

BEFORE THE JUDICIAL INVESTIGATION COMMISSION OF WEST VIRGINIA

**IN THE MATTER OF,
THE HONORABLE VICKI D'ANGELO,
MAGISTRATE OF JEFFERSON COUNTY**

COMPLAINT NO. 91-2021

**PUBLIC ADMONISHMENT OF THE HONORABLE VICKI D'ANGELO
MAGISTRATE OF JEFFERSON COUNTY**

The matter is before the Judicial Investigation Commission ("JIC") upon a complaint filed by Jessica Skupnick setting forth certain allegations against the Honorable Vicki D'Angelo, Magistrate of Jefferson County ("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 Magistrate D'Angelo violated Rules 1.1, 1.2, 2.2, and 2.5(A) of the Code of Judicial Conduct at a recent meeting and ordered that she 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 was appointed Magistrate in December 2018 and was elected to the bench in May 2020. She has served continuously in that position for almost three years. At all times relevant to the instant complaint, Respondent was serving in her capacity as Magistrate of Jefferson County.

On or about July 26, 2021, a landlord filed suit against Complainant for wrongful occupation of a rental unit after she obtained a service dog. The landlord claimed that the inclusion of a therapy dog on the premises allegedly violated the rental agreement. Respondent presided over the case.

On July 30, 2021, Complainant filed an answer to the landlord's complaint. Complainant, who is hearing impaired, said she also filed a form request for a sign language interpreter with her answer. The landlord then filed an amended complaint. On August 6, 2021, Respondent submitted an answer to the amended complaint. She said she again submitted a form request for a sign language interpreter.

The matter was heard by Respondent on August 11, 2021. Just prior to the hearing, Complainant again asked for a sign language interpreter and a continuance of the hearing based on that ground. Respondent denied the requests. At the conclusion of the hearing, Respondent ruled in favor of the landlord. Complainant then filed a petition for appeal to the Circuit Court of Jefferson County.

Meanwhile, on August 16, 2021, Complainant filed a judicial ethics complaint against Respondent. Complainant alleged that Respondent improperly failed to provide her with a sign language interpreter for the hearing. Complainant attached the two form requests for a sign language interpreter to her ethics complaint.

The Commission considered the complaint at its August 27, 2021 meeting at which time it voted to request a written reply from Respondent. Respondent replied to the allegations by letter dated September 7, 2021. Respondent denied ever seeing a written request for a sign language interpreter and stated that neither answer "indicated a need for one." Nonetheless, Respondent acknowledges that Complainant asked for a sign language interpreter and a continuance at hearing. Respondent said that based upon observation and after speaking with Complainant's spouse, she determined that the matter could move forward without an interpreter.

According to Respondent, the spouse advised that "she communicates with her wife by speaking loudly." Respondent stated:

After conversing for several minutes, I determined there was no indication either communicating for herself or receiving information that an interpreter was needed. I saw both parties communicating with one another and with myself without difficulty. At any time if there had been any indication either exhibited by Ms. Skupnick or communicated by either party that she could not understand or hear was happening in the hearing I would have immediately stopped the proceedings to get an interpreter.

The Court's docketing statement does not indicate any receipt of the two initial form requests for a sign language interpreter. It does state that Respondent submitted "attachments" with each answer. It also states that Respondent requested a sign language interpreter on August 12, 2021 for her appeal. Importantly, the actual court file contained a handwritten letter from Complainant dated August 11, 2021, asking for a sign language interpreter and documents demonstrating that the dog was a registered service animal for the hearing impaired and listing Complainant as "hearing impaired." It also contained a letter from an ear, nose and throat doctor indicating that Complainant has "profound" hearing loss in both ears such that she "continues to rely on lipreading for speech understanding" even with amplification devices.

CONCLUSIONS

The Commission unanimously¹ found that probable cause exists in the matters set forth above to find that the Honorable Vicki D'Angelo, Magistrate of Jefferson County, violated Rules 1.1, 1.2, 2.2 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 The vote was 5-0. Three Commission members were absent and the Honorable Bridget Cohee, Judge of the 23rd Judicial Circuit recused herself.

2.2 – Impartiality and Fairness

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

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. Nonetheless, 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.

Comment [1] to Rule 1.2 states that “[p]ublic confidence in the judiciary is eroded by improper conduct and conduct that creates the appearance of impropriety. This principle applies to both the professional and personal conduct of a judge.” Comment [2] provides that “[a] judge should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens and must accept the restrictions imposed by the Code.” Comment [3] notes that “[c]onduct that compromises or appears to compromise the independence, integrity, and impartiality of a judge undermines public confidence in the judiciary.” Comment [4] states that “[j]udges should participate in activities that promote ethical conduct among judges and lawyers,

support professionalism within the judiciary and the legal profession, and promote access to justice for all.” Comment [5] provides:

Actual improprieties include violations of law, court rules or provisions of this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge's honesty, impartiality, temperament, or fitness to serve as a judge.

Comment [1] to Rule 2.2 states that a judge must be objective and open-minded in order to ensure impartiality and fairness to all parties. Comment [2] notes that although each judge comes to the bench with a unique background and personal philosophy, he/she “must interpret and apply the law without regard to whether the judge approves or disapproves of the law in question.” Comment [4] states that it is not a violation of Rule 2.2 “for a judge to make reasonable accommodations to ensure pro se litigants the opportunity to have their matters fairly heard.” It stands to reason then that when a judge fails to make reasonable accommodations he/she may have violated the rule. This is reinforced by Comment [4] to Rule 2.5 which states that “[i]n disposing of matters promptly and efficiently, a judge must demonstrate due regard for the rights of parties to be heard and to have issues resolved without unnecessary cost or delay.”

It is unclear whether the Complainant’s form requests for a sign language interpreter ever made it to the Court file for Respondent to consider before hearing. What is evident is that both parties acknowledge that another request was made before the evidentiary hearing commenced. Furthermore, the court file contains proof submitted by Respondent on the day of the hearing that the request was valid. Despite her assertion, Respondent does not have the manner, method, means, or expertise to independently determine whether someone needs an interpreter. When the request for an interpreter is made, it should be granted without question. Respondent, by her own admission, indicated that a delay in the hearing would not infringe on the rights of either party.

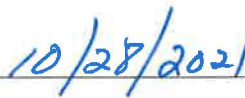
Therefore, Respondent had a duty to provide an interpreter to Complainant and by failing to do so she violated Rules 1.1, 1.2, 2.2 and 2.5(A) of the Code of Judicial Conduct and is admonished for the same.

Therefore, it is the decision of the Judicial Investigation Commission that the Honorable Vicki D'Angelo, Magistrate of Jefferson County, be disciplined by this Admonishment. Accordingly, the Judicial Investigation Commission hereby publicly admonishes Magistrate D'Angelo for her conduct as fully set forth in the matters asserted herein.

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.



The Honorable Alan D. Moats Chairperson
Judicial Investigation Commission



Date

ADM/tat