 70 Monday,
 22 boys. I don't have a memory about much.
 23 Q Was there a personality conflict between
 24 Sammie and Mike Hall?
 25 A I assume there was.

1 A I thought they all were.
 2 Q I guess do you know that today not to be true?
 3 A I really don't.
 4 Q Did you --
 5 A I know what we've been through insinuates that
 6 we have to follow the policy set up by the board. You
 7 know, I wasn't even aware at the time. Jerry Estes wrote
 8 that.
 9 Q I guess that's my question. Do you recall in
 10 the meeting of December 4th, '09 actually stating that
 11 Mr. McNelley is an at-will employee and that Mike Hall
 12 can fire him for whatever reason?
 13 A I probably did say that because I believe they
 14 were. I believe my lawyers are, you know.
 15 Q Oh, your -- the assistant DAs?
 16 A My employees. If I go in there and fire them,
 17 they're gone.
 18 Q That very well may be true. I don't know.
 19 In the policy manual for the DTF it says for
 20 the purposes of dismissal there has to be just cause.
 21 A Okay.
 22 Q Do you recall that?
 23 A I do because of us talking about it, but I
 24 don't -- at the time I went up there I assumed and
 25 thought that the director could fire anybody he wanted

1 Q What do you know about it?
 2 A I really don't know except that the director
 3 said that Sammie caused dissension up there and that he
 4 had tried to talk to him about it several times, and
 5 Sammie had come and apologized several times and then
 6 gone back to the same old stuff, and I don't even know
 7 what it was.
 8 Q You had personal contact with Mike Hall during
 9 this time. Obviously you were in the meeting with him
 10 and probably talked with him on the phone prior to this.
 11 A Mike probably came to my office maybe once a
 12 month just to sort of update me on things, and he would
 13 call if he felt like he needed to.
 14 Q I have seen in some news media reports that
 15 there's this investigation into Mike Hall. And I don't
 16 necessarily want to get into that with the exception of
 17 at the time this stuff was happening in November and
 18 December of 2009, any indication that Mike Hall was under
 19 the influence of any type of drugs or anything like that?
 20 A No.
 21 Q It's just my job to ask you that.
 22 A I understand that.
 23 Q Okay. Did you think prior to or during that
 24 meeting of December 4th, '09 that Mr. McNelley was an
 25 at-will employee?

1 to, hire anybody he wanted to.
 2 Q Did you tell Mike Hall that? You said it in
 3 the meeting and he was present.
 4 A Probably.
 5 Q Did you tell other board of directors that?
 6 A Probably.
 7 Q Were you aware of any prior discipline of
 8 Mr. McNelley --
 9 A No.
 10 Q -- by the 10th DTF?
 11 A No.
 12 Q Any verbal reprimands or written reprimands?
 13 A Mike said he had made reprimands, and I don't
 14 know if they were verbal or written.
 15 Q You weren't made aware of that when they were
 16 happening?
 17 A No. Everything -- I don't believe, even in my
 18 office, in controlling everybody. I hope everybody does
 19 the right thing. I count on them doing the right thing.
 20 I count on Mike Hall doing the right thing and Sam
 21 McNelley and all of them. But as a result of what's
 22 happened now, we have a different set of policies.
 23 Q When did those policies change?
 24 A When Steve Lawson became director.
 25 Q I see.

1 A Once I got involved, again, I realized that I
2 was going to have to be more involved with the DTF than I
3 wanted to be because I've got plenty to do with four
4 counties. You know, I really didn't want to be involved
5 on a day-to-day basis, but I am at this time involved on
6 a day-to-day basis.

7 Q And that's been since Mr. Lawson took over --

8 A Yes.

9 Q -- in the fall of 2010?

10 A Yes.

11 Q And when he took over, he instituted some new
12 policies and procedures?

13 A Yes. We met and talked about all kinds of
14 policies. Actually Dallas Scott, who is the DTF lawyer,
15 and Steve had mostly sat down and hammered out these
16 things and run them by us and we run them by the board.
17 So...

18 Q I would think they would need board approval
19 if a policy was changed. That's probably --

20 A We are doing that, yes.

21 Q There came a time at some point where some
22 board members were contacted --

23 A Yes.

24 Q -- prior to the appeal panel hearing in
25 January 2010 --

1 Mr. McNelley with anybody, not anybody from the DTF, not
2 Mr. McNelley. And at that point Eddie told me that Duff
3 Brumley had been trying to call him about Mr. McNelley
4 but he had not talked to him. So I got three who had not
5 talked to Mr. McNelley or me about the facts, or to Mike
6 Hall.

7 Q Let me just make sure the record is clear.
8 Hank Hayden -- and that's H-A-Y-D-E-N?

9 A Yes.

10 Q And he is -- what position is he?

11 A He's police chief in Charleston, former bomb
12 expert down in Chattanooga.

13 Q So he works for the city of Charleston?

14 A Yes.

15 Q And then Chief Breeden's first name is?

16 A Gregg.

17 Q Gregg Breeden. And he's employed with?

18 A City of Madisonville.

19 Q As the chief?

20 A Yes.

21 Q And then Eddie Byrum is?

22 A Chief in Sweetwater.

23 Q Chief in Sweetwater. Okay.

24 When did you -- prior to calling those three
25 who ultimately became the appeal panel, did you have any

1 A Yes.

2 Q -- is that correct?

3 A Yes.

4 Q Did you contact the board members?

5 A I did.

6 Q Okay. Who did you contact?

7 A I contacted -- can I explain first?

8 Q Yes, sir. Absolutely.

9 A After Mr. McNelley was terminated, he was
10 given the -- told how to appeal. I never thought any
11 more about it for a few days until they told me -- or I
12 got a copy maybe of his appeal and really hadn't thought
13 about who to appoint to the thing until Sheriff Gobble
14 called me and told me Mr. McNelley had been over to see
15 him wanting to tell his side, and then he said he had
16 been to see Rocky King and wanting to tell his side. And
17 at that point I thought it would behoove me to find
18 people who had not talked to him.

19 So I called -- I first called Hank Hayden. He
20 was local. Hank was up at the drug traffic force more
21 than any of the board members. And then I called Gregg
22 Breeden, and then I called Eddie Byrum. Gregg Breeden is
23 the chief in Madisonville and Eddie is in Sweetwater.

24 When I called Eddie -- when I called each of
25 them, I told them, do not discuss this business about

1 contact with any other board members besides Tim Gobble
2 and Rocky King?

3 A No. I didn't actually call Rocky. The word
4 came to me that Sammie had been over to see Rocky.

5 Q And Rocky's position is with whom?

6 A The chief at Benton.

7 Q And Sheriff Gobble is obviously the Bradley
8 County sheriff?

9 A Right, was.

10 Q So the only board member that you had actually
11 spoken with was Sheriff Gobble; is that correct?

12 A At that time, yes.

13 Q I understand.

14 And so you had had no other contact with any
15 other board member?

16 A No.

17 Q Prior to the December 4th, 2009 meeting, did
18 you have any contact with any other board members about
19 what was happening in the termination of Mr. McNelley?

20 A No, I did not.

21 Q Do you recall in that meeting that Mike Hall
22 told Mr. McNelley that he had gotten advice by some of
23 the board members about what he should do in this
24 situation? Do you recall that?

25 A I do not recall that. I'm not saying it

1 didn't happen. I just don't remember.
 2 Q Do you recall Mike Hall in the meeting saying
 3 that if you go in front of the board, as in if you appeal
 4 this case to the board, that you're going to have a hard
 5 time getting an appointment anywhere within the 10th
 6 district?
 7 A I do not recall that.
 8 Q Do not recall that.
 9 When do you remember Sheriff Gobble calling
 10 you? How many days after this December 4th,
 11 2009 meeting?
 12 A I can't tell you because it was not until I
 13 got Sammie's appeal, and I had not even thought about who
 14 I was going to get to sit on the panel. In fact, I had
 15 to look at the bylaws to see if that was my job. And Tim
 16 Gobble called me, and I don't remember when it was, but I
 17 knew then. And he said he had been to see Rocky King or
 18 that was the word he got.
 19 And I said, I better get somebody now and tell
 20 them all not to talk about it.
 21 Q This would have been December '09. You would
 22 have been head of the task force at that point a little
 23 more than three years. Had you ever had to convene an
 24 appeal panel hearing before?
 25 A No.

1 Q This was the first time?
 2 A Yes. I was definitely a virgin.
 3 Q Have you had to convene one since?
 4 A No.
 5 Q So this is only one that you're aware of in
 6 your tenure?
 7 A Yes.
 8 Q Okay. How did you go about selecting Chief
 9 Hayden, Chief Breeden and Chief Byrum?
 10 A I had a list of all the people there, and I
 11 knew that Rocky and Tim had been approached. I just
 12 wanted three names.
 13 Q And did you have individual conversations with
 14 each of them?
 15 A I did.
 16 Q And to your knowledge, they had not been
 17 contacted -- had any of these three been contacted by
 18 Mike Hall?
 19 A I told them not to talk to anybody.
 20 Q Yes, sir.
 21 A And if I think -- knowing all three of these
 22 people, had anybody tried to talk to them about this that
 23 they would have told me that they couldn't sit, because
 24 my question was can you listen and be fair.
 25 Q Right. So the instructions you gave them were

1 don't talk to anybody?
 2 A Right.
 3 Q I guess my question was, did you get any
 4 indication that they may have talked with anybody within
 5 the task force prior to you contacting them?
 6 A None.
 7 Q Prior to the December 4th, '09 meeting, had
 8 you made the decision to terminate Mr. McNelley?
 9 A I never made that decision.
 10 Q Okay. Did you give any advice to Mike Hall
 11 about what he should do in the situation?
 12 A Not that I remember, no.
 13 Q I received a letter from Jim Stutts prior to
 14 the appeal panel hearing that talked about a procedure
 15 called a name clearing hearing. Have you ever heard of
 16 that before?
 17 A Heard that word, yes.
 18 Q And if this was the first appeal panel hearing
 19 that actually happened, I guess I'm trying to figure out
 20 how that procedure got formulated. Did you play any role
 21 in formulating that procedure?
 22 A I played no role at all. I left this to Jim
 23 Stutts to take care of.
 24 Q Okay. Did you have any -- and I'm referring
 25 to the January 26th, 2010 letter from Jim Stutts to me,

1 which is Exhibit 4 to our hearing on January 28th, 2010.
 2 Would you like to see a copy of that letter?
 3 A Yeah. I never have seen it, I don't think.
 4 (Witness perusing document.)
 5 Q I guess what I'm referring to, General, is the
 6 paragraph that starts on the first page of that, "As you
 7 know and were previously given notice, the proceeding on
 8 January 28th at 2:00 p.m. is for a name clearing
 9 hearing," and then it describes a protocol in the rest of
 10 that paragraph.
 11 A Yes.
 12 Q And I guess my question is, did you play any
 13 role in formulating that protocol?
 14 A None.
 15 Q Did the board of directors vote on a protocol?
 16 A I do not know. I didn't convene any meeting
 17 of the board.
 18 Q To your knowledge, how was that protocol
 19 formulated?
 20 A I'm assuming Jim Stutts formulated it, but I
 21 don't know.
 22 Q Okay. And at the time Jim Stutts was acting
 23 in what capacity?
 24 A Jim was an assistant district attorney. And I
 25 felt like based on my even being at that termination

1 meeting -- I learned a good lesson there. I'll never be
 2 at another one -- that I wanted somebody that wasn't in
 3 the office in Cleveland that had heard any of the
 4 scuttlebutt to handle it. Jim Stutts has had a lot of
 5 experience in life. He's been a mayor of a city. I
 6 thought he would be the right man to do it, and I didn't
 7 have any input.
 8 Q In the protocol?
 9 A Right.
 10 Q And the board of directors didn't have any
 11 input?
 12 A I have no idea. Jim may have talked to some
 13 of them. I don't know.
 14 Q I gotcha.
 15 A Jim is also a better lawyer than I am.
 16 Q You did not testify at the January 28th, 2010
 17 hearing?
 18 A No.
 19 Q And you didn't have any other contact with the
 20 three chiefs who made up the appeal panel prior to that
 21 hearing; is that fair?
 22 A No.
 23 Q That's not fair, or it is fair?
 24 A It is fair that I did not have any contact
 25 that I know of unless we saw each other on the street or

1 But, again, let me make this clear.
 2 Q Yes, sir.
 3 A Whether to terminate Mr. McNelley or not was
 4 not going to be my decision. I do not micromanage
 5 people.
 6 Q Did you agree with the decision?
 7 A Yes.
 8 Q And did you state that you agreed with the
 9 decision in the December '09 meeting?
 10 A I really don't have any recollection.
 11 Q And your reason for agreeing with the decision
 12 was what?
 13 A I do believe that people ought not use DTF
 14 property or state property for their own personal use.
 15 And when you're using it to sell property, I just don't
 16 think that's the right thing. I have fired people for
 17 less.
 18 Q And I guess the issue we have is under the
 19 policies and procedures it allows for limited personal
 20 use.
 21 A Sure. I understand that. Our cell phone
 22 policy at work, we have four or five that are paid for.
 23 You can use them for personal limited use.
 24 Q Limited.
 25 A And now I look at the bills every month and

1 something.
 2 Q Did you talk about this case at all with --
 3 A I never talked with anyone else about it.
 4 Q Okay. Did you ever see the billboards that
 5 had his number on it?
 6 A No. I saw the pictures.
 7 MR. HOSS: Just saw the pictures. Okay.
 8 Can I have about five minutes or so to talk
 9 with Sammie?
 10 MR. BALLARD: Absolutely.
 11 (Whereupon, a break was had.)
 12 BY MR. HOSS:
 13 Q General, just a couple more questions.
 14 Did you ever contact Mr. McNelley's DEA
 15 supervisors? If he had been working down there for over
 16 a year prior to his termination, did you ever contact
 17 them down there to see if he was doing a good job?
 18 A Before or after?
 19 Q Either.
 20 A I think I did talk to one. I'm trying to
 21 remember his name.
 22 MR. MCNELLEY: Dave Shelton?
 23 A Dave Shelton. Dave was highly complimentary.
 24 Q Was that before the termination?
 25 A I can't recall when it was, before or after.

1 the calls, and they know that.
 2 Q And there was actually a procedure within the
 3 DTF about agents having to pay back for personal calls if
 4 they used their cell phone.
 5 A I wasn't aware of it.
 6 Q You're not. Okay.
 7 So even as we sit here today, knowing that the
 8 policies within the DTF allowed for limited personal use,
 9 it's your position that he went beyond that --
 10 A Yes.
 11 Q -- by putting it on a billboard?
 12 A Yes.
 13 Q Okay. Did Mike Hall ever tell you prior to
 14 that meeting that he knew that Sammie was using his phone
 15 to promote the sale of these lots?
 16 A No.
 17 Q Did Lieutenant Williams ever tell you --
 18 A Well --
 19 Q Let me finish my question. Did Lieutenant
 20 Williams ever tell you prior to the December '09
 21 termination meeting that he knew that Sammie was using
 22 his DTF cell phone to sell these lots?
 23 A I never had a conversation with Don Williams
 24 about that, period.
 25 Q Did you ever have a conversation with Don

1 Williams about Sammie?
 2 A Not that I recall.
 3 Q Do you know where Mike Hall is now?
 4 A Yes.
 5 Q Do you have his address?
 6 A No, I don't have his address.
 7 Q He's down in Florida; right?
 8 A Florida, uh-huh.
 9 Q Do you have a way to get in touch with him?
 10 A Yes.
 11 Q Can you give that to Mr. Ballard so that if we
 12 do want to take his deposition we can at least contact
 13 him?
 14 A Yes.
 15 Q Okay. Where is he in Florida? What town?
 16 A I don't know.
 17 Q Don't know where in Florida. Okay.
 18 A I have no idea.
 19 Q The southern tip or the northern --
 20 A He's in the Keys.
 21 Q Oh, really?
 22 A Yeah. I know now y'all are going to want to
 23 go and take his deposition.
 24 MR. HOSS: We are definitely taking his
 25 deposition now.

1 MR. BALLARD: I did all I could not to say
 2 anything.
 3 BY MR. HOSS:
 4 Q And he's running a church or something?
 5 A I think so. I really don't know for sure. I
 6 do talk to Pastor Sears occasionally, who's in contact
 7 with him a lot.
 8 Q Who's Pastor Sears?
 9 A Gary Sears. He's the pastor out at Mt. Olive
 10 Church.
 11 Q Where Mike Hall attended prior to leaving?
 12 A Mike was the music man out there.
 13 Q I gotcha.
 14 Did you ever review Sammie McNelley's
 15 evaluations from his supervisors that are contained
 16 within his personnel file?
 17 A No.
 18 Q Have you ever seen them --
 19 A No.
 20 Q -- as we sit here today?
 21 A No.
 22 Q Another question, I had asked for and
 23 Mr. Stutts did not give it to me. Have you seen the
 24 interlocal agreement that establishes this task force?
 25 A Yes.

1 Q Where is that located? At the DTF office?
 2 A It's probably at the DTF office. I think I
 3 probably have one somewhere.
 4 Q Okay. Can we get a copy of that?
 5 MR. BALLARD: We'll talk about it after the
 6 deposition.
 7 A Again, I don't micromanage. I don't tell them
 8 what to do up there. Steve Lawson is the man you need to
 9 contact.
 10 Q And as I understand your testimony today about
 11 this dissension, that McNelley caused this dissension
 12 within the task force, it sounds like you didn't have any
 13 personal knowledge of it, but did you just -- is it fair
 14 to say you just took Mike Hall's word that he was causing
 15 dissension? Is that fair?
 16 A And Don Williams' in the meeting. But more
 17 than that, you-all -- somebody don't seem to be
 18 understanding things.
 19 Q And it may be me.
 20 A I have 20-something employees. All the time I
 21 was a judge I had me and two others. So personnel has
 22 been something I wasn't used to dealing with.
 23 But if I have somebody in my office that I
 24 think is causing dissension, I think I need to fire them,
 25 and that's the reason I don't interfere with the

1 directors' decisions at the drug task force. If the
 2 board wants to, that's fine, but I don't interfere with
 3 their decisions about personnel policies.
 4 Q Do you recall in that December '09 termination
 5 meeting there being a discussion that Mike Hall wanted to
 6 give Sammie the opportunity to resign so that he could
 7 keep his retirement and give him 30 days with pay?
 8 A I do remember something about that, yes.
 9 Q And do you recall a discussion by Mike Hall
 10 stating that you wanted him terminated and that he
 11 thought that you -- that Mike Hall thought that you,
 12 Steve Bebb, thought that Mike was weak for offering him
 13 the opportunity to resign? Do you recall that?
 14 A No, but I probably would have thought that. I
 15 may have said that.
 16 Q Do you recall any discussion about Toby
 17 Norris, a conflict between Sammie McNelley and Toby
 18 Norris?
 19 A No.
 20 Q Are you aware of any conflict?
 21 A No.
 22 Q Have you ever been told by Toby Norris there
 23 was a conflict?
 24 A No.
 25 Q Just a couple more questions.

1 Back during this time, limited to November,
2 December 2009, are you aware of any illegal or unethical
3 conduct that Mike Hall was doing within the 10th DTF as
4 the executive director?

5 A Would you restate that question?

6 Q Yes, sir, I will.

7 And the basis for my asking is we found out in
8 the fall of 2010 that there's a TBI investigation. And
9 what I'm wondering is in the course of that
10 investigation, have you learned that Mike Hall committed
11 any illegal or unethical conduct within the 10th DTF
12 during November of '09, December of '09, January 2010,
13 during this three-month window of time in which this
14 decision to terminate Mr. McNelley and the appeal panel
15 process, during that time that all of that unfolded, have
16 you since learned whether Mr. Hall committed any type of
17 illegal or unethical conduct? Am I asking that
18 question -- am I confusing in how I'm asking that
19 question?

20 MR. BALLARD: Well, I would object to the form
21 of the question, but I also have an objection because I
22 think it's outside the scope of this deposition. Unless
23 that relates somehow to whether or not the proceeding
24 that involved Mr. McNelley was somehow fraudulent or
25 illegal or arbitrary or beyond jurisdiction, I don't

1 home his car and uses it for personal reasons and then
2 uses his cell phone for personal reasons, as an employee
3 you sit there and you see that day in and day out even
4 though you've got policies and procedures that says it
5 should be limited, but then you see the bossman going
6 beyond that. I think it's reasonable then for an
7 employee to think that maybe they could do that and do
8 the same types of conduct. And so I guess what I'm
9 saying is during this -- General Bebb is laughing. You
10 understand what I'm asking?

11 A I'm just thinking, well, my people are
12 supposed to be here at 8:30 in the morning. They're
13 supposed to have so much time for lunch. I don't have
14 the same rules for me, even though I'm probably there
15 before they are and there when they leave.

16 Q Right.

17 A But I don't have the same rules, and I don't
18 think Mike Hall had the same rules.

19 Q That happens when your name is on the door,
20 doesn't it?

21 A That's the one perk your get when you get to
22 make the decisions.

23 MR. HOSS: So I guess my -- you want me to
24 rephrase my question so it will be clear on the record?

25 MR. BALLARD: Let me make sure I understand it

1 think it has -- I mean, this is a limited deposition. I
2 don't see how that has anything to do with any of those
3 questions.

4 MR. HOSS: Okay.

5 MR. BALLARD: So I would instruct -- that
6 would be my objection, and I would instruct the witness
7 not to answer. I don't normally do that in a -- I
8 wouldn't in a discovery deposition, but this --

9 MR. HOSS: Well, it was Mike Hall's
10 decision -- according to General Bebb, it was Mike Hall's
11 decision to terminate him on December 4th, 2009.

12 MR. BALLARD: Right.

13 MR. HOSS: And then he was the only witness
14 who testified at the appeal panel hearing, and it's
15 regarding using DTF property for personal advantage and
16 so -- and he's the head of this agency.

17 BY MR. HOSS:

18 Q I guess I can restrict my question to, have
19 you since learned that Mike Hall did anything illegal or
20 unethical related to using DTF property during that
21 period of time?

22 A I recall --

23 (To Mr. Ballard) Do you mind if I answer
24 that? I can answer it.

25 Q This is what I'm asking: If your boss takes

1 if that's all right.

2 MR. HOSS: Yes.

3 MR. BALLARD: What I understand you to be
4 asking is during this three-month period was General Bebb
5 aware of any misuse of property, DTF property by
6 Mr. Hall.

7 MR. HOSS: Or has he since become aware.

8 MR. BALLARD: I would say I still don't think
9 that's relevant, but I will -- so I'll just put in an
10 objection.

11 MR. HOSS: Sure.

12 MR. BALLARD: But I'll go ahead and allow
13 General Bebb to answer because I think it's close enough
14 to allow him to go ahead and answer.

15 THE WITNESS: I was not aware of anything. I
16 cannot say today whether he did anything illegal or
17 unethical. What I can say is that based on the
18 investigation that I'm asking another district attorney
19 to look at this. I do not believe that Mike committed
20 any criminal offenses. The one that you're talking
21 about, I think, that I did hear about was him pulling his
22 boat with a DTF vehicle from somewhere to home.

23 BY MR. HOSS:

24 Q That was an allegation or something?

25 A That was an allegation, and I think Mike said

1 that happened, but I really didn't see anything wrong
 2 with it. He's the director.
 3 Q And were there other specific allegations of
 4 how he misused DTF property?
 5 A No, none that I'm aware of.
 6 Q Was there something about using a DTF vehicle
 7 to haul sound equipment to a political rally?
 8 A That was in that investigation, yes.
 9 Q Did Mike Hall admit to that?
 10 A Yes.
 11 Q He did. Okay.
 12 Was there another allegation that Mike Hall
 13 used a vehicle and took it out of state for a funeral?
 14 A Not that I'm aware of.
 15 Q Do you recall any other specific allegations
 16 of him using DTF property for purposes other than DTF
 17 purposes?
 18 A Not that I'm aware of.
 19 Q And that investigation, to be fair to Mike and
 20 you, is still pending?
 21 A Yes.
 22 MR. BALLARD: If I could just put on the
 23 record, and I hope it's okay, I haven't objected to each
 24 of those questions but it's all in the same vein of my
 25 general objection to beyond the scope of this deposition.

1 A Let me say this, Bryan: I encouraged Mike
 2 Hall to give whatever support, technical or any other
 3 kind of support, especially to the smaller departments.
 4 That's one thing that the DTF can do. We've got a pole
 5 camera. We've got some other equipment that these small
 6 people don't have. So I do expect Mike Hall and Steve
 7 Lawson --
 8 Q And then the smaller agencies obviously really
 9 appreciate that?
 10 A I hope so.
 11 Q And to your knowledge, did Mike Hall give any
 12 of these smaller agencies vehicles? Like did he give a
 13 vehicle to, not personally, but to these law enforcement
 14 agencies that Hank Hayden and Chief Breeden and Chief
 15 Byrum run? Do you recall any gifts from the 10th DTF to
 16 those agencies?
 17 A I don't know of any. Maybe Charleston. I
 18 don't know whether they gave them anything or not, but
 19 they would be likely. And it wasn't until Sweetwater got
 20 this car that they ever got anything that I'm aware of.
 21 Q And when did they get that car?
 22 A About a month or two ago.
 23 Q Oh, okay.
 24 A They were run all through the board.
 25 Q I guess better to ask those chiefs what they

1 MR. HOSS: I gotcha. No problem.
 2 MR. BALLARD: Thank you. So I suppose I was
 3 objecting to each of those individual questions, but go
 4 ahead.
 5 BY MR. HOSS:
 6 Q Is there a time in DTF business where the DTF
 7 will provide equipment and potentially vehicles to some
 8 of these other law enforcement agencies that make up the
 9 10th DTF?
 10 A Yes.
 11 Q Specifically does the 10th DTF use their funds
 12 and buy vehicles for these law enforcement agencies?
 13 A I don't think that's the way it works.
 14 Q Okay.
 15 A For instance, Sweetwater needed a car. We
 16 have a lot of seized cars. And once the cars were
 17 seized, Steve Lawson brought it up to the board. The
 18 board agreed to give Sweetwater a car, and they came down
 19 and they were presented a car. I think Polk County might
 20 have gotten one too. I'm not sure who all has, but it
 21 all goes through the board.
 22 Q But that's since Steve Lawson has taken over,
 23 or did that happen under Mike Hall's watch as well?
 24 A I don't know.
 25 Q Okay. Are you --

1 got and when they got it; is that fair to say?
 2 A Yeah.
 3 MR. HOSS: That's all I've got.
 4 MR. BALLARD: Okay. I don't have any
 5 questions.
 6 FURTHER THIS DEPONENT SAITH NOT.
 7 (Signature waived.)
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