

BEFORE THE
JUDICIAL INVESTIGATION COMMISSION
OF WEST VIRGINIA

IN THE MATTER OF:

COMPLAINT NO. 129-94

Mental Hygiene Commissioner John Butler
Mental Hygiene Commissioner for
Pleasants, Ritchie, and Doddridge Counties

This matter is before the Judicial Investigation Commission upon a complaint filed on July 1, 1994, setting forth certain allegations against Mental Hygiene Commissioner John Butler, Mental Hygiene Commissioner for Pleasants, Ritchie, and Doddridge Counties.

The complaint alleged inter alia that beginning in 1992, Mr. Butler defended a Colin Anderson Center nurse in criminal proceedings in which she was charged with striking a Colin Anderson Center resident R. B. In an order dated December 2, 1991, the Judge of the Circuit Court signed an order committing R. B. to the Colin Anderson Center pursuant to a recommendation made by Mr. Butler. The nurse was convicted of battery in Magistrate Court and was represented by Mr. Butler. The nurse was convicted in Pleasants County Circuit Court of battery on October 5, 1992, but was not represented by Mr. Butler in those proceedings. He, however, represented her on an appeal of this matter to the State Supreme Court. The nurse was terminated for striking R. B. and was represented by Mr. Butler during the appeal of her

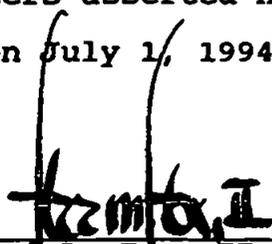
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termination. On May 17, 1994, the Supreme Court of Appeals denied Mr. Butler's petition seeking the nurse's reinstatement. He also represented a nurse in proceedings appealing the suspension of her nursing license for one year because of striking the resident.

The complaint further alleged that in April, 1994, Mr. Butler filed a civil action on behalf of an individual who had been a health services worker at Colin Anderson Center until April 19, 1992, when he was terminated based upon an investigation conducted by the West Virginia State Police concerning allegations of physical abuse directed toward individuals residing at Colin Anderson Center. Two battery charges alleging choking and striking resident A. J. and choking and striking resident W. L. were filed; one charge was dismissed and one charge resulted in an acquittal. The civil action filed by Mr. Butler named the West Virginia Department of Health and Human Resources and other defendants. It is alleged that Mr. Butler continued to conduct mental hygiene hearings involving residents A. J. and W. L. On February 28, 1994, the Circuit Court entered an order of final commitment for A. J. based upon Mr. Butler's February 28, 1994, recommendation. On March 3, 1994, the Circuit Court entered an order of final commitment of W. L. based upon Mr. Butler's February 28, 1994, recommendation.

Upon receipt of the complaint it was investigated pursuant to the Rules of Judicial Disciplinary Procedure. The complaint and the investigation of this matter were

reviewed by the Judicial Investigation Commission at its meeting on September 30, 1994, and it was determined that probable cause does exist that Mental Hygiene Commissioner John Butler violated Canons 1, 2A, 3E(1)(a)(b), and 6C(2) of the Code of Judicial Conduct. It was further determined that formal discipline was not appropriate under the circumstances. The Judicial Investigation Commission determined that pursuant to Rule 2.7(C) a written admonishment would be issued to Mental Hygiene Commissioner John Butler. It is, therefore, the decision of the Judicial Investigation Commission that Mental Hygiene Commissioner Butler be and he hereby is admonished for his conduct as is more fully set forth in the matters asserted herein and the complaint filed in this matter on July 1, 1994.



Fred L. Fox, II, Chairman

Date: October 14, 1994