

BEFORE THE JUDICIAL HEARING BOARD OF WEST VIRGINIA

IN THE MATTER OF:

**HONORABLE LOUISE E. GOLDSTON, SUPREME COURT NO. 20-0742
JUDGE OF THE 13TH FAMILY COURT JIC COMPLAINT NOS. 30 & 33-2020
CIRCUIT**

RECOMMENDED DECISION

This matter came on for hearing on January 15, 2021, before the Honorable Michael D. Lorensen, Judge, sitting as Hearing Examiner by designation for the Judicial Hearing Board.

At the hearing, the parties presented an Agreement and Exhibits in support of the Agreement, and the parties presented whatever evidence and/or argument they desired in support of that Agreement.

The Board request and reviewed post-hearing briefs on various issues identified by the Board as relevant to its deliberations.

Thereafter, the Board conducted a telephonic conference and upon consideration of the Agreement, the Exhibits in support of the Agreement, post-hearing Exhibits submitted, post-hearing briefs, the other evidence and argument of counsel and amicus, and the Code of Judicial Conduct and the Rules of Judicial Disciplinary Procedure, as well as the decisions of the Supreme Court of Appeals interpreting the Code and Rules, the Board adopts the Findings of Fact and Conclusions of law, as stipulated by the parties, but modifies the recommended discipline as follows:

FINDINGS OF FACT AND CONCLUSION OF LAW

1. The parties in this matter entered into an Agreement, the terms of which are as follows:
 - a. Respondent has served as a Family Law Master/Family Court Judge for 26 years. At all times relevant to the charges set forth below Respondent was serving in her capacity as a Family Court Judge

- b. On March 11, 2020, Judicial Disciplinary Counsel opened Complaint 30-2020 and on March 18, 2020, Matthew Gibson filed Complaint 33-2020. The two complaints involved the same conduct
- c. The Judicial Investigation Commission ("JIC") immediately began an investigation into the complaint. On September 23, 2020, the JIC filed a one-count formal statement of charges against Respondent
- d. Accordingly, the parties understand, acknowledge and agree to the following:
 - i. "[A]greements made in open court by the parties in the trial of a case and acted upon are binding and a judgment founded thereon will not be reversed ..." Syl. pt. 3, *In the Matter of Starcher*, 202 W. Va. 55, 501 S.E.2d 772 (1998).
 - ii. The burden of proof in judicial disciplinary cases is clear and convincing evidence. *Id.*
 - iii. Respondent admits the allegations contained in Paragraph Nos. 1 through 14 of the Formal Statement of Charges in their entirety.
 - iv. Respondent admits that all the facts contained in Paragraph Nos. 1 through 14 of the Formal Statement of Charges contain clear and convincing evidence that she violated Rules 1.1, 1.2, 1.3, 2.2, 2.4(A), 2.4(B), and 2.5 of the Code of Judicial Conduct.
 - v. Respondent also admits to violating Rules 1.1, 1.2, 1.3, 2.2, 2.4(A), 2.4(B), and 2.5 of the Code of Judicial Conduct for engaging in the conduct set forth in Paragraph Nos. 1 through 14 of the Formal Statement of Charges.
 - vi. In exchange for the admissions set forth above Judicial Disciplinary Counsel agrees not to pursue any other possible alleged violations of the Code of Judicial Conduct.

- vii. As mitigation, both parties acknowledge and agree that Respondent has never been subject to judicial discipline, was completely cooperative during the investigation of the instant complaint and admitted her wrongdoing.
- viii. Both parties understand, acknowledge, and agree that the decision to accept the recommendation concerning discipline rests solely within the purview of the Judicial Hearing Board and the State Supreme Court. The parties understand, acknowledge and agree that the Judicial Hearing Board and the State Supreme Court may award more or less severe discipline than what is recommended by the parties and that the parties are bound by the decisions
- ix. Both parties acknowledge and agree that neither the Judicial Investigation Commission nor Judicial Disciplinary Counsel incurred any costs as a result of the investigation into the disciplinary charges, and Respondent understands, acknowledges, and agrees that she is entering into this agreement because it is in her best interest and that no other inducements have been promised other than what is contained within the four corners of this document. All parties agree to do everything necessary to ensure that the foregoing terms of this agreement take effect.

2. Because the parties agreed that, “the decision to accept the recommendation concerning discipline rests solely within the purview of the Judicial Hearing Board,” the Board rejects the following stipulated discipline:

- i. Judicial Disciplinary Counsel and Respondent agree to jointly recommend to the Judicial Hearing Board and the State Supreme Court that Respondent be censured and fined \$5,000 as an appropriate sanction for the foregoing violations of the Code of Judicial Conduct.

3. Instead, for reasons set forth below, the Board recommends that the Respondent be admonished and fined \$1,000 as an appropriate sanction for her stipulated violations of the Code of Judicial Conduct.

4. *First*, the Board has weighed the mitigating factors – the Respondent’s unblemished disciplinary record and cooperation in this proceeding – against the absence of any aggravating factors.

5. *Second*, the Respondent made an extensive record after the incident as to what had occurred at the complainant’s residence.

6. *Third*, the Judicial Investigation Commission agreed to an admonishment in *In the Matter of Aboulhosn*, Complaint No. 91-2013, where a judge accompanied law enforcement to direct the execution of a warrant of seizure at a litigant’s residence outside the presence of the parties or their counsel.

7. *Finally*, although there was no clear legal foundation for conducting the judicial view in question, the scope of a judicial officer’s inherent authority relative to judicial views is uncertain, and guidance to judicial officers from the Supreme Court of Appeals through rule-making or otherwise regarding the proper scope of conducting judicial views would be beneficial.

The Honorable Andrew Dimlich deemed himself disqualified and did not participate. The Honorable Paul T. Farrell and the Honorable Russell M. Clawges, Jr., would recommend censure rather than admonishment but concur in the recommendation of a fine of \$1,000 instead of \$5,000. The Honorable Glen Stotler dissents because in his opinion there was no clear and convincing evidence that the Respondent violated any provision of the Code of Judicial Conduct.

Counsel to the Judicial Hearing Board is hereby directed to file a copy of this Order with the Clerk of the Supreme Court of Appeals and to serve a copy on the members of the Judicial Hearing Board and counsel of record upon its entry.

Entered this 15 day of March 2021.



Hon. Michael D. Lorensen, Judge
Chairperson, Judicial Hearing Board