

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

**IN THE MATTER OF,  
THE HONORABLE ERIC SHUCK, JUDGE  
OF THE 13<sup>TH</sup> FAMILY COURT CIRCUIT**

**COMPLAINT NO. 56-2020**

**PUBLIC ADMONISHMENT OF THE HONORABLE ERIC SHUCK,  
JUDGE OF THE 13<sup>TH</sup> FAMILY COURT CIRCUIT**

The matter is before the Judicial Investigation Commission (“JIC”) upon a complaint filed by Judicial Disciplinary Counsel setting forth certain allegations against the Honorable Eric Shuck, Judge of the 13<sup>th</sup> Family Court Circuit (“Respondent”). An investigation was conducted pursuant to the Rules of Judicial Disciplinary Procedure (“RJDP”). After a review of the complaint, the Judge’s written response, the information and documents obtained from the investigation and the pertinent Rules contained in the Code of Judicial Conduct, the JIC found probable cause that Judge Shuck violated Rules 1.1, 1.2, 1.3, and 2.5(A) of the Code of Judicial Conduct at a recent meeting and ordered that he be publicly admonished pursuant to RJDP 1.11 and 2.7(c) as set forth in the following statement of facts and conclusions found by the Commission.

**STATEMENT OF FACTS**

Respondent successfully ran for Family Court Judge in the May 2016 election and took office on January 1, 2017. He has served continuously in that position since that time. At all times relevant to the instant complaint, Respondent was serving in his capacity as a Family Court Judge.

On or about June 16, 2020, Judicial Disciplinary Counsel opened a complaint against Respondent. The gravamen of the complaint was that Respondent was going to the homes of litigants to determine if certain disputed marital personal property was in the possession of the occupant and/or to supervise the transfer of said items. By reply dated July 8, 2020, Respondent admitted to taking such action in two separate cases in September and November 2019. In each

case, the Respondent stated that both parties were represented by attorneys; one attorney requested the home visit to “see if property which w[as] to be provided to [his/her client] was still located at the home;” “the marital home and the property were still under the jurisdiction of the Court;” and there was no objection by the other lawyer.

On July 24, 2020, Judicial Disciplinary Counsel took Respondent’s sworn statement. Respondent opined that he believed it was proper to visit litigants’ homes because a colleague had engaged in the same practice for several years.<sup>1</sup> Respondent also stated that no one objected to the home visit. He stated that had one party raised an objection in either case, he would have denied the home visit. Respondent likened the practice to a jury view or similar continuation of the court proceeding and stated that as a finder of fact it was necessary to determine whether a party could be held in contempt for not turning over personal property as previously ordered by the Court.

When asked, Respondent could provide no statute, rule or case that gave him the authority to conduct home visits. Respondent also acknowledged that there was nothing in the contempt powers that gave him the authority to conduct a home visit. Respondent confessed that he never held anyone in contempt prior to going to the home and that he failed to enter any order subsequent to the visit reflecting what had happened at the residence, whether any items had been secured and/or whether or not a party was in contempt. Respondent admitted that he never had any clear or written procedures for conducting a home visit, including but not limited to, when the proceeding should be utilized and how the process should take place. He also acknowledged that he never took a court reporter to the scene and that he only recorded one of the two visits. Upon

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<sup>1</sup> The colleague, who is also the subject of a judicial disciplinary proceeding, recently engaged in a visit to a litigant ex-husband’s home to search for marital property that had been the focus of a contempt proceeding. The ex-husband was not represented by a lawyer and was not advised of the purpose of the visit prior to the judge, his ex-wife and her lawyer going to the home. Once there, the ex-husband moved to disqualify the judge but was told the motion was not timely and would have to be submitted in writing.

reflection, Respondent agreed that the practice could make him a potential witness to a future proceeding which could then result in his disqualification.

## **CONCLUSIONS**

The Commission unanimously<sup>2</sup> found that probable cause exists in the matters set forth above to find that the Honorable Eric Shuck, Judge of the 13<sup>th</sup> Family Court Circuit, violated Rules 1.1, 1.2, 1.3 and 2.5(A) of the Code of Judicial Conduct as set forth below:

### **1.1 – Compliance With the Law**

A judge shall comply with the law, including the West Virginia Code of Judicial Conduct.

### **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.

### **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.

### **2.5 – Competence, Diligence and Cooperation**

(A) A judge shall perform judicial and administrative duties, competently and diligently.

The Commission further found that formal discipline was not essential as Respondent had no prior disciplinary actions and had been led astray, in part, by another colleague's 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

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<sup>2</sup> The vote was 8-0. The Honorable H.L. Kirkpatrick, III, Judge of the 10<sup>th</sup> Judicial Circuit recused himself.

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.

Home visits by a Family Court Judge to locate and/or secure personal property in a contempt proceeding are ill-advised and inappropriate. Such visits are not authorized by any statute, rule or case law, and a family court judge runs the risk of disqualification if he/she were to become a witness in a subsequent proceeding pertaining thereto. Judges have a duty to preside over cases whenever possible and should limit their activity so as to avoid the risk of disqualification. The risk is clearly more likely when a judge fails to document proceedings either by transcription, recordation, or order.

The burden of proof in a contempt proceeding rests with the moving party. In other words, it is the moving party's responsibility to provide evidence in support of their contention that the other side has failed to produce the items in question. When a judge goes to a scene to gather evidence, he/she places himself/herself in the stead of the moving party and ceases to serve as a factfinder. More importantly, when a judge goes to a home to help enforce a prior court order, he abrogates his responsibility as a judge in favor of some nonexistent role in the the executive branch.

Therefore, it is the decision of the Judicial Investigation Commission that the Honorable Eric Shuck, Judge of the 13<sup>th</sup> Family Court Circuit, be disciplined by this Admonishment. Accordingly, the Judicial Investigation Commission hereby publicly admonishes Judge Shuck 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

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08/25/2020

Date

ADM/tat