

BEFORE THE JUDICIAL INVESTIGATION COMMISSION OF WEST VIRGINIA

**IN THE MATTER OF:
MAGISTRATE GENE H. BOGGS
MAGISTRATE FOR PENDLETON COUNTY**

COMPLAINT NO. 213-04

This matter is before the Judicial Investigation Commission upon a complaint filed on October 25, 2004, setting forth certain allegations against Magistrate Gene H. Boggs, Magistrate for Pendleton County. The complaint alleged among other things that Magistrate Boggs publically displayed throughout Pendleton County signs which constituted a public endorsement for another magistrate candidate by Magistrate Boggs.

Upon receipt of the complaint an investigation was conducted pursuant to the Rules of Judicial Disciplinary Procedure. The investigation revealed that during the campaign Magistrate Boggs had signs erected which read, "Reelect Boggs and Propst Magistrates." At the bottom of the sign the disclaimer said, "Paid for by the candidate." Magistrate Boggs admitted that Magistrate Propst and he jointly purchased and placed the campaign signs.

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 Gene H. Boggs, Magistrate for Pendleton County violated Canon 5A(1)(b) and Canon 5C(2) of the Code of Judicial Conduct. These sections of the Code of Judicial Conduct state in relevant part:

Canon 5. A judge or judicial candidate shall refrain from inappropriate political activity.

A. All judges and candidates. (1) Except as authorized by Sections 5B(2), 5C(1), and 5C(3), a judge or a candidate for election or appointment to judicial office

shall not:

(b) publicly endorse or publicly oppose another candidate for public office; . . .

* * *

C. Judges and candidates subject to public election.

(2) A candidate shall not personally solicit or accept campaign contributions or personally solicit publicly stated support. A candidate may, however, establish committees of responsible persons to conduct campaigns for the candidate through media advertisements, brochures, mailings, candidate forums, and other means not prohibited by law. Such committees may solicit and accept reasonable campaign contributions, manage the expenditure of funds for the candidate's campaign and obtain public statements of support for his or her candidacy. Such committees are not prohibited from soliciting and accepting reasonable campaign contributions and public support from lawyers. A candidate shall not use or permit the use of campaign contributions for the private benefit of the candidate or others.

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 Gene H. Boggs.

It is therefore the decision of the Judicial Investigation Commission that Magistrate Gene H. Boggs 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 October 25, 2004.

Fred L. Fox, II
Fred L. Fox, II, Chairperson
Judicial Investigation Commission

December 16, 2004
Date