

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

**IN THE MATTER OF DANIEL M. GOHEEN,  
MAGISTRATE OF CABELL COUNTY**

**COMPLAINT NO. 25-2020**

**PUBLIC ADMONISHMENT OF MAGISTRATE DANIEL M. GOHEEN**

The matter is before the Judicial Investigation Commission (“JIC”) upon a complaint filed by Bain Creasy setting forth certain allegations against Daniel M. Goheen, Magistrate of Cabell County (hereinafter “Respondent”). Upon receipt of the complaint, an investigation was conducted pursuant to the Rules of Judicial Disciplinary Procedure (“RJDP”). After a review of the complaint, the Magistrate’s written responses, and the pertinent Rules contained in the Code of Judicial Conduct, the JIC found probable cause that Magistrate Daniel M. Goheen violated Rule 2.8(B) of the Code of Judicial Conduct at a recent meeting and ordered that he be publicly admonished pursuant to RJDP 1.11 and Rule 2.7(c) as set forth in the following statement of facts and conclusions found by the Commission.

**STATEMENT OF FACTS**

Respondent worked as a Cabell County Magistrate from June 22, 2008 through December 31, 2008 and from June 4, 2009 to the present. At all times relevant to the instant complaint, Respondent was serving in his capacity as Magistrate. Complainant is a former civilian bailiff at the Courthouse.

Complainant’s aunt had a personal safety order (“PSO”) against a third party. The aunt went into the hospital on February 5, 2020. While there, the third party showed up at the aunt’s home. The aunt’s son told the third party to leave because of the PSO or he would call the police. According to Complainant, the third party allegedly threatened the son before leaving the property. The son then called Respondent who told him there was nothing he could do. Complainant went to the courthouse to speak with Respondent who, again, told him there was nothing he could do and that he did not believe it constituted a violation of the PSO because the aunt was in the hospital at the time the third

party went to the house. Complainant said that Respondent was “obnoxious” and “condescending” toward him during the conversation.

By letter dated April 27, 2020, Judicial Disciplinary Counsel asked Respondent to reply to the allegations contained in the complaint. Respondent explained that there was nothing he could have done for the Complainant. Respondent did not deny being rude to Complainant during the course of their conversation. Respondent said that “if he [Complainant] felt my answers gave him a feeling of ‘being reprimanded’ so be it as he didn’t seem to care what I tried to explain.” Respondent also stated that “[h]is [Complainant’s] perception of me being ‘rude and dysfunctional’ . . . is his right.” The investigation revealed that Respondent often acts in a discourteous manner to those with whom he comes into contact in the work setting. The Commission found that Respondent’s written response was a further demonstration of churlish behavior.

### CONCLUSIONS

The Commission unanimously<sup>1</sup> found that probable cause exists in the matters set forth above to find that Daniel M. Goheen, Magistrate of Cabell County, violated Rule 2.8(B) of the Code of Judicial Conduct as set forth below:

#### **2.8 – Decorum, Demeanor, and Communication with Jurors**

- (B) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge’s direction and control.

Comment [1] to the Rule notes that “[t]he duty to hear all proceedings with patience and courtesy is not inconsistent with the duty imposed in Rule 2.5 to dispose promptly of the

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<sup>1</sup> The vote was 6-0. The Honorable Patricia A. Keller, Judge of the 6<sup>th</sup> Family Court Circuit, and The Honorable Mike J. Woelfel, Magistrate of Cabell County recused themselves. A lay member was absent for a portion of the meeting which included the vote on the instant matter.

business of the court. Judges can be efficient and businesslike while being patient and deliberate.”

The Commission further found that formal disciplinary action was not essential as Respondent had no prior disciplinary actions. However, the Commission found that the violations were serious enough to warrant a public admonishment.

The Preamble to the Code of Judicial Conduct provides:

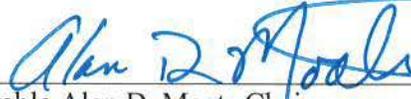
Our legal system is based on the principle that an independent, fair and competent judiciary will interpret and apply the laws that govern us. The role of the judiciary is central to the American concepts of justice and the rule of law. Intrinsic to all sections of this Code are the precepts that judges, 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.

Magistrate Court is known as “the people’s court.” Generally, litigants have their first interaction with the legal system in Magistrate Court. As the old adage goes, “you never get a second chance to make a first impression.” The impression a judicial officer conveys to others is the ultimate imprint others will have of the Court. If a judicial officer is respectful, the integrity of the court is preserved. If you are disrespectful, the Court wears a black eye. Judicial officers should practice the golden rule, which is “in everything, do unto others what you would have them do unto you.” To routinely do otherwise, as Respondent has done, not only infringes on the common principles of courtesy and civility but it also violates Rule 2.8(B) of the Code of Judicial Conduct.

Therefore, it is the decision of the Judicial Investigation Commission that Daniel M. Goheen, Magistrate of Cabell County, be disciplined by this Admonishment. Accordingly, the Judicial Investigation Commission hereby publicly admonishes Magistrate Goheen for his 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, 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, file formal charges with the Clerk of the Supreme Court of Appeals of West Virginia.



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The Honorable Alan D. Moats Chairperson  
Judicial Investigation Commission

7/1/20

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Date

ADM/tat