

BEFORE THE JUDICIAL INVESTIGATION COMMISSION OF WEST VIRGINIA

**IN THE MATTER OF:
THE HONORABLE DIANE THOMAS
MAGISTRATE FOR PRESTON COUNTY**

COMPLAINT NO. 49-2008

This matter is before the Judicial Investigation Commission upon a complaint filed on April 14, 2008, setting forth certain allegations against Magistrate Diane Thomas, Magistrate for Preston County. The complaint alleged that by a letter to the Preston County Board of Education dated March 7, 2008, Magistrate Thomas described several incidents referring to the complainant's son. Further it alleged that the letter described her position and referred to her court position.

Upon receipt of the complaint an investigation and review was conducted pursuant to the Rules of Judicial Disciplinary Procedure. The review revealed that in a letter dated March 7, 2008, to the Preston County Board of Education, Magistrate Thomas related certain information relevant to her grandson's safety and well-being at his school. The letter complains of certain specific instances involving a student at the school which the Magistrate felt upset her grandchild and other students at the facility. The letter further stated that "[i]n my court, I and the other magistrates are required to act according to the West Virginia Code. A reading of your Board's policy states that it is the responsibility of the Preston County School System to provide a safe learning environment for all students. I asked that you fulfill this duty as it pertains to [the

name of the student] before someone's child or grandchild is seriously injured and the school system subjects itself to court action as a result."

The complaint and the investigation were reviewed by the Judicial Investigation Commission at its meeting on May 30, 2008 and it was determined that there is probable cause to believe that Magistrate Diane Thomas, Magistrate for Preston County, violated Canon 1, and Canon 2B of the Code of Judicial Conduct. These sections of the Code of Judicial Conduct state in relevant part:

Canon 1. A judge shall uphold the integrity and independence of the judiciary.

A. An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective.

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

B. A judge shall not allow family, social, political, or other relationships to influence the judge's judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interest of the judge or others; nor shall a judge convey or knowingly permit others to convey the impression that they are in a special position to influence the judge. A judge shall not testify voluntarily as character witness.

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, a written admonishment would be given to Magistrate Diane Thomas.

It is therefore the decision of the Judicial Investigation Commission that Magistrate Diane Thomas be and she hereby is admonished for this conduct as fully set forth in the matters as asserted herein the complaint filed in this matter on April 14, 2008.

Fred L. Fox, II

Fred L. Fox, II, Chairperson
Judicial Investigation Commission

6/10/08

Date