

BEFORE THE JUDICIAL INVESTIGATION COMMISSION OF WEST VIRGINIA

**IN THE MATTER OF:
THE HONORABLE JODY PURKEY,
MAGISTRATE OF WOOD COUNTY**

COMPLAINT NO. 65-2023

PUBLIC ADMONISHMENT OF MAGISTRATE JODY PURKEY

The matter is before the Judicial Investigation Commission (“JIC” or “Commission”) upon a complaint filed by Joe Armstrong, Administrator Director of the Supreme Court of West Virginia, setting forth certain allegations against the Honorable Jody Purkey, Magistrate of Wood County (“Respondent”). Upon opening 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 other evidence obtained from the investigation, the JIC found probable cause that Respondent violated Rules 1.1, 1.2, 2.5(B), and 2.8(B) 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 of Wood County in 2016 and took office on January 1, 2017. Respondent was re-elected in 2020 and has worked continuously as a Magistrate. At all times relevant to the facts giving rise to this Admonishment, Respondent was serving as a Magistrate.

On May 11, 2023, Director Armstrong filed Complaint No. 65-2023. Chief among the numerous allegations was that Respondent engaged in intemperate behavior toward a Magistrate Assistant during work hours. JDC began an immediate investigation into the allegations.

Respondent filed a written response on May 30, 2023. Respondent, accompanied by counsel, sat for a sworn statement on July 14, 2023.

The Magistrate Assistant involved in the incident in question is a long time employee of another Magistrate in Wood County. In 2016, the Magistrate Assistant ran against Respondent for the seat being vacated by Respondent's mother. Respondent won the election. The two do not have a good working relationship. One prior incident that occurred at the beginning of Respondent's service and essentially caused by him was resolved by the Chief Circuit Judge. A second incident that occurred toward the end of 2022 and purportedly caused by someone related to the Magistrate Assistant was resolved by the Administrative Director.

On Friday, April 7, 2023, Respondent was working in Magistrate Court handling arraignments, citations and all other case intake. The Respondent's Magistrate Assistant ("Magistrate Assistant 1") and the Magistrate Assistant that he did not get along with ("Magistrate Assistant 2") were also on duty that day. From time to time as schedules permitted, both Magistrate Assistants retrieved Respondent's completed paperwork to upload into the computer. At one point, Magistrate Assistant 2 took paperwork from an initial appearance in front of Respondent but returned it to his office without uploading it. When Respondent took a break from the bench, he returned to his office to find the paperwork and asked Magistrate Assistant 1 what needed to be done with the documents. His Assistant told him that Magistrate Assistant 2 did not explain what was wrong with the paperwork which precluded it from being uploaded to the Unified Judicial Application system.

Respondent then took the paperwork to Magistrate Assistant 2 and asked what was wrong with it. According to the Respondent Magistrate Assistant 2 replied, "Figure it out yourself." In her sworn statement, Magistrate Assistant 2 admitted that it was possible she responded in that

manner. She also agreed that the response was unprofessional. Nonetheless, Respondent became angry at the reply. Respondent swore at the Assistant and threw the paperwork in the air. Several other courthouse employees heard Respondent's outburst.

Magistrate Assistant 2 picked the paperwork up from the ground and tried to hand it back to the Respondent. He refused to take it. The paperwork then again fell to the ground and he kicked it. He then stormed back to the courtroom leaving the paperwork on the floor.

Approximately one hour later, Respondent apologized to Magistrate Assistant 2 for his behavior. The following Monday he left a card on Magistrate Assistant 2's desk containing a written apology. In his written response and during his sworn statement Respondent admitted that his behavior and communication were inappropriate for a judicial officer, violated the Code of Judicial Conduct and promised that he would refrain from engaging in intemperate behavior in the future.

CONCLUSIONS

The Commission unanimously¹ found that probable cause does exist in the matter set forth above to find that the Honorable Jody Purkey, Magistrate of Wood County, violated Rules 1.1, 1.2, 2.5(B), and 2.8(B) 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.

¹ The vote was 7-0. Vice-Chair Layton Cottrill was absent and the Honorable Jason Wharton, Judge of the 4th Judicial Circuit recused himself.

Rule 2.5 – Competence, Diligence, and Cooperation

(B) A judge shall cooperate with other judges and court officials in the administration of court business.


Rule 2.8 – Decorum, Demeanor, and Communication with Jurors

(B) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge's direction and control.

The Commission further determined that formal discipline was not essential but found that a written admonishment is the appropriate resolution in this matter. Both Respondent and Magistrate Assistant 2 are at fault but as the old adage goes “two wrongs do not make a right.” As the individual in the supervisory position, Respondent should have led by example, ignored Magistrate Assistant 2’s insolent behavior, walked away to diffuse the situation, and reported her to her Magistrate or the Chief Circuit Judge. Instead, Respondent hurled expletives at Magistrate Assistant 2, threw the paperwork and kicked at it like an errant child. By doing so, he clearly called into question the integrity of the judicial system as a whole and is therefore admonished for his behavior. Respondent violated Rules 1.1, 1.2, 2.5(B), and 2.8(B) of the Code of Judicial Conduct and is hereby **ADMONISHED** for his conduct.

Consequently, it is the decision of the Judicial Investigation Commission that the Honorable Jody Purkey, Magistrate for Wood, be disciplined by this **ADMONISHMENT**. Thus, the Judicial Investigation Commission hereby **PUBLICLY ADMONISHES** Jody Purkey 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