



JUDICIAL INVESTIGATION COMMISSION

City Center East - Suite 1200 A
4700 MacCorkle Ave., SE
Charleston, West Virginia 25304
(304) 558-0169 • FAX (304) 558-0831

August 6, 2015

Re: JIC Advisory Opinion 2015-12

Dear

Your recent request for an advisory opinion was reviewed by the Judicial Investigation Commission. The factual scenario giving rise to your request is as follows: At a hearing on a Defendant's Motion for a New Trial, you disclosed that a witness in the underlying trial was one of your former tenants. You also disclosed that certain testimony adduced at trial alluded to a personal and professional acquaintance. The Defendant then stated that the victim in the case had attended vacation bible school at your church and that you may have been the class instructor. You do not recall meeting the victim.

According to you, after hearing such information from the defense counsel, you indicated on the record that you would seek guidance from the West Virginia Supreme Court of Appeals regarding a need for recusal. Before doing so, you thought it prudent to seek a formal opinion from the Judicial Investigation Commission.

Trial Court Rule (hereinafter "TCR") 17, *et seq.* governs the disqualification and temporary assignment of judges. TCR 17.02 provides in pertinent part:

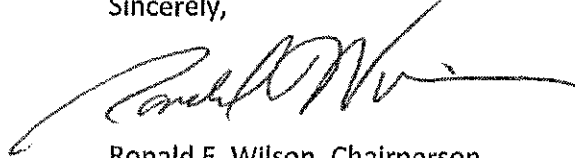
In the absence of a disqualification motion having been filed . . . a judge seeking voluntary recusal shall so inform the parties and shall proceed pursuant to the applicable provisions of TCR 17.01(b), provided that in lieu of a motion and certificate, the judge shall transmit to the Chief

Justice a letter stating the reasons why the judge is requesting recusal with reference to the relevant section(s) of the Code of Judicial Conduct and the Chief Justice shall rule pursuant to TCR 17.01(c) or TCR 17.01(d).

Therefore, you should timely transmit your letter concerning whether or not you should be recused from the defendant's case to the Chief Justice of the Supreme Court of Appeals of West Virginia pursuant to TCR 17, *et seq.*

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

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald E. Wilson", with a long horizontal flourish extending to the right.

Ronald E. Wilson, Chairperson
Judicial Investigation Commission

REW/tat