

BEFORE THE JUDICIAL INVESTIGATION COMMISSION OF WEST VIRGINIA

**IN THE MATTER OF:
MAGISTRATE EMILY J. BRADLEY
MAGISTRATE FOR WOOD COUNTY**

**COMPLAINT NOS. 63-2002
89-2002**

This matter is before the Judicial Investigation Commission upon a complaint filed on April 26, 2002 and a complaint filed on May 24, 2002, setting forth certain allegations against Magistrate Emily J. Bradley, Magistrate for Wood County. The complaints alleged, among other things, that on December 19, 2001, a defendant had a hearing scheduled before Magistrate Bradley. Prior to that hearing Magistrate Bradley was informed that the attorney for the defendant was ill and could not appear for the hearing. After receiving this information the magistrate became upset and questioned the defendant about a plea bargain in the case in the presence of the assistant prosecuting attorney and the complaining witness.

Upon receipt of the complaints an investigation was conducted pursuant to the Rules of Judicial Disciplinary Procedure. The investigation revealed that on December 19, 2001, a hearing was scheduled for defendant Kevin Logan before Magistrate Emily J. Bradley. Prior to the hearing the defendant's court appointed attorney, J. D. Beane, informed his legal assistant that he was not feeling well and that he was unable to attend the hearing. The legal assistant called the magistrate court and informed the court that the attorney was ill and unable to appear. The defendant indicated that he was uncomfortable attending a hearing without his attorney present. The magistrate became upset and questioned the defendant about a written plea and inquired of the defendant as to whether he had discussed the terms and conditions of the plea

bargain with his attorney. She also inquired about whether the defendant wished to waive his right to counsel and proceed with entry of his guilty plea.

The complaints and the investigation of this matter were reviewed by the Judicial Investigation Commission at its meeting on November 15, 2002, and it was determined that probable cause does exist that Magistrate Emily J. Bradley, Magistrate for Wood County violated Canon 3A and B(4)(7) of the Code of Judicial Conduct. These sections of the Code of Judicial Conduct state in relevant part:

Canon 3. A judge shall perform the duties of judicial office impartially and diligently.

A. Judicial duties in general. - The judicial duties of a judge take precedence over all the judge's other activities. The judge's judicial duties include all the duties of the judge's office prescribed by law. In the performance of these duties, the following standards apply.

B. 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 direction and control.

(7) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law. A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding . . .

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) of the Rules of Judicial Disciplinary Procedure that a written admonishment would be given to Magistrate Emily J. Bradley.

It is therefore the decision of the Judicial Investigation Commission that Magistrate Emily J. Bradley be and she hereby is admonished for this conduct as fully set forth in the matters as asserted here in the complaints filed in this matter on April 26, 2002 and May 24, 2002.



Donald H. Cookman, Chairperson
Judicial Investigation Commission

11-25-02

Date