



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 17, 2022

Re: JIC Advisory Opinion 2022-25.

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: you completed the Basic Law Enforcement Officer Training through the State of West Virginia in 1991. Since then, you have maintained that certification by completing the mandatory yearly in-service training hours and firearms qualifications. You would like to know if you can maintain your Law Enforcement Officer Certification now that you have been elected as a magistrate.

The Commission has reviewed the Code of Judicial Conduct to address the question which you have raised. Specifically, the Commission looked at Rules 2.3(A) and 2.4(B).

Rule 2.3 Bias, Prejudice, and Harassment

(A) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.

Rule 2.4 External Influences on Judicial Conduct

(B) A judge shall not permit family, social, political, financial, or other interests or relationships to influence the judge's judicial conduct or judgment.

The Commission is of the opinion that a Magistrate maintaining a Law Enforcement Officer Certification could give the appearance, however wrong it may be, to a reasonable person that the Magistrate would favor law enforcement entities that appear in front of them. Therefore, the Commission believes that you would not be able to simultaneously maintain your Law Enforcement Officer Certification and sit as a Magistrate.

We hope this opinion fully addresses the issue 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 blue ink, reading "Alan D. Moats". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Alan D. Moats, Chairperson
Judicial Investigation Commission

ADM/bjl