



IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

**IN THE MATTER OF:
THE HONORABLE C. CARTER WILLIAMS
JUDGE OF THE 22ND JUDICIAL CIRCUIT**

**SUPREME COURT No. 21-0878
JIC COMPLAINT No. 12-2022**

FORMAL STATEMENT OF CHARGES

The West Virginia Judicial Investigation Commission ("JIC"), pursuant to Rules 2.7 (a) and (d) and 2.8 of the Rules of Judicial Disciplinary Procedure, has determined that probable cause does exist to formally charge the Honorable C. Carter Williams, Judge of the 22nd Judicial Circuit ("Respondent or Judge Williams") with violations of the Code of Judicial Conduct and that formal discipline is appropriate based upon the following probable cause findings:

1. Respondent received his Juris Doctorate from the West Virginia University College of Law in 1991 and passed the July 1991 West Virginia Bar examination. Respondent became licensed to practice law in the State of West Virginia on or about September 23, 1991. From September 23, 1991 through approximately December 31, 2016, Respondent actively engaged in the practice of law in and around Hardy County, West Virginia.
2. Respondent was elected to an eight-year term on the bench for the 22nd Judicial Circuit in May 2016 and took office on January 1, 2017. Prior to taking office, Respondent received a copy of the Personnel Manual for the Supreme Court of Appeals of West Virginia. On or about December 5, 2016, Respondent certified that he had received and read the Personnel Manual. In § 2.3 on page 5, the Personnel Manual reads:

Unless specifically exempted, all state judicial-branch personnel are responsible for adherence to all policies and procedures described here. Further, they are responsible for reading and for being familiar with the applicability of the judicial ethical canons. These rules, comprising the Code of Judicial Conduct, are published in the annual rules volume of the West Virginia Code.

In his sworn statement of October 6, 2021, taken in connection with Williams Formal Statement of Charges I, Respondent acknowledged his responsibility to read and familiarize himself with the Code of Judicial Conduct.

3. Respondent has served continuously as a circuit judge since January 1, 2017. His term of office ends December 31, 2024. At all times relevant to the charges set forth below, Respondent was a circuit court judge and therefore subject to the West Virginia Code of Judicial Conduct.
4. Upon taking office as a circuit court judge, Respondent's license to practice law went from active to inactive status. At all times relevant to the proceedings set forth below, Respondent was on inactive status from the practice of law, as is required whenever serving as a circuit court judge. As such, Respondent is still also subject to the West Virginia Rules of Professional Conduct.
5. Rule 4.12 of the West Virginia Rules of Judicial Disciplinary Procedure also gives the Judicial Hearing Board the authority to consider lawyer misconduct and provides in pertinent part:

In addition, the Judicial Hearing Board may recommend or the Supreme Court of Appeals may impose any one or more of the following sanctions for a judge's violation of the Rules of Professional Conduct: (1) probation; (2) restitution; (3) limitation on the nature or extent of future practice; (4) supervised practice; (5) community service; (6) admonishment; (7) reprimand; (8) suspension; or (9) annulment.

6. On October 25, 2021, JDC filed an eleven-count Formal Statement of Charges against Respondent in In the Matter of Williams, Supreme Court No. 21-0878, JIC Complaint Nos. 78-2021 and 81-2021.
7. On February 10, 2022, Judicial Disciplinary Counsel ("JDC") filed a judicial ethics complaint against Respondent. The complaint was given Complaint No. 12-2022.

8. On February 11, 2022, the matter was presented to the Judicial Investigation Commission and by a vote of 7-0,¹ the JIC finds that there is probable cause to make the following **CHARGES** and **FINDINGS**:

CHARGE I

JUDGE WILLIAMS violated Rules 1.1 (Compliance With the Law), 1.2 (Confidence in the Judiciary), 1.3 (Abuse of Power), 2.16(A) (Cooperation with Disciplinary Authorities), 3.1(C) (Extrajudicial Activities in General) of the Code of Judicial Conduct and Rules 8.4 (a), (c) and (d) (Misconduct) of the Rules of Professional Conduct as set forth in the attached Appendix when he committed the following acts:

9. On or about Wednesday, August 18, 2021, at approximately 12:31 p.m., Respondent left the Moorefield Walmart without paying for ten or so items in his shopping cart.
10. In an incident report, Moorefield Police Chief Stephen Riggelman detailed the following about the incident:

On Monday, September 13, 2021, at approximately 0923, this officer responded to the Moorefield Walmart concerning a suspicious vehicle. Upon completion of this investigation, this officer met with Walmart Asset Protection Associate Christine Crites to review video footage concerning this investigation. While interacting with Crites, she advised this officer of an unrelated incident which needed investigated. Crites provided this officer with a training receipt and still photograph of an individual known to me as Charles "Carter" Williams. This officer then watched video surveillance footage of Williams utilizing a self-check out register where he was observed scanning, bagging and placing the bagged merchandise into his shopping cart.

Williams is then observed pushing his shopping cart out of the store without making any attempts to pay for the items. This officer contacted Hardy County Prosecutor Lucas See concerning the reported incident. It should be noted that there is currently a Supreme Court of Appeals Judicial

¹ JIC Chairman Alan D. Moats, Judge of the 19th Judicial Circuit has been appointed as a temporary Justice of the Supreme Court of Appeals of West Virginia beginning February 7, 2022 following the February 6, 2022 resignation of former Justice Evan Jenkins. Judge Moats will serve as a Justice until such time as Governor Justice has filled the vacancy and the appointee takes the bench. Until that time, Judge Moats will serve as a non-voting *ex officio* member of the JIC. One lay member was also absent from the meeting.

Investigation concerning an unrelated incident involving Williams and the Moorefield Police Department. Due to this investigation, it was determined that the best course of action would be to contact Williams and direct him to pay for the merchandise. It should also be noted that approximately one year ago a similar incident occurred with Williams at the Moorefield Walmart where he and his wife had pushed out a substantial amount of merchandise without paying. It was determined that neither party realized that the other had not paid for the items.

On Tuesday, September 14, 2021, this officer was contacted by See and advised that he had received a call from Williams advising that he wished to pay for the items, and it was a mistake and that he had no intent to take merchandise from Walmart. This officer contacted Crites and advised her of the same. Crites advised they would accept the payment in lieu of charges being filed. This report has been generated for informational purposes.

(emphasis added)

11. The following text messages by and between Prosecutor See and Respondent further detail the incident:

(a) Monday, September 13, 2021:

Prosecutor: Are you going to be in your office tomorrow?
Respondent: _____ has Covid so I can't go anywhere. I'm not feeling great but don't know that I have it or not.
Prosecutor: Ok. Let me know when you are going to be around. I need to discuss something with you. No hurry and not a big deal. Thanks.
Respondent: Ok. I can try to call you tomorrow.
Prosecutor: That works. Thanks!!

(b) Thursday and Friday, September 16 and 17, 2021:

Respondent: If you could get that amount from Ms. Crites tomorrow I'd really appreciate it. Thanks so much. (11:00 p.m.)
Prosecutor: Gotcha!! She was supposed to call me yesterday but I guess she forgot. I'll take care of it first thing this morning. (5:03 a.m.)
Prosecutor: \$42.21. Do you want me to stop by your house and get a check? (10:50 a.m.)
Respondent: I have Covid so I'll put a check in an envelope on my wall there at my driveway. I'm in a hearing so I probably won't have it there until around 12:30. If you could take it up there I'd really appreciate it.
Prosecutor: I can do that
Respondent: Ok. It may be in a zip lock bag. I'll hand sanitize good before I handle any of that. Thanks a lot Lucas.

Prosecutor: No problem!!

(c) Approximately Saturday, September 18, 2021:

Respondent: Really appreciate your help.

Respondent: Christine Crites is the lady at Walmart, right? Thanks!

Prosecutor: Yes that's her name. She's on vacation this week until next Thursday though. Very nice lady. She insists that this isn't a big deal and doesn't want you to be mad at Walmart about it. I told her that you weren't. It could and does happen all the time. I think they just didn't know how to handle it because you are the judge. It's all smoothed over!!

12. At the time of the incident detailed above, Respondent was under investigation by the Judicial Investigation Commissions for Complaint Nos. 78-2021 and 81-2021. Among the allegations investigated was a July 21, 2020 incident where Respondent left Walmart without paying for items contained in his buggy. Chief Riggleman provided a note that he made concerning the event which stated:

7-21-20

Riggleman notes

Shoplifting

No report generated given who it was on. Contacted Carter concerning the matter. Asset protection associate admitted that upon reviewing the incident, Walmart determined it to be accidental and no charges were filed.

At the time, the JIC was advised that the amount of the items contained in the buggy was valued at approximately \$300.00 and that another individual was with him when the incident took place.

13. Respondent was asked about the 7/21/2020 Walmart incident at his sworn statement which occurred on October 6, 2021, or just three weeks after the August 18, 2021 Walmart incident:

Q. There was an incident at Walmart where you and your _____ supposedly left and didn't pay or forgot to pay.

A. That's been a couple years ago. My _____ wasn't there.

Q. What happened.

A. I don't know what I was shopping for. I think I was at the – there's a little square, self-checkout. There was a lady there that worked at Walmart that I knew. I was right on the end. I was talking to her. I'm pretty sure I put my debit card in. There was a receipt there. I remember on the screen, it was

exactly \$52. We laugh about it. The lady, she still works there. I grabbed the receipt, grabbed my stuff, went out the door. My wife wasn't with me. The next day, I got a call from Walmart and they said that I hadn't paid. So I thought, "Oh my God," [and] I rode back up and paid. I certainly didn't – the lady was there. I was talking to her. There was a receipt there. I just didn't check it. I grabbed it and out the door.

Q. Did you look at the receipt later to see if it matched the \$52?

A. I honestly don't know. I don't know that I even had it the next day, but I – but I remember that because I even said something to her at the time. It's exactly \$52, but I don't know if it was a receipt of someone before me. I don't know. I don't know that.

Q. And you were never charged with anything from Walmart?

A. No, I wasn't. No. And I certainly didn't intend to take off from Walmart.

14. At 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. Prosecutor See never disclosed the August 18, 2021 incident to JIC despite having been the initial reporter on Complaint No. 78-2021. The first time that Chief Rigglesman disclosed the August 18, 2021 incident to the JIC occurred on Thursday, February 10, 2022.
15. Walmart Loss Prevention Officer Christine Crites, Chief Rigglesman and former Moorefield Detective Steven Reckart² were interviewed on February 10 and/or 11, 2022, concerning one or both incidents. From 2019 until his retirement in or about June 2021, Detective Reckart handled the majority of alleged shoplifting incidents including those supposedly occurring at Walmart – for the Moorefield Police Department.
16. Ms. Crites stated that the one of the incidents occurred over a year ago and that the second incident occurred after he was already under investigation by the JIC. Ms. Crites stated that Respondent appeared to be "distracted" during the two incidents. She stated that on both occasions, Judge Williams would scan his merchandise, bag it, put the bags in the cart "and get to talking to somebody and not pay for it before he walks out."

² From 2019 until his retirement in or about June 2021, Detective Reckart handled the majority of alleged shoplifting incidents including those supposedly occurring at Walmart for the Moorefield Police Department.

17. According to Chief Riggleman, the earlier incident occurred about a year before Officer Johnson Stop and that another individual was present. Detective Reckart confirmed that an earlier incident with Walmart occurred in 2020. He stated that he wasn't aware of any incident involving Respondent and Walmart from 2019. He confirmed that the value of the items in question in the 2020 incident was approximately \$300.00 and that another individual was present with Respondent at the time of the taking.

18. Meanwhile, a text exchange by and between Respondent and Ms. Crites dated August 1, 2019 at 10:30 a.m. provides in pertinent part:

Respondent: Thank you very much for letting me know about my payment issue from yesterday. I just paid it. My sincere apologies for the inconvenience to you all at Walmart. I had absolutely no idea I did that. Thank you again. Carter Williams.

Ms. Crites: No worries . . . it happens more often than you would think.

Respondent: It's called, having too much clutter in one's brain!!

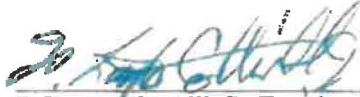
An email notation written by Respondent just above the text message exchange states "See text. I thought 2020 sounded too recent. It happened in 2019."

19. Respondent also never disclosed the August 18, 2021 Walmart incident to (redacted - under seal). In an email dated February 10, 2022, Respondent, through his attorney, didn't deny that he failed to disclose the information to (redacted - under seal). Instead, he stated that his (redacted - under seal). However, (redacted - under seal).

20. (Redacted - under seal) said he did not know of the August 18, 2021 Walmart incident prior to being interviewed by JDC on February 11, 2022. According to (redacted - under seal), "the first time I heard about it was today."

Judge Williams is advised that he has the right to file responsive pleadings to the charges made against him not more than 30 days after service of the formal charges upon him by the Clerk of the Supreme Court of Appeals of West Virginia. Any such pleadings shall be filed with the Clerk of the Supreme Court of Appeals and the Office of Disciplinary Counsel. For good cause shown, the Office of Disciplinary Counsel may extend the time for filing such pleadings. See Rule 2.10 of the Rules of Judicial Disciplinary Procedure.

STATEMENT OF CHARGES issued this 14th day of Feb., 2022.

A handwritten signature in blue ink, appearing to read "F. Layton Cottrill, Jr.", is written over a horizontal line.

F. Layton Cottrill, Jr. Esquire, Vice-Chairperson
Judicial Investigation Commission

APPENDIX

WEST VIRGINIA CODE OF JUDICIAL CONDUCT

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 1.3 – Avoiding Abuse of the Prestige of Judicial Office

A judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so.

Rule 2.16 – Cooperation with Disciplinary Authorities

- (A) A judge shall cooperate and be candid and honest with judicial and lawyer disciplinary agencies.

Rule 3.1 – Extrajudicial Activities in General

A judge may engage in extrajudicial activities, except as prohibited by law or this Code. However, when engaging in extrajudicial activities, a judge shall not:
...

- (C) participate in activities that would appear to a reasonable person to undermine the judge's independence, integrity or impartiality;

WEST VIRGINIA RULES OF PROFESSIONAL CONDUCT

Rules 8.4. Misconduct.

It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
...

- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (d) engage in conduct prejudicial to the administration of justice.