

BEFORE THE JUDICIAL INVESTIGATION COMMISSION OF WEST VIRGINIA

**IN THE MATTER OF:
MAGISTRATE JAMES D. MOODY
MAGISTRATE FOR LEWIS COUNTY**

COMPLAINT NO. 115-04

This matter is before the Judicial Investigation Commission upon a complaint filed on June 21, 2004, setting forth certain allegations against Magistrate James D. Moody, Magistrate for Lewis County. The complaint alleged among other things that Magistrate Moody sent false abstracts of judgment to the West Virginia Division of Motor of Vehicles.

Upon receipt of the complaint an investigation was conducted pursuant to the Rules of Judicial Disciplinary Procedure. The investigation revealed that an individual was convicted of speeding for an incident that occurred in January 2004. The citation was forwarded to the Division of Motor Vehicles and the speeding citation resulted in the agency assessing five points to the individual's driving record giving the individual a cumulative total of 13 points which resulted in a license suspension. Magistrate Moody forwarded or caused to be forwarded another document to the Division of Motor Vehicles which was an amended abstract of judgment which corrected the individual's speeding citation to a citation for failure to use due care. The Magistrate was unaware that failure to use due care resulted in the same points being assessed as a speeding violation did. The Magistrate then forwarded another document to the Division of Motor Vehicles which corrected the citation for failure to use due care to a citation for illegal parking. These amended abstracts of judgment were sent to the Division of Motor Vehicles in May 2004. Magistrate Moody admitted amending the speeding ticket for the

individual from speeding to illegal parking.

The complaint and investigation of this matter were reviewed by the Judicial Investigation Commission at its meeting on December 3, 2004, and it was determined that probable cause does exist that Magistrate James D. Moody, Magistrate for Lewis County violated Canon 2A and Canon 3A and 3B(2) of the Code of Judicial Conduct. These sections of the Code of Judicial Conduct state in relevant part:

Canon 2. A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.

A. A judge shall respect and comply with the law, shall avoid impropriety and the appearance of impropriety in all of the judge's activities, and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

* * *

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.

(2) A judge shall be faithful to the law and maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor, or fear of criticism . . .

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 James D. Moody.

It is therefore the decision of the Judicial Investigation Commission that Magistrate James D. Moody be and he hereby is admonished for this conduct as fully set forth in the matters as asserted herein the complaints filed in this matter on June 21, 2004.

Fred L. Fox, II

Fred L. Fox, II, Chairperson
Judicial Investigation Commission

December 14, 2004

Date