

BEFORE THE JUDICIAL INVESTIGATION COMMISSION OF WEST VIRGINIA

**IN THE MATTER OF:
THE HONORABLE LEONARD CODISPOTI,
SENIOR STATUS MAGISTRATE**

COMPLAINT NO. 93-2023

**PUBLIC ADMONISHMENT OF SENIOR STATUS
MAGISTRATE LEONARD CODISPOTI**

The matter is before the Judicial Investigation Commission (“JIC” or “Commission”) upon a complaint filed by Wayne County Assistant Prosecuting Attorney Dustin R. Shreve setting forth certain allegations against the Honorable Leonard Codispoti, Senior Status Magistrate (“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, and the information, documents and other evidence obtained from the investigation, the JIC found probable cause that Respondent violated Rules 1.1, 1.2 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 served as Magistrate for Logan County from January 1, 1981, to his retirement on October 31, 2020. The West Virginia Supreme Court of Appeals approved Respondent for admission to Senior Status Magistrate on December 23, 2020. At all times relevant to this Admonishment, Respondent was serving as a Senior Status Magistrate. Respondent was assigned to serve as Magistrate in Logan County Magistrate Court on May 18, 2023.

On June 26, 2023, Dustin R. Shreve, Esq. filed Complaint No. 93-2023. JDC began an immediate investigation into the matter. Respondent filed a written response on July 12, 2023.

Due to an incident on March 28, 2023, in Logan County, Jeffery Scott Simpkins was charged with Battery on a Police Officer, Obstructing a Police Officer, Reckless Driving and Destruction of Property. The Logan County Prosecuting Attorney's Office recused itself and the Wayne County Prosecuting Attorney's Office was appointed to the case. Prosecutor Dustin Shreve represented the State in the case. A hearing was set in *State v. Jeffery Scott Simpkins* for June 7, 2023, in front of Respondent.

At the June 7, 2023, hearing, the parties negotiated a plea agreement which was reduced to writing and signed by all parties. The terms of the plea were the following: the Defendant would plead *guilty* to misdemeanor Destruction of Property and the State would dismiss the remaining three charges. The plea agreement of June 7, 2023, was not signed or entered by Respondent.

On June 9, 2023, Respondent's office notified the parties that Respondent would not enter the plea due to the illegible nature of portions of the agreement and some terms being scribbled through. The matter was reset for hearing on June 15, 2023.

At that hearing, another plea was written with the same terms. Mr. Simpkins' attorney submitted the plea to Respondent, but then argued that the agreement was unfair. Respondent stated that he was going to allow the Defendant to plead *no contest* instead of guilty. Assistant Prosecutor Shreve objected and reiterated that was not the State's plea offer. However, Respondent changed the plea from guilty to no contest anyway.

After a JDC investigation and negotiations with Respondent through counsel, Respondent and JDC entered into an agreement. As a result of the agreement, Respondent admitted that while a magistrate may generally accept a Nolo Contendere plea under Rule 11(b) of the WV Rules of Criminal Procedure, he/she may not accept such a plea where the terms of the proposed plea agreement require a guilty plea. Respondent voluntarily withdrew his name from the Senior Status list for a period of

February 1, 2024, through May 31, 2024. In exchange, JDC recommended to the Judicial Investigation Commission that the Commission issue an admonishment to Respondent reflecting that Respondent violated Rules 1.1, 1.2 and 2.5(A) of the Code of Judicial Conduct for his conduct in knowingly changing the terms of an accepted and agreed upon plea agreement between the State and a defendant, where the defendant requested the same and the Assistant Prosecutor objected.

CONCLUSIONS

The Commission unanimously¹ found that probable cause does exist in the matters set forth above to find that the Honorable Leonard Codispoti, Senior Status Magistrate, violated Rules 1.1, 1.2 and 2.5(A) 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 2.5 – Competence, Diligence, and Cooperation

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

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.

Rule 11 of the West Virginia Rules of Criminal Procedure and Rule 10 of the West Virginia Rules of Criminal Procedure for Magistrate Courts establish "an absolute bar to a trial judge's

¹The vote was 8-0. Circuit Court Judge Jason Wharton was absent.

participation in plea bargaining." *State v. Sugg*, 193 W. Va. 388, 406, 456 S.E.2d 469, 487 (1995). The changing of a term of a plea agreement over the objection of a party violates this "absolute bar" and, therefore, Respondent exceeded his legitimate powers by doing so.

Ordinarily the Commission could ask for formal charges in such cases but because Respondent, 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 and 2.5(A).

Therefore, it is the decision of the Judicial Investigation Commission that the Honorable Leonard Codispoti, Senior Status Magistrate, be disciplined by this **ADMONISHMENT**. Consequently, the Judicial Investigation Commission hereby **PUBLICLY ADMONISHES** Leonard Codispoti 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

February 12, 2024

Date

ADM/bjl

BEFORE THE JUDICIAL INVESTIGATION COMMISSION OF WEST VIRGINIA

**IN THE MATTER OF:
THE HONORABLE LEONARD CODISPOTI
SENIOR STATUS MAGISTRATE**

JIC COMPLAINT NO. 93-2023

AGREEMENT

Magistrate Leonard Codispoti, by counsel, and Teresa A. Tarr and Brian J. Lanham, Judicial Disciplinary Counsel (JDC) hereby enter into this Agreement consisting of the following terms:

1. On June 26, 2023, the Judicial Investigation Commission received Complaint No. 93-2023 against Magistrate Codispoti (Respondent).

2. JDC immediately began an investigation into the complaint. After a lengthy and thorough investigation, JDC spoke with Respondent through counsel in an effort to resolve the complaint without filing a formal statement of charges.

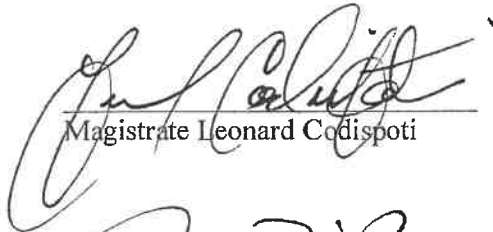
3. Magistrate Codispoti and JDC understand, acknowledge and agree to the following terms and conditions:

- a. Magistrate Codispoti agrees to voluntarily withdraw his name from the Senior Status list for a four month period of February 1, 2024, through May 31, 2024.
- b. If Magistrate Codispoti attempts to return the Senior Status list before June 1, 2024, it will void this agreement; and,
- c. JDC agrees to recommend to the Judicial Investigation Commission that the Commission issue an admonishment in the above-captioned matter which will reflect that Respondent violated Rules 1.1, 1.2 and 2.5(A) of the Code of Judicial Conduct for his conduct in knowingly changing the terms of an accepted and agreed upon plea agreement between the State and a criminal defendant, at the request of the criminal defendant despite objections from the Prosecuting Attorney. While a


magistrate may generally accept a Nolo Contendere plea under Rule 11(b) of the WV Rules of Criminal Procedure, he may not accept such a plea where the terms of the proposed plea agreement requires a guilty plea.

- c. Both parties understand, acknowledge and agree that the decision to accept or reject this agreement is solely within the purview of the Judicial Investigation Commission.
- d. Magistrate Codispoti further understands, acknowledges and agrees that this agreement and any admonishment issued by the Judicial Investigation Commission is public pursuant to Rule 2.7(c) of the Rules of Judicial Disciplinary Procedure.
- e. Magistrate Codispoti further understands, acknowledges and agrees that if he files an objection to any admonishment issued by the Judicial Investigation Commission then the Commission shall be required to file the Formal Statement of Charges in its entirety pursuant to Rule 2.7(c) of the Rules of Judicial Disciplinary Procedure.
- f. Magistrate Codispoti understands, acknowledges and agrees that this agreement is binding only upon Judicial Disciplinary Counsel and in no way binds any other Federal, State, or Municipal agency, not limited to, but including law enforcement agencies.
- g. Magistrate Codispoti understands, acknowledges and agrees that he is entering into this Agreement freely and voluntarily to obtain closure of the matter 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.


AGREED:


Magistrate Leonard Codispoti


1/30/24
Date


Tim DiPiero, Esq.
Attorney for Magistrate Codispoti

1/30/24
Date


Teresa A. Tarr, Esquire
Judicial Disciplinary Counsel

January 31, 2024
Date


Brian J. Lanham, Esquire
Judicial Disciplinary Counsel

1-31-24
Date