

BEFORE THE
JUDICIAL INVESTIGATION COMMISSION
OF WEST VIRGINIA

IN THE MATTER OF:

COMPLAINT NO. 42-2002

JUSTICE LARRY V. STARCHER
JUSTICE OF THE WEST VIRGINIA
SUPREME COURT OF APPEALS

This matter is before the Judicial Investigation Commission upon a complaint filed on March 12, 2002 by former Jefferson County Magistrate, Katherine Santucci alleging that Justice Starcher used the term "bitch" in referring to her and her reputation.

The complaint and the accompanying Fanny Seiler Column from the Sunday Gazette-Mail for Sunday, November 11, 2001, alleges that Justice Starcher on the previous Wednesday, at the conclusion of a civil case involving the complainant, stated from the bench: "I never could stand the bitch."

The Commission reviewed the complaint and its next meeting and, as a result, a letter dated May 3, 2002 was sent to Justice Starcher requesting his response to the allegation. Justice Starcher responded in a letter dated May 9, 2002, by stating: "While I cannot state with certainty what my remarks were in November 2001 with reference to Ms. Katherine Santucci, I do acknowledge that I did make a brief remark from the bench that was unnecessary and unprofessional. I apologize personally to Ms. Santucci, and to the citizens of our State for making the improper comment." Justice Starcher further indicated that there was no justification for the comment but then described an incident that precipitated his remark.

The complaint and Justice Starcher's response were reviewed by the Judicial Investigation Commission at its meeting on July 12, 2002, and it was determined that probable cause does exist that Justice Larry V. Starcher, Justice of the Supreme Court of Appeals of West Virginia, violated Canon

3B(4) and (5) of the Code of Judicial Conduct. These sections of the Code of Judicial Conduct state:

Canon 3B. Adjudicative Responsibilities.

4. A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, and of staff, court officials, and others subject to the judge's discretion and control.

5. A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status, and shall not permit staff, court officials, and others subject to the judge's direction and control to do so.

It was further determined that formal discipline was not appropriate under the circumstances.

Rather, the Judicial Investigation Commission determined, pursuant to Rule 2.7(c), that a written admonishment should be given to Justice Starcher.

It is, therefore, the decision of the Judicial Investigation Commission that Justice Larry V. Starcher be and he is hereby admonished for this conduct as is more fully set forth in the matters asserted herein in the complaint filed in this matter on March 12, 2002.

The Judicial Investigation Commission further recommends that Justice Starcher submit an apology, in writing, to the complainant and also make a public apology.



Donald H. Cookman, Chairperson

Date: 9-20-02

cc: Katherine Santucci