

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

**IN THE MATTER OF  
MAGISTRATE CHARLES BYRNSIDE  
MAGISTRATE FOR BOONE COUNTY**

**COMPLAINT NO. 138-2011**

The matter is before the Judicial Investigation Commission upon a complaint filed on September 16, 2011, setting forth certain allegations against Magistrate Charles Byrnside, Magistrate for Boone County. In the Complaint, it was alleged that Magistrate Byrnside got into an intense discussion with an attorney about a private business matter in the courtroom following a hearing 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: Magistrate Byrnside took office in 2004. At that time, he was a partner in a business which subdivided a parcel of property and built homes for sale. The attorney bought one of the homes. A dispute followed over whether the attorney owed a balance on the purchase price. Magistrate Byrnside requested payment on a number of occasions over the years. According to Magistrate Burnside, all of the discussions occurred in and around the Boone County Courthouse but in a private setting.

However, on or about September 12, 2011, an animated discussion occurred in the courtroom following a hearing. Magistrate Byrnside requested that the attorney meet him privately after the hearing. The attorney declined. The two then talked about the matter in the courtroom while other people were present. The exchange was apparently heated and at various points people could overhear portions of the conversation. One witness stated that he heard the attorney say something like "quit leaning on me." Magistrate Byrnside said, "You owe it." The attorney then said, "Well, sue me" and walked out of the courtroom. As a result of the September 2011 discussion, the Circuit Court entered an Order reassigning the attorney's current cases to other magistrates.

The complaint and the investigation were reviewed by the Judicial Investigation Commission at its meeting on April 20, 2012. The Commission determined that probable cause does exist in the instant complaint and that Magistrate Charles Byrnside, Magistrate for Boone County, violated Canons 1A, 2A, 2B, 3A, 3B(1) (3) and (4) 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.

(3) A judge shall require order and decorum in proceedings before the judge.

(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.

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 Charles Byrnside.

It is therefore the decision of the Judicial Investigation Commission that Magistrate Charles Byrnside be and is hereby admonished for this conduct as fully set forth in the matters asserted herein the complaint filed in this matter on September 16, 2011.



Ronald E. Wilson, Chairperson  
Judicial Investigation Commission

4-30-12  
Date