

BEFORE THE JUDICIAL INVESTIGATION COMMISSION OF WEST VIRGINIA

**IN THE MATTER OF DENNIS J. WILLETT
FORMER CANDIDATE FOR JUDGE OF THE 26TH JUDICIAL CIRCUIT**

COMPLAINT NO. 59-2016

The matter came before the Judicial Investigation Commission upon a complaint filed by William C. Thurman, Esquire, on April 11, 2016, against Dennis J. Willett, former Candidate for Judge of the 26th Judicial Circuit (hereinafter "Respondent"). After a review of the complaint, 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 "Commission"), at its August 26, 2016 meeting found probable cause that Respondent violated Rule 2.16(A) and ordered that he be publicly admonished pursuant to Rules 1.11 and 2.7(c) of the Rules of Judicial Disciplinary Procedure.

STATEMENT OF FACTS

Respondent filed to run for Circuit Judge of the 26th Judicial Circuit in the May 10, 2016 election. On April 11, 2016, the Judicial Investigation Commission received the instant complaint against Respondent. The matter was presented to the Commission at its meeting on April 25, 2016, at which time the members indicated that they wanted a written response to the allegations from Respondent. On April 29, 2016, Disciplinary Counsel sent Respondent a certified letter stating in pertinent part:

Rule 2.3 provides that upon notice of the nature of the complaint, a "judge shall have ten days" to file a written response. Therefore, your response to the complaint is due ten (10) days from the date you received this letter. The Code of Judicial Conduct specifies that "[a]ll judicial candidates for judicial office shall comply with applicable provisions of this code." Rule 2.16(A) states that as a candidate you "shall cooperate and be candid and honest with judicial and lawyer disciplinary agencies." Should you need additional time to respond to the

allegations, you must ask for an extension in writing. Please be advised that the deadline for filing a response may be extended only for good cause shown.

The receipt for the certified letter showed that Respondent had received it at his office on May 5, 2016. On May 10, 2016, Respondent lost the race for Circuit Judge. Respondent never responded to the April 29, 2016 letter or requested an extension.

On June 24, 2016, the matter was again presented to the Commission. At that time, the members were advised that Respondent had never submitted a reply. The Commission tabled any further action on the complaint and instructed Disciplinary Counsel to obtain a reply from Respondent.

On July 5, 2016, Disciplinary Counsel contacted Respondent by telephone. Respondent admitted that he had received the April 29, 2016 letter and indicated that he would file a response forthwith. Disciplinary Counsel immediately followed the conversation with a letter, sent the same day by certified mail. The letter memorialized the telephone conversation and again asked for a written response to the allegations contained in the complaint within ten days of its receipt. The letter, which was received by the Respondent on July 8, 2016, provided in pertinent part:

The Commission is giving you one final chance to submit a response. Continued failure to reply could result in the Commission issuing a public admonishment against you for violating Rule 2.16(A) of the Code of Judicial Conduct. Additionally, failure to respond can be taken as an admission to any alleged Code violations in the complaint which could result in additional discipline.

Once again, Respondent failed to submit a response.

On July 25, 2016, Disciplinary Counsel sent another certified letter to Respondent requesting a response. The letter provided in pertinent part:

If we have not received a response by August 5, 2016, (Disciplinary Counsel) will have no choice but to ask the Commission to issue a public admonishment against you for violating Rule 2.16 (A) of the Code of Judicial Conduct.

Respondent received the letter on July 27, 2016.

During the late afternoon hours of August 5, 2016, Respondent telephoned Disciplinary Counsel, asked for the Commission fax number, and indicated that he would be sending a document shortly. Respondent did not specify what document he planned to fax. Respondent faxed a letter indicating that he would not be filing his answer by the August 5, 2016 deadline. Respondent never asked for a continuance. Instead, Respondent told Disciplinary Counsel that he would file a response on Monday, August 8, 2016. However, Respondent did not submit his reply on the appointed day. On August 9, 2016, Respondent finally faxed his written response to Disciplinary Counsel. The Commission considered the complaint, Respondent's response and Respondent's refusal to cooperate with Disciplinary Counsel at its August 26, 2016 meeting and voted to admonish him only for his failure to cooperate with the investigation.

CONCLUSIONS

The Commission, by a vote of 9-0, determined that probable cause does exist in the instant complaint and that Dennis Willet, violated Rule 2.16(A) of the Code of Judicial Conduct which provide:

Canon 2

A Judge Shall Perform The Duties Of Judicial Office Impartially, Competently, And Diligently.

Rule 2.16 Cooperation with Disciplinary Authorities

- (A) A judge shall cooperate and be candid and honest with judicial and lawyer disciplinary agencies.

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.

As a judicial candidate, Respondent is subject to the Code of Judicial Conduct. Rule 1 of the Application Section states that “[a]ll judicial candidates for judicial office shall comply with the applicable provisions of this Code.” Respondent had a duty to cooperate with the investigation and to reply to Disciplinary Counsel’s requests for information. Instead, Respondent ignored Disciplinary Counsel’s pleas for information and unnecessarily delayed the investigation. Judges require lawyers who appear before them to meet deadlines all the time or ask for a continuance. Judicial officers and candidates are held to a higher standard and can ask no less of themselves when required to meet deadlines. Indeed, the Comment to Rule 2.16 notes that “[c]ooperation with investigations and proceedings of judicial and lawyer discipline agencies, as required in paragraph (A), instills confidence in judges’ commitment to the integrity of the judicial system and the protection of the public.” Respondent had a duty to timely file his reply. By failing to cooperate with the investigation, Respondent clearly violated Rule 2.16(A) of the Code of Judicial Conduct and is admonished for his conduct.

Based upon the foregoing, it is the unanimous decision of the Judicial Investigation Commission that Dennis Willet, former candidate for the 26th Judicial Circuit, be disciplined. Accordingly, the Judicial Investigation Commission hereby publicly admonishes Dennis Willet for his conduct as fully set forth in the matters asserted herein and warns him to refrain from engaging in similar behavior in the future.

Pursuant to Rule 2.7(c), Respondent has fourteen (14) days after receipt of the public admonishment to file a written objection. If Respondent timely files an objection, the Judicial Investigation Commission shall, pursuant to the Rule, file a formal charge with the Clerk of the Supreme Court of Appeals of West Virginia.



Ronald E. Wilson, Chairperson
Judicial Investigation Commission

September 1, 2016
Date

REW/bjl