

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

**IN THE MATTER OF:  
MAGISTRATE RICHARD E. HOLICKER  
MAGISTRATE FOR KANAWHA COUNTY**

**COMPLAINT NO. 155-03**

This matter is before the Judicial Investigation Commission upon a complaint filed on September 4, 2003, setting forth certain allegations against Magistrate Richard E. Holicker, Magistrate for Kanawha County. The complaint alleged, among other things, that prior to a hearing, Magistrate Holicker was informed that one of the parties wanted to talk with him. It was alleged that Magistrate Holicker and one of the parties went into a hallway located behind the magistrate courtroom and engaged in some conversation.

Upon receipt of the complaint an investigation was conducted pursuant to the Rules of Judicial Disciplinary Procedure. The investigation revealed that Charles Vallandingham, III, appeared before Magistrate Holicker on August 19, 2003, on a charge brought by Michael Wallace. Before the hearing began, the Magistrate learned that Mr. Wallace wanted to talk with him. The Magistrate went into the hall, outside the presence of the other party, and a conversation occurred. Subsequently the matter was heard in the magistrate courtroom with all parties present.

The complaint and the investigation of this matter were reviewed by the Judicial Investigation Commission at its meeting on October 31, 2003, and it was determined that probable cause does exist that Magistrate Richard Holicker, Magistrate for Kanawha County violated Canon 2A and 3B(7) of the Code of Judicial Conduct. These sections of the Code of Judicial Conduct state in relevant part:

Canon 2. A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.

A. A judge shall respect and comply with the law, shall avoid impropriety and the appearance of impropriety in all of the judge's activities, and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Canon 3. A judge shall perform the duties of judicial office impartially and diligently.

B. Adjudicative responsibilities.

(7) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law. A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding . . .

It was further determined that formal discipline was not appropriate under the circumstances. The Judicial Investigation Commission determined that pursuant to Rule 2.7(c) of the Rules of Judicial Disciplinary Procedure that a written admonishment would be given to Magistrate Richard Holicker.

It is therefore the decision of the Judicial Investigation Commission that Magistrate Richard Holicker be and he hereby is admonished for this conduct as fully set forth in the matters as asserted here in the complaint filed in this matter on September 4, 2003.

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Fred L. Fox, II, Chairperson  
Judicial Investigation Commission

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Date