



BENNINGER LAW
PROFESSIONAL LIMITED LIABILITY COMPANY

March 14, 2022



Edythe Nash Gaiser, Clerk
Supreme Court of Appeals of West Virginia
State Capitol, Building 1, Room E-317
1900 Kanawha Blvd. East
Charleston, WV 25305

Re: *In the Matter of: Honorable C. Carter Williams, Judge of the 22nd Judicial Circuit*
No. 21-0878 (consolidated)
JIC Complaint No. 12-2022

Dear Ms. Gaiser:

Please file the enclosed *Respondent Honorable C. Carter Williams' Answer and Affirmative Defenses* in the above-referenced judicial disciplinary proceeding. Copies of same have been served on Disciplinary Counsel and counsel for the Judicial Hearing Board.

Thank you for your assistance.

Very truly yours,



J. Michael Benninger
mike@benningerlaw.com

JMB/hlk

Enclosure

cc: Teresa A. Tarr, Counsel, Judicial Investigation Commission (w/enclosure)
Brian J. Lanham, Deputy Counsel, Judicial Investigation Commission (w/enclosure)
Ancil G. Ramey, Esquire, Counsel for the Judicial Hearing Board (w/enclosure)
Judge C. Carter Williams (w/enclosure)

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**BEFORE THE JUDICIAL HEARING BOARD
STATE OF WEST VIRGINIA**

**No. 21-0878
(consolidated)**



**In the Matter of: HONORABLE C. CARTER WILLIAMS,
Judge of the 22nd Judicial Circuit
JIC Complaint No. 12-2022**

**RESPONDENT HONORABLE C. CARTER WILLIAMS'
ANSWER AND AFFIRMATIVE DEFENSES**

**Counsel for Respondent
Honorable C. Carter Williams
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**BEFORE THE JUDICIAL HEARING BOARD
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**No. 21-0878
(consolidated)**

**In the Matter of: HONORABLE C. CARTER WILLIAMS,
Judge of the 22nd Judicial Circuit
JIC Complaint No. 12-2022**

**RESPONDENT THE HONORABLE C. CARTER WILLIAMS'
ANSWER AND AFFIRMATIVE DEFENSES**

AND NOW, This 14th day of March, 2022, come Respondent The Honorable C. Carter Williams (“Judge Williams”) and his counsel, pursuant to Rule 2.10 *West Virginia Rules of Judicial Disciplinary Procedure*, Rule 35(b), *West Virginia Rules of Appellate Procedure*, and Rules 7, 8, 10, and 12, of the *West Virginia Rules of Civil Procedure* and hereby answer the allegations contained in the *Formal Statement of Charges* filed on February 14, 2022, and set forth his affirmative defenses thereto and states and avers as follows:

FIRST DEFENSE

There is no factual or legal basis existing upon which JIC and JDC, acting within their limited subject matter jurisdiction, could lawfully assert, file, and maintain the instant *Formal Statement of Charges* against Judge Williams.

SECOND DEFENSE

At all times relating to this judicial disciplinary proceeding and in specific reference to the instant *Formal Statement of Charges*, Judge Williams fully cooperated with JIC and JDC and

complied with his duty of candor with regard to each of the complaints filed against him and the corresponding investigation of same.

THIRD DEFENSE

1. Judge Williams admits the allegations of fact and law set forth in Paragraph 1 of the *Formal Statement of Charges*. By way of further answer and as stated in his sworn testimony given to Judicial Disciplinary Counsel, he asserts that: he first graduated from West Virginia University in 1988; studied law at the West Virginia University College of Law; became a member West Virginia State Bar in 1991; served as an litigation associate in two private practice law firms; and served as Assistant Prosecuting Attorney in Hampshire County, West Virginia, before holding regional and statewide legal positions in the West Virginia Attorney General's office, during a tenure there of approximately eighteen years.

2. Judge Williams admits the allegations of fact and law set forth in Paragraphs 2, 3, 4, 5 and 6 of the *Formal Statement of Charges*.

3. Judge Williams is generally without sufficient information to form a belief as to the truth of the allegations of fact and law set forth in Paragraphs 7 and 8, but by way of further answer, Judge Williams has been informed that JDC filed a judicial ethics complaint against him, and it was given Complaint No. 12-2022, and the instant *Formal Statement of Charges* was issued on February 14, 2022.

CHARGE I

4. Judge Williams denies all allegations of fact and law set forth in the unnumbered bolded Paragraph immediately below the "Charge I" heading in the *Formal Statement of Charges*.

5. Judge Williams admits the factual allegations generally set forth in Paragraph 9 of Charge I of the *Formal Statement of Charges* and states that he was shopping at Walmart during the lunch hour on August 18, 2021, at which time, during the self-checkout process, he became distracted, and he accidentally and unintentionally failed to complete the payment transaction before leaving the store. By way of further answer, Judge Williams was not aware that he had failed to complete the self-checkout process until he was first informed on or about September 15, 2021, by Prosecuting Attorney Lucas See. After being so informed, Judge Williams made full payment to Wal-Mart on or about September 17, 2021. Thereafter, he personally met with Ms. Crites, Walmart Loss Prevention Officer, to apologize for any inconvenience he may have caused by his mistake.

6. At this time, Judge Williams has not seen or reviewed the incident report referred to in Paragraph 10 of Charge I of the *Formal Statement of Charges*, and, therefore, is without sufficient information to form a belief as to the truth of the allegations of fact and law set for therein; therefore, same is denied and strict proof thereof is demanded.

7. Judge Williams admits the text messages between Lucas See, the Prosecuting Attorney for Hardy County, West Virginia, and himself, recited in Paragraph 11 of Charge I of the *Formal Statement of Charges*, are accurate and, therefore, are admitted and were provided by him to JDC prior to the issuance of the instant *Formal Statement of Charges* by JIC.

8. Judge Williams admits that in August and September 2021, he “was under investigation by the Judicial Investigation Commissions for Complaint Nos. 78-2021 and 81-2021,” as alleged in Paragraph 12 of Count I of the *Formal Statement of Charges*; and the scope and purpose of the investigation is well defined by the allegations set forth in the motion and statement of charges filed with the Supreme Court of Appeals and did not contain any reference

to any incident at Walmart. By way of further answer, Judge Williams is without sufficient information to form a belief as to the truth of the remaining allegations of fact as set forth in Paragraph 12 and specifically states that he is unaware of any occurrence in which he was involved at Walmart in July 2020, and, therefore, denies the remaining allegations of Paragraph 12.

9. Judge Williams admits that, during his October 6, 2021, video-recorded sworn statement, he was asked about an incident at Walmart recited by JDC as having occurred on July 21, 2020, and his response, among other information, was “[t]hat’s been a couple years ago. My wife wasn’t there,” as set forth in Paragraph 13 of Charge I of the *Formal Statement of Charges*.

10. Judge Williams admits that “[a]t no time during the investigation into JIC Complaint Nos. 78-2021 or 81-2021, did Respondent ever disclose the August 18, 2021 incident at Walmart to the JIC,” as set forth in Paragraph 14 of Charge I of the *Formal Statement of Charges*. By way of further answer, the incident at Walmart was not the focus of and was never mentioned in Complaints Nos. 78-2021 or 81-2021; and Judge Williams was not asked about any other incidents at Walmart or otherwise; and, like Prosecutor See and Chief Riggleman, who likewise did not mention or disclose same, he did not perceive that the incident at Walmart on August 18, 2021, five weeks after the July 11, 2021 encounter with Officer Johnson, was germane, material, or even relevant to the investigation; and neither Judge Williams nor Prosecutor See nor Chief Riggleman were under any obligation or duty to disclose or report to JIC or JDC two events, unrelated to the subject matter of the then pending complaints and the corresponding investigation, which events were known, then and now, by all concerned (Walmart, law enforcement, the prosecuting attorney, JIC, and JDC) that Judge Williams’

conduct was accidental and unintentional. Judge Williams continues, to the present, to regularly shop at his local Wal-Mart store.

11. Judge Williams is generally without sufficient information to form a belief as to the truth of the allegations of fact set forth in Paragraphs 15, 16 and 17 of Charge I of the *Formal Statement of Charges*.

12. Judge Williams admits the allegations of fact set forth in Paragraph 18 of Charge I of the *Formal Statement of Charges*.

13. Judge Williams generally admits the allegations of fact set forth in Paragraph 19 and 20 Charge I of the *Formal Statement of Charges*. By way of further answer, Judge Williams provided all information requested from him which was known to him and relevant to the complaints made against him and referenced in the initial *Formal Statement of Charges* filed against him.

FOURTH DEFENSE

By filing the additional complaint and seeking the issuance of the instant *Formal Statement of Charges*, JDC and JIC have violated the law of the case doctrine as it relates to the *Order* entered February 9, 2022, excluding all other acts evidence under Rule 404(b) and constitutes a flagrant end-run around the specific understanding of the parties and the ruling of the Judicial Hearing Board at the hearing held on February 4, 2022.

FIFTH DEFENSE


Judge Williams did not at any time relating to the instant *Formal Statement of Charges* violate Rules 1.1, 1.2, 1.3, 2.16(A), 3.1(C) of the *West Virginia Code of Judicial Conduct* or Rules 8.4(a), (c), or (d) of the *West Virginia Rules of Professional Conduct*.

SIXTH DEFENSE

Judge Williams hereby incorporates by reference herein his *Answer and Affirmative Defenses* previously filed in this judicial disciplinary proceeding in response to the initial *Formal Statement of Charges* filed on October 25, 2021.

WHEREFORE, Judge Williams requests that the *Formal Statement of Charges* filed against him be dismissed.

Respectfully submitted this 14th day of March, 2022.



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Counsel for Respondent

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JIC Complaint No. 12-2022**

**CERTIFICATE OF SERVICE OF RESPONDENT
THE HONORABLE C. CARTER WILLIAMS'
ANSWER AND AFFIRMATIVE DEFENSES**

I, J. Michael Benninger, counsel for Respondent, do hereby certify that on March 14, 2022, the foregoing *Respondent The Honorable C. Carter Williams' Answer and Affirmative Defenses* was duly served upon the Office of Judicial Disciplinary Counsel and counsel for the Hearing Board by depositing true and exact copies thereof in the regular course of the United States Mail, First Class, postage prepaid, addressed as follows:

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