



**JUDICIAL INVESTIGATION COMMISSION**

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

October 30, 2019

Re: JIC Advisory Opinion 2019-23

Dear Mr. :

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:

On or about November 10, 2012, you were charged with the misdemeanor offenses of domestic battery and domestic assault in \_\_\_\_\_, \_\_\_\_\_ County Magistrate Court Case Nos. \_\_\_\_\_. On or about November 13, 2012, you notified the court that you "don't want a court appointed attorney. I will represent myself." On December 6, 2012, you pleaded guilty to the domestic assault charge. In exchange for your plea of guilty, the domestic battery charge was dismissed. You were sentenced to 90 days in jail with 3 days credit for time served. You were to serve 17 days on home confinement and the remainder of the sentence was suspended for one year unsupervised probation.

You are now contemplating a run for magistrate in the May 2020 election. You want to know if you are barred from running/taking office because of your domestic assault conviction. W. Va. Code § 50-1-4 sets forth the qualifications to serve as magistrate in the State of West Virginia and provides:

Each magistrate shall be at least twenty-one years of age, shall have a high school education or its equivalent, **shall not have been convicted of** any felony or **any misdemeanor involving moral turpitude** and shall reside in the county of his election. No magistrate shall be a member of the immediate family of any other magistrate in the county.

Based upon the foregoing, the Judicial Investigation Commission is of the opinion that a misdemeanor conviction for domestic assault involves "moral turpitude" and

therefore precludes you from sitting as a magistrate in West Virginia. Furthermore, if you choose to run, the Commission will be forced to bring an action against you to have your name removed from the ballot. *See State ex rel. Judicial Investigation Com'n v. Putnam County Board of Ballot Commissioners*, 237 W. Va. 99, 785 S.E.2d 805 (2016).

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,



Alan D. Moats, Chairperson  
Judicial Investigation Commission

ADM/tat