

**BEFORE THE JUDICIAL INVESTIGATION COMMISSION OF WEST VIRGINIA**

**IN THE MATTER OF:  
MAGISTRATE CAROL A. FOUTY  
MAGISTRATE FOR KANAWHA COUNTY**

**COMPLAINT NO. 12-2010**

The matter is before the Judicial Investigation Commission upon a complaint filed on February 12, 2010, setting forth certain allegations against Magistrate Carol A. Fouty, Magistrate for Kanawha County. In the Complaint, it was alleged that Magistrate Fouty helped a friend write a peace bond and then found probable cause to issue the bond in violation of the Code of Judicial Conduct.

Upon receipt of the complaint, an investigation was conducted pursuant to the Rules of Judicial Disciplinary Procedure which revealed the following: On November 17, 2009, Norma Jean Saunders, Brian Miller and Dennis Rhodes secured peace bonds from Magistrate Fouty against an adjacent landowner. Magistrate Fouty and Ms. Saunders are friends. Magistrate Fouty helped Ms. Saunders draft her peace bond. Magistrate Fouty even wrote some of the narrative in her own handwriting. She then found probable cause to issue the three peace bonds.

The complaint and the investigation were reviewed by the Judicial Investigation Commission at its meeting on December 9, 2011. The Commission determined that probable cause does exist in the instant complaint and that Magistrate Carol A. Fouty, Magistrate for Kanawha County, violated Canons 1A, 2A, 2B, 3A, 3B(1) and (2) and 3E(1)(a) which provide in pertinent 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.**

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.

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 interests 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. . . .

**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.

(1) A judge shall hear and decide matters assigned to the judge except those in which disqualification is required.

(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.

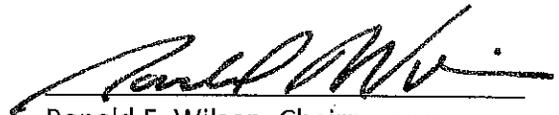
E. Disqualification.

(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:

(a) the judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of disputed evidentiary facts concerning the 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 Carol A. Fouty.

It is therefore the decision of the Judicial Investigation Commission that Magistrate Carol A. Fouty be and is hereby admonished for this conduct as fully set forth in the matters asserted herein the complaint filed in this matter on February 12, 2010.



Ronald E. Wilson, Chairperson  
Judicial Investigation Commission

12-27-11

Date