

BEFORE THE JUDICIAL INVESTIGATION COMMISSION OF WEST VIRGINIA

**IN THE MATTER OF,
THE HONORABLE STEVE JONES,
JUDGE OF THE 4TH FAMILY COURT CIRCUIT**

COMPLAINT NO. 106-2023

**PUBLIC ADMONISHMENT OF THE HONORABLE STEVE JONES
JUDGE OF THE 4TH FAMILY COURT CIRCUIT**

The matter is before the Judicial Investigation Commission (“JIC”) upon a complaint filed by Judicial Disciplinary Counsel setting forth certain allegations against the Honorable Steve Jones, Judge of the 4th Family Court Circuit (“Respondent”). An investigation was conducted pursuant to the Rules of Judicial Disciplinary Procedure (“RJDP”). After a review of the complaint, the Judge’s written response, the information and documents obtained from the investigation and the pertinent Rules contained in the Code of Judicial Conduct, the JIC unanimously found probable cause that Judge Jones violated Rules 1.1, 1.2, 2.2, and 2.5(A) 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 to the bench in May 2016 and took office on January 1, 2017. At all times relevant to the investigation, Respondent was serving as Judge of the 4th Family Court Circuit. Respondent has not been the subject of any prior judicial discipline.

Prior to becoming Judge, Respondent served as the elected prosecutor of Ritchie County from 2005 through 2008 and again from 2013 through 2016. He was an attorney in private practice from 1992 through 2004 and 2009 through 2012.

In 2022, Complainant filed domestic violence petitions on behalf of her two minor sons, age 15 and 7, against their father in the Magistrate Court of Gilmer County. A Gilmer County Magistrate issued emergency protective orders on behalf of the two boys. The matters were then transferred to

Family Court for final hearing. Respondent was the presiding judge over the final hearing. On January 9, 2023, Respondent issued identical 90-day domestic violence protective orders for each of the boys. On page 3 of the Orders, Respondent specifically concluded that the father placed the sons “in reasonable apprehension of physical harm.” On page 4, the judge made the following findings of fact in support of the conclusion:

The [father] has placed the [children, his sons,] in reasonable fear of physical harm by a change in his demeanor, in November and December of 2022. The [father] appears to be using drugs or alcohol and his behavior is (jittery or jumpy) and caused his son[s] to be in fear for his safety. The behaviors was testified to by [the older son] and the mother. The mother of the children observed behaviors December 4, 2022. [The father] fights with current wife while children are visiting. [The father] has permitted a 3rd party to move into the home that children are afraid of. The [children are] in fear for [their] physical safety. [The father] refused a drug test in family court [on] 12/19/22.

On page 5, Respondent ordered that the father “shall refrain from abusing, harassing, stalking, threatening, intimidating or engaging in conduct that places [the sons] in reasonable fear of bodily injury.” Respondent also ordered the father to surrender all firearms and ammunition to law enforcement. On page 6, the Respondent further ordered the father to refrain from: (1) contacting, harassing or verbally abusing his sons; (2) entering any school, business or place of employment of his sons; or (3) entering or being present in the immediate environs of the home where the sons were residing. Respondent also declined to award visitation to the father during the pendency of the protective order.

On July 31, 2023, Complainant filed a judicial ethics complaint against Respondent. The gravamen of her complaint is that the Respondent is a mandatory reporter for child abuse and neglect. As such he was required to report the findings that he made with respect to her sons’ DVPs to DHHR within 24 hours of entry of the Orders but failed to do so as required by law.

The complaint was initially presented to the Commission at its October 13, 2023 meeting at which time it voted to request a response to the allegations contained therein. Counsel sent a letter to the Respondent requesting the same on October 16, 2023.

By letter dated November 1, 2023, Respondent replied to the allegations. With respect to the failure to report suspected child abuse or neglect, Respondent stated:

I never suspected child abuse or neglect. The older child testified that he and his brother were in fear for their safety because the . . . father's appearance the way he was behaving {jumpy or jittery} and the way he was behaving fighting with current wife while the children visited. A third party moved into the home and the children [were] fearful of this person. Pursuant to those findings I ordered a Protective Order

The findings were based on the testimony of the [older] child, [the mother] and [the father]. [The father's] testimony and behavior in the courtroom and the testifying of the child persuaded the Court to issue the Order. The testimony of [the mother] was not credible. It appears that [the mother] had manipulated the child. [The mother] stated on the record that she was dissatisfied with the DHHR investigation in which according to [the mother] had started before the DVP was filed.

CONCLUSIONS

The Commission unanimously¹ found that probable cause exists in the matters set forth above to find that the Honorable Steve Jones, Judge of the 4th Family Court Circuit, violated Rules 1.1, 1.2, 2.2, and 2.5(A) of the Code of Judicial Conduct as set forth below:

1.1 – Compliance With the Law

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

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.

2.2 – Impartiality and Fairness

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

2.5 – Competence, Diligence and Cooperation

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

¹ The vote was 9-0.

The Commission further found that formal discipline was not essential as Respondent had no prior disciplinary actions. Nonetheless, the Commission found that the violations were serious enough to warrant a public admonishment.

The Preamble to the Code of Judicial Conduct provides:

Our legal system is based on the principle that an independent, fair and competent judiciary will interpret and apply the laws that govern us. The role of the judiciary is central to the American concepts of justice and the rule of law. Intrinsic to all sections of this Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in our legal system. The judge is an arbiter of facts and law for the resolution of disputes and a highly visible symbol of government under the rule of law. . . . Good judgment and adherence to high moral and personal standards are also important.

Comment [1] to Rule 1.2 states that “[p]ublic confidence in the judiciary is eroded by improper conduct and conduct that creates the appearance of impropriety. This principle applies to both the professional and personal conduct of a judge.” Comment [2] provides that “[a] judge should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens and must accept the restrictions imposed by the Code.” Comment [3] notes that “[c]onduct that compromises or appears to compromise the independence, integrity, and impartiality of a judge undermines public confidence in the judiciary.” Comment [5] provides:

Actual improprieties include violations of law, court rules or provisions of this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge's honesty, impartiality, temperament, or fitness to serve as a judge.

Comment [2] to Rule 2.2 states that “[a]lthough each judge comes to the bench with a unique background and personal philosophy, a judge must interpret and apply the law without regard to whether the judge approves or disapproves of the law in question.” Comment [1] to Rule 2.5 provides that “[c]ompetence in the performance of judicial duties requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary to perform a judge’s responsibilities of judicial office.”

Respondent clearly violated the Code of Judicial Conduct by failing to report the suspected abuse and neglect of Complainant's minor sons. W. Va. Code § 48-27-202 defines domestic violence or abuse as "the occurrence of one or more of the following acts between family or household members, as the term is defined in section two hundred four of this article . . . (2) placing another in reasonable apprehension of physical harm; (3) creating fear of physical harm by harassment, stalking, psychological abuse or threatening acts" W. Va. Code § 48-27-204 contains the definition of family or household member which includes a "parent."

W. Va. Code § 49-1-201 defines an abused child as one "whose health or welfare is being harmed or threatened by . . . domestic violence as defined by W. Va. Code § 48-27-202" W. Va. Code § 49-2-803(a) states in pertinent part:

Any . . . circuit judge, family court judge . . . magistrate . . . who has reasonable cause to suspect that a child is neglected or abused . . . or observes the child being subjected to conditions that are likely to result in abuse or neglect shall immediately and not more than 24 hours after suspecting this abuse or neglect report the circumstances to the Department of Health and Human Resources [DHHR]

Pursuant to W. Va. Code § 49-2-812, any mandatory reporter who knowingly fails to report suspected child abuse is guilty of a misdemeanor and upon conviction shall be confined in jail not more than ninety days or fined not more than \$5,000 or both fined and confined.

The West Virginia Rules of Practice and Procedure for Domestic Violence are also instructive on this issue. Rule 16a states:

At any stage of domestic violence proceedings, if a family court judge has reasonable cause to suspect any minor child involved in the proceedings has been abused or neglected, in addition to mandatory reporting duties the judge shall follow the written referral procedures set forth in Rule 48(b) of the Rules of Practice and Procedure for Family Court and Rule 25a herein.

Meanwhile, Rule 48 provides:

- (a) Reports by Family Court. – If a family court has reasonable cause to suspect any minor child involved in family court proceedings has been abused or neglected, that family court shall immediately report the suspected abuse or neglect to the state child protective services agency . . . and the circuit court.

- (b) Written Referrals. -- In addition to any oral communication made by the family court to the state child protective services agency pursuant to subdivision (a), the family court shall forthwith prepare and submit a written referral to the agency office in the county where the family court proceeding is pending and, at the same time, transmit copies of the referral to the appropriate circuit court in that county, as determined by the chief judge, and to the prosecuting attorney.

Respondent's reasoning for failing to report suspected child abuse is equivalent to the age old question of how many angels can dance on the head of a pin. Traditionally, the question is a metaphor for wasting time debating topics of no practical value or on questions whose answers hold no intellectual consequence. There is no question in the minds of Commission members that Respondent should have reported the suspected abuse. Indeed, the findings of fact and conclusions of both DVP orders drafted by Respondent are indicative that he suspected abuse and therefore had a duty to report it within the requisite time. His subsequent claim that he never suspected child abuse or neglect is disingenuous at best given the findings and conclusions contained in his DVP Orders. Moreover, he now says he found the testimony of the mother not credible but never stated that in either DVP Order. Instead, Respondent specifically indicated a reliance on her testimony in part to reach his conclusions and issue the ninety-day DVP Order. Respondent should be mindful that the Commission doesn't care how many angels can dance on the head of a pin. Like noted poet Mary Oliver stated, "It's enough to know that for some people they exist and that they dance."

Ordinarily, the Commission could bring formal charges against Respondent. However, given that Respondent has no prior discipline, the Commission has unanimously voted to admonish him. By engaging in such conduct, Respondent violated Rules 1.1, 1.2, 2.2, and 2.5(A) of the Code of Judicial Conduct and is admonished for the same.

Therefore, it is the decision of the Judicial Investigation Commission that the Honorable Steve Jones, Judge of the 4th Family Court Circuit, be disciplined by this Admonishment. Accordingly, the Judicial Investigation Commission hereby publicly admonishes Judge Jones for his conduct as fully set

forth in the matters asserted herein and orders that a copy of this Admonishment be sent to the Prosecuting Attorney of Gilmer County for further consideration.

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

December 12, 2023

Date

ADM/tat