

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

**IN THE MATTER OF JULIE M. YEAGER,  
FORMER MAGISTRATE OF KANAWHA COUNTY**

**COMPLAINT NO. 33-2017**

The matter came before the Judicial Investigation Commission upon a complaint filed by Judicial Disciplinary Counsel against the Honorable Julie M. Yeager, who at the time of the filing of the complaint served as Magistrate in Kanawha County, West Virginia (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 October 27, 2017 meeting found probable cause that Respondent violated Canons 1.2, 2.2, 2.9, and 2.12 and ordered that she be admonished pursuant to Rule 2.7(c) of the Rules of Judicial Disciplinary Procedure.

**STATEMENT OF FACTS**

From July 1, 2012, until April 30, 2017, Respondent presided over Kanawha County Domestic Violence Court. After 2015, the two assistant prosecutors assigned to Respondent’s courtroom were primarily APA Sophie Rosenberg, Esquire, and APA Mandy Pellegrin, Esquire. In or about 2016, APAs Pellegrin and Rosenberg raised concerns with senior staff at the Kanawha County Prosecutor’s Office that Respondent was having *ex parte* and/or improper communications with them, law enforcement officers, and victims.

In or about December 2016, Kanawha County Prosecuting Attorney Charles Miller, Esquire, and First Assistant APA Donald Morris, Esquire, met with Chief Public Defender Diana Panucci, Esquire, and Managing Deputy Public Defender Ronni Sheets, Esquire, to discuss concerns regarding improper communications by Respondent. All agreed that the issues had to be reported to a higher authority and contacted the Chief Judge for Kanawha County, West Virginia.

On or about January 20, 2017, the Chief Judge, PA Miller, First Assistant APA Morris, Chief PD Panucci, PD Sheets, and the Kanawha County Court Administrator met to discuss concerns regarding Respondent's improper *ex parte* communication with law enforcement and the assistant prosecutors assigned to her courtroom, and/or allegations of interference with the investigation and prosecution of cases before her. By letter dated March 3, 2017, the Chief Judge advised the Supreme Court's Interim Administrator of the concerns raised by those present at the January 20, 2017 meeting regarding Respondent. The Chief Judge requested the Court consider relieving Respondent of her assignment of Domestic Violence Court. By Order entered March 23, 2017, the Chief Circuit Court Judge ordered that the Domestic Violence Court cease operation on April 30, 2017. The Administrative Order directed that the Domestic Violence Court continue to handle all cases currently scheduled for hearing until the close of court on April 30, 2017.

#### **BUTCHER MATTER**

On or about December 16, 2015, a criminal complaint was filed and an arrest warrant was issued against Greg Butcher (Case No. 15M-7606) on the charge of domestic battery. On or about December 29, 2015, pursuant to a motion filed by Public Defender Shawn Russell for Butcher, a bond reduction hearing was held. Respondent set bail at \$5,000.00 Personal Recognizance and ordered no contact with the victim. At some time between December 29, 2015, and March 30, 2016, Respondent asked APA Rosenberg to come into Respondent's Office to discuss the Butcher case. Respondent directed APA Rosenberg to file a motion to request that Butcher be granted contact with the alleged victim. When APA Rosenberg refused, Respondent became upset and told APA Rosenberg to get Assistant Prosecutor Adam Petry "down here." Respondent then met with APA Petry and APA Rosenberg and briefed them on her request regarding the motion to modify

the no contact provision of the order. APA Petry told Respondent that the Prosecuting Attorney's Office would not agree to her demand to file a motion to modify.

## **RUSSELL MATTER**

On or about September 23, 2016, Earl Russell was charged with brandishing a deadly weapon threatening or causing breach of the peace on Nora Ward. (Case No. 16-M20M-06930). A warrant for Russell's arrest was issued on the same date. On or about October 2, 2016, Sgt. Burdette was dispatched to Ward's residence for a well-being check. Sgt. Burdette knocked loudly on an unlocked door and ultimately entered the residence to search for Ward. He located Ward on the bedroom floor and determined that she was in need of emergency medical assistance. Sgt. Burdette called the medics for medical attention. When the medics arrived, Ward told the officer and the medics that the injuries she sustained were not a result of any assault by Russell. Ward was then transported to Charleston Area Medical Center by the medics. No report or criminal complaint was filed as a result of this well-being check.

On or about October 5, 2016, a member of Respondent's office, at Respondent's direction and control, contacted Metro Communications and advised that Ward was still in the hospital. Respondent's staff member directed Metro Communications to dispatch St. Albans Police to the Ward residence and to arrest Russell for a violation of the domestic violence protective order. Upon arrival, St. Albans Ptlm. Pinson found Russell was not present at the Ward residence. While at the scene, a neighbor approached Ptlm. Pinson and advised that Russell had just left the residence. The neighbor further advised Ptlm. Pinson that she had just spoken to Respondent's office and told them that Russell was at the residence. On the same date, St. Albans Sgt. Burdette filed a criminal complaint which alleged Russell was in violation of the domestic violence

protective order and had committed malicious assault on Ward (Case Nos. 16M20F-02350 and 16M20M-7564). A warrant for Russell's arrest was issued for malicious assault.

The hearing was held on October 27, 2016. Respondent took testimony of Ward, Sgt. Burdette, Russell, and another witness regarding the allegations of malicious assault. On the record, Respondent, *sua sponte*, said that despite the recitation of facts in Sgt. Burdette's narrative regarding her personal involvement in the case, she did not personally speak to Sgt. Burdette or Ptlm. Pinson. Respondent said she had a staff of three and they may have done that-but she did not specifically deny that her office had directed law enforcement, as alleged in the criminal complaint. On the same date, Respondent found probable cause that Russell committed the offense of malicious or unlawful assault and the case was bound over to the grand jury.

## **RUSH MATTER**

On or about November 29, 2016, Respondent was out of the office for a medical procedure. Respondent was contacted by Diane Holcomb, her case coordinator, regarding a bond set for a recent arrestee, Timothy Rush. Holcomb advised Respondent that Rush had been arrested and arraigned by another magistrate and released on a PR bond (Case No. 16-M20F-0271). On the same date, APA Pellegrin received a telephone call from Holcomb who told her that Respondent wanted APA Pellegrin to increase Rush's bond. APA Pellegrin called Respondent's office and told her that she would not be filing a motion for a bond increase in the Rush case.

At 2:46 p.m. the same day, Respondent texted APA Pellegrin a copy of the Rush criminal complaint and advised APA Pellegrin via text "I am concerned about this child." Ward [former Magistrate Harshbarger] just PR'd this guy. This bond really need[s] increased. [sad teary face emoji]" Respondent further texted that "South Charleston is bringing him in now for a second charge on another child." APA Pellegrin did not respond to any of the texts regarding Rush.

Respondent then attempted to contact APA Pellegrin through her assistant, Ashley Nichols, and demanded the assistant locate APA Pellegrin. The assistant did not comply with Respondent's request. Respondent then attempted to contact Prosecuting Attorney Miller but he was unavailable. She finally spoke directly to First Assistant APA Morris regarding her position on the Rush Bond.

## **CONCLUSIONS**

The Commission, by a vote of 8-0,<sup>1</sup> determined that probable cause does exist in the instant complaint and that Former Kanawha County Magistrate Julie M. Yeager, violated Rules 1.2, 2.2, 2.9 and 2.12 of the Code of Judicial Conduct<sup>2</sup> which provide in pertinent part:

### **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.

### **Canon 2**

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

#### **Rule 2.2 – Impartiality and Fairness**

A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

#### **Rule 2.9 – Ex Parte Communications**

(A) A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of

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<sup>1</sup> The Commission consists of six judicial officers and three lay members. One judicial officer was not in attendance at the October 27, 2017 meeting.

<sup>2</sup> Rule 2.2 of the Rules of Judicial Disciplinary Procedure states that “[t]he resignation of a judge shall not relieve the obligation of the Office of Disciplinary Counsel to investigate a complaint that the judge violated the Code of Judicial Conduct and to fully proceed in accordance with these rules.”

the parties or their lawyers, concerning a pending or impending matter . . .

- (C) A judge shall not investigate facts in a matter independently, and shall consider only the evidence presented and any facts that may properly be judicially noticed.

**Rule 2.12 – Supervisory Duties**

- (A) A judge shall require court staff, court officials, and others subject to the judge's direction and control to act in a manner consistent with the judge's obligations under this Code. . . .
- (C) A judge shall not direct any court personnel to engage in any activity or perform any work not reasonably related to the official position or functions of the personnel. A judge shall make reasonable efforts, including providing appropriate supervision, to ensure that this Rule is not violated by court staff, court officials, and others subject to the judge's direction and control.

The *ex parte* communications by Respondent with the assistant prosecutors about cases that she was the presiding judicial officer are improper and in violation of the Code of Judicial Conduct. Moreover, Respondent’s failure to appropriately ensure that her staff members’ actions were in compliance with the restraints on communication with law enforcement and potential witnesses in cases in which she presided over are also in violation of the Code. While Respondent’s intentions may have been to improve the functioning of the domestic violence court in Kanawha County, her actions impugned the integrity of the very system she sought to better by the mere suggestion of partiality and bias. However, “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.” *In re Watkins*, 233 W. Va. 170, 182, 757 S.E.2d 594, 606 (2013).

Given the totality of the circumstances, the Commission has determined that formal discipline was not appropriate. However, the Commission found that the violations were serious enough to warrant a public admonishment. Accordingly, the Judicial Investigation Commission

hereby publicly admonishes former Magistrate Julie Yeager for her conduct as fully set forth in the matters asserted herein.

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Pursuant to Rule 2.7(c) of the Rules of Judicial Disciplinary Procedure, 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.

  
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Ronald E. Wilson, Chairperson  
Judicial Investigation Commission

November 30, 2017  
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Date

REW/rfc