

JUDICIAL INVESTIGATION COMMISSION

212 Dickinson Street
Post Office Box 1629
Charleston, West Virginia 25326-1629
(304) 558-0169 FAX (304) 558-0831

December 8, 1995

Re: JIC Advisory Opinion 1995-32

Dear

Your letter to Counsel for the Judicial Investigation Commission was reviewed by the Commission at a recent meeting. In that correspondence you stated that you were assigned to hear a domestic violence case regarding a doctor as the respondent. Prior to the hearing the respondent had had his medical license suspended. Prior to the beginning of the hearing the respondent began to plead with the petitioner and approached her without the Court's permission. The situation deteriorated from there; and because of outbursts and his refusal to be seated, the respondent was forcibly handcuffed and restrained.

You further indicated that you received a telephone call from the West Virginia Board of Medicine stating that the respondent had a hearing before the Board to regain his medical license. The Board was interested in receiving an affidavit or statement from you explaining the respondent's behavior at the domestic violence case proceeding.

You asked the Commission whether sending an affidavit would violate the Code of Judicial Conduct. After reviewing the request, the Commission determined that you would not be able to make any public or nonpublic comment about the pending or impending proceeding based on the language contained in Canon 3B(9). However, if properly summoned you could testify as a witness about events which happened independent from the proceeding. You would need to be subpoenaed to provide such testimony and not voluntarily give it.

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It is hoped that this opinion fully addresses the inquiry which you have made. If you have any further question regarding this matter, do not hesitate to contact the Commission.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Fred L. Fox, II", written over a horizontal line.

Fred L. Fox, II, Chairman

FLF,II/bl