



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 2, 2018

Re: JIC Advisory Opinion 2018-15.

Dear

Your recent request for an advisory opinion was reviewed by the Judicial Investigation Commission. The facts giving rise to your request are as follows:

In late July 2018, an attorney appeared in your court representing himself on his custody case. As part of the proceedings and based on allegations, you required both parties to undergo immediate drug testing, and the lawyer tested positive for marijuana. You want to know if you are required to report the lawyer to the Office of Lawyer Disciplinary Counsel ("ODC") given the confidentiality requirements set forth in Rule 6 of the Rules of Practice and Procedure for Family Court.

To address the questions, the Commission has reviewed Rule 2.15(B) and (D) of the Code of Judicial Conduct which provides:

- (B) A judge having knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question regarding the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects shall inform the appropriate authority.
...
- (D) A judge having knowledge indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct shall take the appropriate action.

Based upon the foregoing, the Commission is of the opinion that at this juncture you have no obligation to breach the rule of confidentiality and report the information to the ODC. However, as circumstances develop, additional facts may require you to revisit the issue and consider further action including the possibility of reporting the information to ODC.

Thank you for your inquiry. If there is any further question regarding this matter please do not hesitate to contact the Commission.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ronald E. Wilson", with a stylized flourish at the end.

Ronald E. Wilson, Chairperson
Judicial Investigation Commission

REW/tat