

BEFORE THE JUDICIAL INVESTIGATION COMMISSION OF WEST VIRGINIA

**IN THE MATTER OF:
THE HONORABLE DONALD SANSOM,
MAGISTRATE OF MINGO COUNTY**

COMPLAINT NOS. 55-2022 & 91-2022

PUBLIC ADMONISHMENT OF MAGISTRATE DONALD SANSOM

The matter is before the Judicial Investigation Commission (“JIC” or “Commission”) upon complaints filed by Mingo County Sheriff’s Sergeant Norman Mines and Judicial Disciplinary Counsel setting forth certain allegations against the Honorable Donald Sansom, Magistrate of Mingo County (“Respondent”). Upon opening of the complaint, an investigation was conducted pursuant to the Rules of Judicial Disciplinary Procedure (“RJDP”). After a review of the complaint, Respondent’s written response, Respondent’s sworn statement and the information, documents and other evidence obtained from the investigation, the JIC found probable cause that Respondent violated Rules 1.1, 1.2, 1.3, 2.2, 2.5(A), 2.6(A), 3.1(B), 3.1(C), and 3.7(A)(2) of the Code of Judicial Conduct at a recent meeting and ordered that he be **PUBLICLY ADMONISHED** pursuant to RJDP 1.11 and 2.7(c), as set forth in the following statement of facts and conclusions found by the Commission.

STATEMENT OF FACTS

Respondent was elected Magistrate for Mingo County in 2016 and took office on January 1, 2017. Respondent was re-elected in 2020 and remains Magistrate in Mingo County. At all times relevant to this Admonishment, Respondent was serving as Magistrate. Respondent had no prior JIC complaints and was not the subject of prior judicial discipline.

On May 2, 2022, Sgt. Mines filed Complaint No. 55-2022. JDC began an immediate investigation into the matter. Respondent filed a written response on January 13, 2023. During the investigation, JDC received information about an unrelated incident and opened Complaint No. 91-

2022 on August 16, 2022. By letter dated September 9, 2022, Respondent filed a written response. Respondent, accompanied by counsel, sat for a sworn statement on March 30, 2023.

Complaint No. 55-2022

In several criminal cases, Respondent allowed non-lawyers to practice law by allowing these individuals, who were also not the defendant, to sign and submit legal instruments in his court on behalf of a defendant. In *State v. Daniels*, Mingo County case no. 20-M-835, Respondent allowed his assistant to sign and file a Motion to Dismiss for the defendant who was not present at the time. In *State v. Turner*, Mingo County case no. 21-M-357, Respondent allowed a defendant's relative to sign and file a Motion to Dismiss for the defendant who also was not present at the time. In *State v. Akers*, Mingo County case no. 21-M-413, Respondent allowed someone other than the defendant or an attorney to sign and file a Motion to Dismiss for the defendant who was also not at the courthouse.

In his written response and sworn statement, Respondent maintained that he was told by a former Magistrate Court Clerk, who is not a lawyer, that it was acceptable for someone other than the defendant or his/her lawyer to resolve citations on the defendant's behalf. Respondent claimed that this conduct had been the norm since before he took office. During his sworn statement Respondent apologized, admitted that he now understood that it was a mistake to allow anyone beside a defendant or their attorney to file legal instruments in the case, that the conduct violated Rules 1.1 and 2.5 and that he would not repeat the mistake.

In at least one criminal case, Respondent allowed someone other than the defendant or his/her attorney to enter a plea. In *State v. Bryant*, Mingo County case no. 22-M-173, Respondent allowed a family member to plead No Contest to a charge of No Proof of Insurance since the defendant was not present. As before, in his written response and sworn statement, Respondent maintained that he was told by the former Magistrate Court Clerk that it was acceptable for someone other than the defendant

or his/her attorney to resolve citations on their behalf. Respondent again claimed that this conduct had been the norm since before he took office. During his sworn statement Respondent apologized, admitted that he now understood that it was a mistake to allow anyone beside a defendant or his/her attorney to enter a No Contest plea, that the conduct violated Rules 1.1 and 2.5 and that he would not repeat the mistake.

In another criminal case, Respondent caused a defendant to spend extra time in jail. In *State v. Williamson*, Mingo County case no. 22-F-74, the parties reached an agreement that would allow the defendant to be released from jail pending her next hearing. Respondent accepted the agreement, filled out the Jail Release Order and faxed the Order to the Regional Jail. However, Respondent did not wait for fax confirmation. The fax was not successful, which caused the defendant not to be released from jail until the next day instead of immediately as the jail release indicated. Respondent admitted that he did not wait for confirmation but went home because he had been on call and was extremely tired. Respondent admitted that the conduct violated Rules 1.1 and 2.5 and that he would not repeat the mistake.

In *State v. Cantrell*, Mingo County case no. 22-M-239, Respondent altered an already entered Court Order without first notifying the parties and allowing them to be heard. The parties had extensive negotiations resulting in a plea agreement involving multiple misdemeanors. The negotiations included the Assistant Prosecutor, her assistant, Deputy in charge of Home Confinement, the defense attorney and the defendant. According to the APA, her assistant and the Deputy, a major point of negotiation was the date and time that the defendant would report to enroll in the Home Confinement program. According to those three witnesses and the court documents, Respondent entered a Home Incarceration Order agreed to by all the parties. Later in the day, Respondent modified the Order to change the day and time without a hearing or prior notification to the APA. When the APA found out

after the fact, she contacted Respondent, who modified the Order a second time without a hearing or notice to the parties. The Respondent's conduct violated Rules 1.1, 1.2, 2.2, 2.5(A) and 2.6(A).

Complaint No. 91-2022

On July 3, 2021, Respondent posted a picture on his Facebook page of himself with the Delbarton Chief of Police, who was wearing his law enforcement uniform. During his sworn statement Respondent apologized, admitted that he now understood that it was a mistake to have the picture on his social media account, that the picture violated Rules 3.1 (B) and 3.1 (C) and that he would not repeat the mistake.

On December 31, 2021, Respondent shared a post from the Governor's Highway Safety Program that said, "Drive sober or get pulled over" and "kiss your license goodbye!" During his sworn statement Respondent apologized, admitted that he now understood that it was a mistake to have the post on his social media account, that the post violated Rules 3.1 (B) and 3.1 (C) and that he would not repeat the mistake.

On June 11, 2021, Respondent shared a post asking for donations to a gofundme.com account for a family of a boy who died at a young age. In his written response Respondent admitted encouraging people to give to the charity. During his sworn statement Respondent apologized, admitted that he now understood that it was a mistake to have the post on his social media account and that as a Magistrate, he should not have encouraged members of the public to donate. Respondent admitted that the post violated Rules 1.3 and 3.7(A)(2) and that he would not repeat the mistake.

On July 30, 2021, and August 9, 2021, Respondent shared a post advertising a fundraiser for a West Virginia State Police Trooper. During his sworn statement Respondent apologized, admitted that

he now understood that it was a mistake to have the posts on his social media account, that the posts violated Rules 1.3 and 3.7(A)(2) and that he would not repeat the mistake.

On November 9, 2021, Respondent shared a donation request for a charity providing Christmas meals. During his sworn statement Respondent apologized, admitted that he now understood that it was a mistake to have the post on his social media account, that the picture violated Rules 1.3 and 3.7(A)(2) and that he would not repeat the mistake.

CONCLUSIONS

The Commission unanimously¹ found that probable cause does exist in the matters set forth above to find that the Honorable Donald Sansom, Magistrate of Mingo County, violated Rules 1.1, 1.2, 1.3, 2.2, 2.5(A), 2.6(A), 3.1(B), 3.1(C), and 3.7(A)(2) of the Code of Judicial Conduct as set forth below:

Rule 1.1 – Compliance with the Law

A judge shall comply with the law, including the West Virginia Code of Judicial Conduct.

Rule 1.2 – Confidence in the Judiciary

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety.

Rule 1.3 -- Avoiding Abuse of the Prestige of Judicial Office

A judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so.

Rule 2.2 -- Impartiality and Fairness

A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

¹ The vote was 8-0. Vice-Chair Layton Cottrill was absent.

Rule 2.5 – Competence, Diligence, and Cooperation

(A) A judge shall perform judicial and administrative duties, competently and diligently.

Rule 2.6 – Ensuring the Right to be Heard

(A) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law.

Rule 3.1 – Extrajudicial Activities in General

A judge may engage in extrajudicial activities, except as prohibited by law or this Code. However, when engaging in extrajudicial activities, a judge shall not:

- (B) participate in activities that will lead to frequent disqualification of the judge;
- (C) participate in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality;

Rule 3.7 -- Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities

- A. Subject to the requirements of Rule 3.1, a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including but not limited to the following activities:
 - 2. soliciting contributions for such an organization or entity, but only from members of the judge's family, or from judges over whom the judge does not exercise supervisory or appellate authority;

It was further determined that formal discipline was not essential. However, the Commission found that a written admonishment is proper and appropriate in this matter.

Respondent's violations with respect to Complaint No. 55-2022 are the product of poor advice from a non-lawyer. According to Respondent, he now understands that only the defendant, representing himself/herself pro se or his/her lawyer can file motions or enter pleas in criminal cases. Respondent also recognizes that his failure to ensure that the jail received the release caused a defendant to spend extra time under incarceration at the regional jail. Judicial duties take precedence over all other activities no matter how long someone has worked and no matter how tired he may be. At all times, judges should ensure that jail release forms are actually received by the jail in a timely

manner and that the defendant is appropriately processed for release. Respondent also has a duty to ensure that all sides in a matter are afforded due process before making a revised ruling. Respondent failed to do so in this case. Ordinarily the Commission could ask for formal charges in such cases but because Respondent, has no prior discipline, has cooperated in the investigation, has admitted his misconduct, and has learned from his prior actions, the Commission has unanimously voted to **PUBLICLY ADMONISH** him for violating Rules 1.1, 1.2, 2.2, 2.5(A) and 2.6(A).

With respect to Complaint No. 91-2022, there is an old adage that no good deed goes unpunished and it is very true in this case. Unlike the average person, judges must at all times remain neutral and detached. Therefore, judges taking photos with law enforcement officers and posting them on Facebook may cause the public to think, however wrong it may be, that he/she is biased in favor of law enforcement. Moreover, judges are not allowed to solicit funds for charitable causes except from family members or judges of equal or greater rank. To do otherwise, again creates in the public's mind the perception, however wrong it may be, that the judge is using the prestige of office to enhance donations. Magistrate Sansom is a generous soul but since he is now a judge he must conform his conduct, like all other judicial officers, with the provisions of the Code of Judicial Conduct to ensure the independence, integrity and impartiality of the judiciary. For failing to follow the Code on these matters, the Commission has unanimously voted to **PUBLICLY ADMONISH** him for violating Rules 1.1, 1.3, 3.1(B), 3.1(C) and 3.7(A)(2).

Therefore, it is the decision of the Judicial Investigation Commission that the Honorable Donald Sansom, Magistrate for Mingo, be disciplined by this **ADMONISHMENT**. Consequently, the Judicial Investigation Commission hereby **PUBLICLY ADMONISHES** Donald Sansom for his conduct as fully set forth in the matters asserted herein.

Pursuant to Rule 2.7(c) of the Rules of Judicial Disciplinary Procedure, the Respondent has fourteen (14) days after receipt of the public admonishment to file a written objection to the contents

thereof. If the Respondent timely files an objection, the Judicial Investigation Commission shall, pursuant to the Rule, file formal charges with the Clerk of the Supreme Court of Appeals of West Virginia.



The Honorable Alan D. Moats, Chairperson
Judicial Investigation Commission



Date

ADM/bjl