

BEFORE THE JUDICIAL INVESTIGATION COMMISSION OF WEST VIRGINIA

**IN THE MATTER OF THE HONORABLE BRENDA CAMPBELL
SENIOR STATUS MAGISTRATE**

COMPLAINT NO. 72-2016

The matter came before the Judicial Investigation Commission upon a complaint filed by Judicial Disciplinary Counsel on May 2, 2016, against the Honorable Brenda Campbell, Senior Status Magistrate (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 June 24, 2016 meeting found probable cause that Respondent violated Rules 1.2, 1.3, 2.16(A) and 4.1(A)(3) and ordered that she be publicly admonished pursuant to Rules 1.11 and 2.7(c) of the Rules of Judicial Disciplinary Procedure.

STATEMENT OF FACTS

Respondent served continuously as a Magistrate for Greenbrier County for 19 years until her retirement on October 31, 2015. On November 6, 2015, she was sworn in as a Senior Status Magistrate. At all times relevant to the proceedings set forth below, Respondent served as a Senior Status Magistrate and was subject to all provisions of the Code of Judicial Conduct except Rule 3.8 by virtue of Application II(A).

Charleston Attorney Fred Giggenbach ran for Judge of the 11th Judicial Circuit, which is comprised of Greenbrier and Pocahontas Counties, in the May 2016 election.¹ As part of his campaign, Attorney Giggenbach passed out a brochure advertising his candidacy. On the inside

¹ The Honorable Jennifer P. Dent, Judge, won the election. She was subsequently appointed by West Virginia Governor Earl Ray Tomblin to the seat which had been vacated by the Honorable James J. Rowe, Senior Status Judge.

of the brochure, at the very top, Attorney Giggenbach had a quote from Respondent which stated: "As a Greenbrier Assistant Prosecutor, Fred was fair, honest and hardworking. He was dedicated to the citizens of Greenbrier County and served them well.' – Brenda Campbell, retired Greenbrier County Magistrate."

Attorney Giggenbach informed the Commission that during the beginning of the campaign season he contacted three people including Respondent and asked them to give quotes describing his ethical and legal skills. He explained that he would be using the quotes in a campaign brochure. Respondent agreed to provide a statement and for its use in a campaign brochure. Respondent never informed Attorney Giggenbach that she was a senior status magistrate. Instead, he thought she had completely retired.

Approximately one month after the brochures were printed, Attorney Giggenbach called Respondent and asked her if he could use the same quote in a newspaper ad and in mailers that he planned to send to voters. According to Attorney Giggenbach, Respondent informed him that she was the subject of another judicial ethics complaint for publicly endorsing her former magistrate assistant in the May 2016 election for Magistrate of Greenbrier County.² It was then that Attorney Giggenbach first learned that she was a Senior Status Magistrate. Respondent told him that she would prefer not to have her quote in the paper because of the pending complaint. Attorney Giggenbach said that sometime toward the end of the campaign, he saw Respondent and asked her if she wanted him to cut off the quote at the top of the

² Complaint No. 55-2016 was filed by Judicial Disciplinary Counsel on March 29, 2016. On April 11, 2016, Respondent admitted the allegations contained in the complaint. At its April 25, 2016 meeting the Commission voted to warn Complainant about her conduct in relation to Rule 4.1(A)(3) since she had never before been the subject of judicial discipline in her 19 years as a Magistrate.

brochure. Respondent replied that Attorney Giggenbach did not have to take the quote out of the brochure but that the Judicial Investigation Commission might make him cut it off.

On or about May 1, 2016, Disciplinary Counsel spoke with Respondent about the quote in Attorney Giggenbach's campaign brochure. She was equivocal about how the quote ended up in the brochure. On May 2, 2016, Disciplinary Counsel sent a letter requesting information about how the quote ended up in Attorney Giggenbach's campaign brochure. The letter stated:

Rule 2.3 provides that upon notice of the nature of the complaint, you have ten (10) days to file a written response. Therefore your response to the complaint is due ten (10) days from the date you received this letter. 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. You should also be aware that Rule 2.16 of the Code of Judicial Conduct mandates that you be cooperative and candid with the Judicial Investigation Commission.

Respondent failed to reply to the letter or request an extension. On June 14, 2016, the Commission's executive assistant contacted Respondent to determine if she had received Disciplinary Counsel's letter and whether she had ever mailed in a response. Respondent stated that she had been out of town and when she returned she saw the letter but the ten (10) day time period had already passed so she decided not to respond.

CONCLUSIONS

The Commission, by a vote of 8-0,³ determined that probable cause does exist in the instant complaint and that the Honorable Brenda Campbell, Senior Status Magistrate, violated Rules 1.2, 1.3, 2.16(A) and 4.1(A)(3) of the Code of Judicial Conduct which provide:

³ The Commission consists of six judicial officers and three lay members. One of the judicial officers was not in attendance at the June 24, 2016 meeting.

Canon 1

A Judge Shall Uphold And Promote The Independence, Integrity, And Impartiality Of The Judiciary, And Shall Avoid Impropriety And The Appearance Of Impropriety.

Rule 1.2 Confidence in the Judiciary

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

Rule 1.3 Avoiding Abuse of the Prestige of Judicial Office

A judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so.

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.

Canon 4

A Judge or Candidate for Judicial Office Shall Not Engage In Political Or Campaign Activity That is Inconsistent With The Independence, Integrity, Or Impartiality of the Judiciary.

Rule 4.1 Political and Campaign Activities of Judges and Judicial Candidates in General

(A) Except as permitted by law, or by Rules 4.2, 4.3, and 4.4, a judge or a judicial candidate shall not:

(3) publicly endorse or oppose a candidate for any public office;

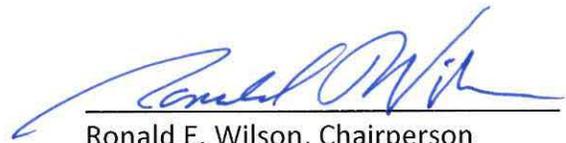
The Commission further determined that formal discipline was not appropriate under the circumstances. However, the Commission found that the violations were serious enough to warrant a public admonishment.

Respondent improperly endorsed Mr. Giggenbach for circuit court judge in violation of Rules 1.2, 1.3 and 4.1(A)(3) of the Code of Judicial Conduct. Knowing that her conduct was inappropriate, Respondent failed to take any steps to correct the situation and in fact, told Mr. Giggenbach that he did not have to remove the endorsement from his campaign materials. Respondent clearly abused the prestige of judicial office in an effort to advance the interests of Mr. Giggenbach. Once again, Respondent is reminded that there is no family or friend exception to the Rules. Comment 5 to Rule 4.1(A)(3) makes this point clear. Judges and judicial candidates “must not become involved in, or publicly associated with a family member’s [or friend’s] political activity or campaign for public office.”

Respondent also had a duty to respond to Disciplinary Counsel’s requests for information and to be candid in her reply. Instead, Respondent was vague and ambiguous in her answers to questions posed by Disciplinary Counsel during a May 1, 2016 telephone call. Respondent also ignored Disciplinary Counsel’s letter of May 2, 2016. Judicial officers must respond to all lawful requests for information from Disciplinary Counsel and the Commission. Failure to do so or to be candid constitutes an obvious violation of Rule 2.16. The Comment to the Rule 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.”

Based upon the foregoing, it is the decision of the Judicial Investigation Commission that the Honorable Brenda Campbell, Senior Status Magistrate, be disciplined. Accordingly, the Judicial Investigation Commission hereby publicly admonishes the Honorable Brenda Campbell, Senior Status Magistrate, for her conduct as fully set forth in the matters asserted herein and warns her 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

11 JULY 2016
Date