

BEFORE THE JUDICIAL INVESTIGATION COMMISSION OF WEST VIRGINIA

**IN THE MATTER OF JEFFREY LANE
FORMER MAGISTRATE OF LOGAN COUNTY**

COMPLAINT NO. 64-2015

PUBLIC ADMONISHMENT OF FORMER MAGISTRATE JEFFREY LANE

The matter is before the Judicial Investigation Commission upon a complaint filed on June 29, 2015, setting forth certain allegations against Jeffrey Lane, former Magistrate of Logan County. The complaint alleged that former Magistrate Lane yelled and cursed at Complainant during a June 18, 2015 encounter at Logan County Magistrate Court 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. After a review of the complaint, the former Magistrate's written responses, the information and documents obtained from the investigation and the pertinent Canons contained in the Code of Judicial Conduct, the West Virginia Judicial Investigation Commission (hereinafter "JIC" or "Commission") found probable cause that former Magistrate Jeffrey Lane violated Canons 1A, 2A, and 3B(4) at its October 23, 2015 meeting and ordered that he be publicly admonished pursuant to Rules 1.11 and Rule 2.7(c) of the Rules of Judicial Disciplinary Procedure ("RJDP"), as set forth in the following statement of facts and conclusions found by the Commission:

STATEMENT OF FACTS

Respondent served continuously as a Logan County Magistrate from March 31, 2003, through June 30, 2015. At all times relevant to the instant complaint, Respondent was serving in his capacity as Magistrate. Respondent resigned his position as Magistrate to become Chief Probation Officer for Logan County and has worked continuously in that position since July 1, 2015.

On or about May 5, 2014, Complainant filed a civil action in the Magistrate Court of Logan County against a party alleging that she had retained some of his possessions at her residence and refused to release them. Complainant wanted the Court to order the woman to either return the items

or reimburse him for their value. On or about December 2, 2014, Complainant filed a Motion for Default Judgment after the defendant had failed to answer the civil complaint and requested that the Court award him \$248.00 in damages. A hearing on the Motion was set for December 30, 2014. The defendant did not appear for hearing, so Respondent granted Complainant's default judgment motion. A hearing on the final judgment was set for June 18, 2015.

On the appointed day, Complainant appeared for hearing, but the defendant again failed to come to court. Complainant and Respondent then sat down in Magistrate Lane's office to review the file. According to Complainant, at some point during the discussion, Respondent said to him: "You are starting to piss me off!" Complainant said he thought Respondent was joking and replied in what he said was a kidding manner, "you are starting to piss me off too!" Complainant said that Respondent then became angry and told him to "get the fuck out of my office!" Complainant said that he immediately left and began walking down the courthouse hallway. However, on his way out of the office, Complainant gestured with his middle finger to Respondent. Respondent reacted by then following Complainant down the hallway yelling at him and calling him "dumbass" numerous times. While this was going on, other courthouse employees came out of their offices and told Respondent to calm down.

Respondent then said he would hold Complainant in contempt and that he would have to pay \$50.00 to purge himself of the charge. Respondent then told Complainant that he was "going to jail and you're gonna like it." Complainant replied that he was "gonna love it." Respondent reacted by telling Complainant that he would now have to pay \$100.00 to purge himself of contempt, and he told the bailiff to arrest Complainant. The bailiff detained Complainant for a short time. Then at some point, Respondent told Complainant that if he apologized he would be set free. Complainant apologized and was let go, but as Complainant was leaving Respondent yelled to him to "get out of here dumbass."

On June 29, 2015, Complainant filed an ethics complaint against Respondent stemming from the June 18, 2015 encounter. In his September 10, 2015 Answer, Respondent denied any wrongdoing, denied becoming angry, denied acting inappropriately or even swearing. Instead, Respondent blamed all bad acts on Complainant. This is consistent with the notation he made to the case file following the June 18, 2015 episode in which he stated:

After informing the petitioner of his rights, he became upset and cursed the court and flipped me the middle finger. Upon threat of holding him in contempt of court, he offered an apology and left our offices.

Subsequent to the filing of his original response, Complainant saw JIC Chief Counsel at a probation conference and inquired about the Complainant. JIC Counsel informed him, in part, that a subpoena would be served on him the next week requiring him to appear and give a sworn statement in the matter.

Following that meeting, Respondent filed an amended response on September 21, 2015, in which he stated:

My narrative here differs from my previous response. It is sometimes hard for a man to admit his mistakes, and I am no different than most. I certainly made one in this matter. I did become upset and used language I am not prone to use nor am proud of using. While I cannot tell you exactly what I said, I do not doubt that anyone in attendance at this time could give you a report of what was said and I have no reason to believe that they would not be telling the truth. I felt [Complainant] had disrespected the Court and me personally. The rest of my actions were reported truly.

JIC Deputy Counsel then interviewed Respondent by telephone on September 29, 2015. Respondent said that he spoke with Chief Counsel following a probation training session on ethics to inquire why the complaint had not been dismissed since he was no longer a magistrate. Chief Counsel explained that a resignation from office did not negate an ethics complaint and that he could still be prosecuted for any violations of the Code of Judicial Conduct that may have occurred while he was in

office.¹ When Chief Counsel informed him that he would be receiving a subpoena, Respondent decided that he wanted to be completely forthright, and he then filed an amended response. Respondent said he was embarrassed by the whole situation. Respondent said that when he received the complaint, his first instinct was to just write down some facts and try to move on hoping the complaint would be dismissed.

Respondent again admitted to Deputy Counsel that he became angry with Complainant on June 18, 2015. Respondent stated that he does not remember what he said to Complainant but that it was possible that that he told Complainant to “get the hell out of my office.” Respondent does not remember what he said as he followed Complainant out of the office. However, he does not dispute the statements of other courthouse employees who said that he was angry and used inappropriate language.

Respondent denied lying in his initial response, but he did admit that he “didn’t include all the facts.” Respondent stated that he is still very embarrassed by his actions. He said that it was hard for him to admit fault because of the shame he felt. Respondent apologized for not being completely forthcoming in his initial response and for his behavior.

CONCLUSIONS

The Commission by a vote of 9-0 found that probable cause does exist in the instant complaint and that Jeffrey Lane, former Magistrate of Logan County, violated Canons 1A, 2A, and 3B(4) of the Code of Judicial Conduct as set forth below:

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

¹ RJDP 2.2 provides that “[t]he resignation of a judge shall not relieve the obligation of the Office of Judicial Disciplinary Counsel to investigate a complaint that the judge violated the Code of Judicial Conduct and to fully proceed in accordance with these rules.”

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.

Canon 3:

A judge shall perform the duties of judicial office impartially and diligently.

B. Adjudicative responsibilities.

- (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. . . .

The Commission further determined that formal discipline was not appropriate under the circumstances. However, the Commission found that the violations were serious enough to warrant a public admonishment for the following reasons: First and foremost was former Magistrate Lane's initial lack of candor to the JIC. The Preamble to the Code of Judicial Conduct states:

Our legal system is based on the principle that an independent, fair and competent judiciary will interpret and apply the laws that govern us. The role of the judiciary is central to the American concepts of justice and the rule of law. Intrinsic to all sections of this Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in our legal system. The judge is an arbiter of facts and law for the resolution of disputes and a highly visible symbol of government under the rule of law. . . . Good judgment and adherence to high moral and personal standards are also important.

Truth is the foundation upon which our legal system rests and its firmness depends upon those in charge. We can ask no less of those who come before us than what we ourselves are willing to give. Thus, the veracity of all judicial officers is of paramount concern. By demonstrating a lack of candor in

his initial response, former Logan County Magistrate Jeffrey Lane violated Canons 1A and 2A of the Code of Judicial Conduct and is hereby publicly admonished.

Next, Respondent acted inappropriately during his June 18, 2015 meeting with Complainant. The Commission recognizes that judges are human. Consequently, a particularly heinous act may provoke a judge into a fit of anger or outrage. Still, a judge should remember at all times that when he/she ignores the dictates of the Canons and speaks in a vindictive or intemperate manner, the judge risks losing the public's confidence in the integrity and impartiality of both the judge and the entire judicial system. The Supreme Court of Appeals of West Virginia made this very point in the case of *In re Watkins*, 233 W.Va. 170, 757 S.E.2d 594 (2013).

It is not enough that we know ourselves to be fair and impartial or that we believe this of our colleagues. Our power over our fellow citizens requires that we appear to be so as well. How else are ordinary citizens to have the faith in us ...? An impartial manner, courtesy, and dignity are the outward sign of that fairness and impartiality we ask our fellow citizens, often in the most trying of circumstances, to believe we in fact possess. ... Precisely because the public cannot witness, but instead must trust, what happens when a judge retires to the privacy of his chambers, the judiciary must behave with circumspection when in the public eye.

Id. at 182, 757 S.E.2d at 606, quoting *Matter of Brown*, 427 Mass. 146, 149, 691 N.E.2d 573, 576 (1998).

The Court also recognized that judges have a responsibility to set a proper tone:

Citizens judge the law by what they see and hear in courts, and by the character and manners of judges and lawyers. "The law should provide an exemplar of correct behavior. When the judge presides in court, he personifies the law, he represents the sovereign administering justice and his conduct must be worthy of the majesty and honor of that position." *Matter of Ross*, 428 A.2d 858, 866 (Me.1981). Hence, a judge must be more than independent and honest; equally important, a judge must be perceived by the public to be independent and honest. Not only must justice be done, it also must appear to be done.

Id.

While the Commission certainly understands the cause of the disagreement, the fact remains that former Magistrate Lane's conduct while on duty was wholly unbecoming a judicial officer and in

violation of Canons 1A, 2A and 3B(4) of the Code of Judicial Conduct. Accordingly, former Magistrate Lane is hereby publicly admonished for his lack of decorum on June 18, 2015.

Therefore, it is the decision of the Judicial Investigation Commission that Jeffrey Lane, former Magistrate of Logan County, be disciplined by this Admonishment. Accordingly, the Judicial Investigation Commission hereby publicly admonishes former Magistrate Lane for his conduct as fully set forth in the matters asserted herein.

Pursuant to Rule 2.7(c) of the Rules of Judicial Disciplinary Procedure, the Respondent has fourteen (14) days after receipt of the public admonishment to file a written objection to the contents thereof. If the Respondent timely files an objection, the Judicial Investigation Commission shall, pursuant to the Rule and his breach of the July 1, 2015 agreement by and between Judicial Disciplinary Counsel and Respondent, file formal charges with the Clerk of the Supreme Court of Appeals of West Virginia.



The Honorable Ronald E. Wilson, Chairperson
Judicial Investigation Commission

November 3, 2015
Date

REW/tat