

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

No. 21-0878



**In the Matter of: HONORABLE C. CARTER WILLIAMS
Judge of the 22nd Judicial Circuit**

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

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AND NOW, This 23rd day of November, 2021, come Respondent 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 October 25, 2021, and set forth his affirmative defenses thereto and states and avers as follows:

FIRST DEFENSE

Judge Williams' conduct at issue in this judicial disciplinary proceeding arises from his personal and extrajudicial encounter with a local municipal police officer who initiated a traffic stop of his vehicle on a public street on Sunday evening, July 11, 2021, after suspecting Judge Williams was using a cell phone in violation of *W.Va. Code* § 17C-14-15, the entirety of which was recorded by the police officer utilizing his body camera (now disclosed to the public) and Judge Williams' subsequent telephone and face to face communications with municipal officials concerning same later that day, all in an attempt to simply explain that he was not using his cell phone in violation of said statute; therefore, such activity is not a violation of Canon 3 or Rule 3.1, *West Virginia Code of Judicial Conduct*, as he had the absolute right to do so under law.

SECOND DEFENSE

At the time and place made relevant by the *Formal Statement of Charges*, Judge Williams was not, as a matter of fact and law, using his cell phone in violation of any West Virginia law when stopped by the local municipal police officer; and, in this regard, the phone records secured and available prove by clear and convincing evidence that he was not doing so as suspected.

THIRD DEFENSE

At all times relevant to this judicial disciplinary proceeding, Judge Williams possessed a number of legal rights, in this personal and extrajudicial circumstance, which are clearly protected by the constitutions of the United States and West Virginia and statutes of this State, to challenge and communicate his objections, in a non-obstructive way, to the local municipal police officer and officials of the Moorefield Police Department, as to: the basis of the traffic stop; the failure of the officer to reasonably investigate whether his cell phone had been used; and the manner in which the officer encountered and communicated with Judge Williams during the brief traffic stop, all which occurred within a matter of a few hours on July 11, 2021.

FOURTH DEFENSE

The *West Virginia Code of Judicial Conduct*, as promulgated by the Court, and the responsibilities and obligations imposed upon Judge Williams and all other members of the Judiciary in this State are critically important to maintaining the prestige and integrity of the judicial system and its members; however, such Canons and Rules, contained therein, are inferior and subordinate to the constitutional and statutory rights employed by Judge Williams on the day of the traffic stop and encounter with the local municipal police officer and contact with officials of the Moorefield Police Department and should not be applied to impose any sanction in this judicial disciplinary proceeding.

FIFTH DEFENSE

After becoming aware of concerns by certain members of the Moorefield Police Department and the attorneys in the Office of Prosecuting Attorney of Hardy County, West Virginia, that he may hold a personal bias arising from the subject traffic stop and encounter with the local municipal police officer, Judge Williams agreed to hear no cases involving them and made timely self-report of his personal extrajudicial activities at issue in this judicial disciplinary proceeding to Judicial Disciplinary Counsel first, via recorded telephone call, on July 15, 2021, and then, in writing, on July 16, 2021.

SIXTH DEFENSE

At all times relevant to the charges made in this judicial disciplinary proceeding, Judge Williams has fully cooperated and provided candid and honest information to Judicial Disciplinary Counsel, as required by Rule 2.16, *West Virginia Code of Judicial Conduct*; and he has done so by his telephone self-report, his subsequent written self-report, his numerous telephone and e-mail communications with Judicial Disciplinary Counsel, his compliance with each order entered by the Court, his agreement to voluntarily recuse himself from the limited number of present cases pending involving the Moorefield Police Department, his full participation in the Judicial and Lawyer Assistance Program, his voluntary submission to a sworn videotaped statement conducted by Judicial Disciplinary Counsel, and his continued actions and service on the bench in accordance with the *West Virginia Code of Judicial Conduct* and the orders of the Supreme Court of Appeals of West Virginia.

SEVENTH DEFENSE

To the extent the *Formal Statement of Charges* can be read and understood that Judge Williams is being accused of having acted in a racially motivated or insensitive manner during his brief encounter with the local municipal police officer during the subject traffic stop,

such accusation is wholly without factual or legal merit and has been specifically addressed during submissions made and sworn testimony given by Judge Williams, prior to the issuance of the *Formal Statement of Charges* by the Judicial Investigative Commission; which accusation, if being made at present, is scandalous and burdensome on this judicial disciplinary proceeding and impairs Judge Williams' attempt to defend his conduct in a fair due process manner, free of bias and prejudice; and, in addition, Judge Williams' prior recent encounter with this same officer, and all words and conduct encompassed therein, did not demonstrate any animus or discriminatory or racial belief, intent, or state of mind, whatsoever, on behalf of Judge Williams.

EIGHTH DEFENSE

Judge Williams has no prior history of lawyer or judicial discipline; therefore, as made relevant to this judicial disciplinary proceeding by the holding in *In re Cruickshanks*, 220 W.Va. 513, 648 S.E.2d, 19 (2007), Judge Williams' lack of any prior lawyer and judicial discipline is one of several mitigating factors existing and to be considered on the issue of sanction, should same become necessary.

NINTH DEFENSE

At all times relating to the *Formal Statement of Charges*, Judge Williams adhered to and complied with the Canons and Rules set forth in the *West Virginia Code of Judicial Conduct* and the implementation of such Canons and Rules set forth in the *West Virginia Judicial System Personnel Manual* (October 2016).

TENTH DEFENSE

Judge Williams affirmatively asserts that he did not knowingly, intentionally, or willfully violate any West Virginia law, Canon, or Rule set forth in the *West Virginia Code of Judicial Conduct*; and, to the extent that he is found to have done so, there are personal and

clinical, medical and mental health issues, facts, and circumstances, established by credible evidence, then existing, which explain and serve as mitigation for his conduct.

ELEVENTH 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, and 5 of the *Formal Statement of Charges*.

3. Judge Williams admits that a judicial ethics complaint was filed against him, as alleged in Paragraph 6, but is uncertain as to the actual sequence of events in Judicial Disciplinary Counsel's office as they relate to his initial verbal self-report on July 15, 2021, via recorded telephone call. Judge Williams also admits that Judge Charles C. Carl and Prosecuting Attorney Lucas See discussed with him the concerns being expressed by the Moorefield Police Department following his contact with members thereof; and, as a result thereof, Judge Williams made his timely self-reports to the Office of Judicial Disciplinary Counsel as required by applicable rule.

4. Judge Williams admits the allegations of fact and law set forth in Paragraphs 7, 8, and 9 of the *Formal Statement of Charges*.

5. Judge Williams generally admits the allegations of fact and law set forth in Paragraph 10 of the *Formal Statement of Charges* and further states that the subject order, referenced in this Paragraph, must be read in its entirety to fully understand the context of the Court's action in resolving the issues set forth therein, in the separate case, Supreme Court No. 21-0608.

CHARGE I

6. 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*.

7. Judge Williams generally admits the allegations of fact and law set forth in Paragraph 11 of CHARGE I of the *Formal Statement of Charges*; however, the specific details of the events and circumstances immediately prior to the traffic stop are fully described in the videotaped sworn statement given by Judge Williams on October 6, 2021, and to the extent that the allegations of this Paragraph deviate from the sworn testimony, they are specifically denied. Judge Williams specifically denies that he was using his cell phone as was suspected by the local municipal police officer who initiated the traffic stop.

8. Judge Williams generally admits the allegations of fact and law set forth in Paragraphs 12, 13, 14, 15, 16, 17, 18, 19, and 20 of CHARGE I of the *Formal Statement of Charges*, however, Judge Williams denies that he was talking, texting, gaming, or otherwise using his cell phone prior to and at the time that the local municipal police officer alleges that he observed him doing so and thereby suspected that he was violating West Virginia law. By way of further answer, Judge Williams asserts that, at no time during the encounter with the local municipal police officer (or in his telephone call with the officer's direct supervisor or any other official affiliated with the Town of Moorefield, West Virginia), did he use profane language or

swear at the officer, scream at the officer, use any words which in any way could suggest any tone of racism, or obstruct the officer in his official duties; and the officer's bodycam video recording contains the entire encounter and everything said and done by both Judge Williams and the officer, and is hereby incorporated by reference, in its totality, into this and all other answers herein. By way of further answer, Judge Williams has admitted at all times since the encounter that he was agitated, frustrated, upset, impatient, and worried about his daughters who were then at his residence awaiting his arrival at the time of the traffic stop, and he was rude, impatient, and abrasive during the encounter – and nothing more.

9. Judge Williams admits the allegations of fact and law set forth in Paragraphs 21 of CHARGE I of the *Formal Statement of Charges*.

10. Judge Williams generally admits the allegations of fact and law set forth in Paragraph 22 of CHARGE I of the *Formal Statement of Charges*, however, Judge Williams is without sufficient information to form a belief as to whether “[t]he WVDMV sent Respondent a notice in late January or early February 2021 that his driver’s license would expire on April 17, 2021.”

CHARGE II

11. Judge Williams denies all allegations of fact and law set forth in the unnumbered bolded Paragraph immediately below the “CHARGE II” heading in the *Formal Statement of Charges*.

12. Judge Williams generally admits the allegations of fact and law set forth in Paragraphs 23, 24, and 25 of CHARGE II of the *Formal Statement of Charges*, however, Judge Williams asserts, by way of additional answer, that he did make contact with Chief Riggleman as alleged in these Paragraphs and so that all statements and actions attributable to Judge Williams are read and understood to be in context and full and complete, the following information

transmitted to Judicial Disciplinary Counsel in his verbal self-report made via telephone on July 15, 2021, as evidenced by the transcript thereof, his written self-report dated July 16, 2021, and the videotaped recording of his sworn testimony given on October 6, 2021, is hereby incorporated by reference, in its totality, into this and all other answers herein. To the extent that Judge Williams' prior self-reports and testimony differ from the allegations set forth in these Paragraphs and the statements given by Chief Rigglesman, such allegations and statements are specifically denied.

CHARGE III

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

14. Judge Williams generally admits the allegations of fact and law set forth in Paragraphs 26 and 27 of CHARGE III of the *Formal Statement of Charges*, however, Judge Williams asserts, by way of additional answer, that he did make contact with former Chief Reckart as alleged in these Paragraphs and so that all statements and actions attributable to Judge Williams are read and understood to be in context and full and complete, the following information transmitted to Judicial Disciplinary Counsel in his verbal self-report made via telephone on July 15, 2021, as evidenced by the transcript thereof, his written self-report dated July 16, 2021, and the videotaped recording of his sworn testimony given on October 6, 2021, is hereby incorporated by reference, in its totality, into this and all other answers herein. To the extent that Judge Williams' prior self-reports and testimony differ from the allegations set forth in these Paragraphs and the statements given by former Chief Reckart, such allegations and statements are specifically denied.

CHARGE IV

15. Judge Williams denies all allegations of fact and law set forth in the unnumbered bolded Paragraph immediately below the “CHARGE IV” heading in the *Formal Statement of Charges*.

16. Judge Williams generally admits the allegations of fact and law set forth in Paragraphs 28, 29, and 30 of CHARGE IV of the *Formal Statement of Charges*, however, Judge Williams asserts, by way of additional answer, that he did make contact with Lt. Burrows as alleged in these Paragraphs and so that all statements and actions attributable to Judge Williams are read and understood to be in context and full and complete, the following information transmitted to Judicial Disciplinary Counsel in his verbal self-report made via telephone on July 15, 2021, as evidenced by the transcript thereof, his written self-report dated July 16, 2021, and the videotaped recording of his sworn testimony given on October 6, 2021, is hereby incorporated by reference, in its totality, into this and all other answers herein. To the extent that Judge Williams’ prior self-reports and testimony differ from the allegations set forth in these Paragraphs and the statements given by Lt. Burrows, such allegations and statements are specifically denied.

CHARGE V

17. Judge Williams denies all allegations of fact and law set forth in the unnumbered bolded Paragraph immediately below the “CHARGE V” heading in the *Formal Statement of Charges*.

18. Judge Williams generally admits the allegations of fact and law set forth in Paragraphs 31, 32, 33, and 34 of CHARGE V of the *Formal Statement of Charges*, however, Judge Williams asserts, by way of additional answer, that he did make contact with Mayor Zuber as alleged in these Paragraphs and so that all statements and actions attributable to Judge Williams are read and understood to be in context and full and complete, the following

information transmitted to Judicial Disciplinary Counsel in his verbal self-report made via telephone on July 15, 2021, as evidenced by the transcript thereof, his written self-report dated July 16, 2021, and the videotaped recording of his sworn testimony given on October 6, 2021, is hereby incorporated by reference, in its totality, into this and all other answers herein. To the extent that Judge Williams' prior self-reports and testimony differ from the allegations set forth in these Paragraphs and the statements given by Mayor Zuber, such allegations and statements are specifically denied.

CHARGE VI

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

20. Judge Williams generally admits the allegations of fact and law set forth in Paragraphs 35, 36, 37, 38, 39, 40, 41, and 42 of CHARGE VI of the *Formal Statement of Charges*, however, Judge Williams asserts, by way of additional answer, that he did make contact with Prosecuting Attorney See as alleged in these Paragraphs and Judge Williams paid fine and court costs in excess of \$200.00 as assessed by the Magistrate Court, and so that all statements and actions attributable to Judge Williams are read and understood to be in context and full and complete, the following information transmitted to Judicial Disciplinary Counsel in his verbal self-report made via telephone on July 15, 2021, as evidenced by the transcript thereof, his written self-report dated July 16, 2021, and the videotaped recording of his sworn testimony given on October 6, 2021, is hereby incorporated by reference, in its totality, into this and all other answers herein. To the extent that Judge Williams' prior self-reports and testimony differ from the allegations set forth in these Paragraphs and the statements given by Prosecuting Attorney See, such allegations and statements are specifically denied. With regard to the

allegations set forth in these Paragraphs, Judge Williams further asserts that there was no evidence existing, then or now, to establish probable cause to lawfully issue a citation for unlawful cell phone use; and, therefore, it was not necessary to enter into any plea bargaining to obtain dismissal of such charge filed wholly without probable cause or any reasonable factual or legal basis.

CHARGE VII

21. Judge Williams denies all allegations of fact and law set forth in the unnumbered bolded Paragraph immediately below the “CHARGE VII” heading in the *Formal Statement of Charges*.

22. Judge Williams admits the allegations of fact and law set forth in Paragraphs 43 of CHARGE VII of the *Formal Statement of Charges*.

23. Judge Williams admits the allegations of fact and law set forth in Paragraphs 44 of CHARGE VII of the *Formal Statement of Charges*; however, by way of further answer, Judge Williams, in his sworn statement, based upon his best recollection and his information and belief, denied that he “immediately identified himself as Judge Williams,” and fully explained how his identity naturally was revealed during the cordial, verbal interaction he had with officer on that occasion.

24. Judge Williams admits that, in his sworn statement, he informed Judicial Disciplinary Counsel that at the time and place of the January 20, 2020, encounter with the officer, he slowed his vehicle but rolled through the stop sign as alleged in Paragraph 45 of CHARGE VII of the *Formal Statement of Charges*.

CHARGE VIII

25. Judge Williams denies all allegations of fact and law set forth in the unnumbered bolded Paragraph immediately below the “CHARGE VIII” heading in the *Formal Statement of Charges*.

26. Judge Williams admits the allegations of fact and law set forth in Paragraphs 46 of CHARGE VIII of the *Formal Statement of Charges*.

27. 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 47, 48, 49, 50 , and 51 of CHARGE VIII of the Formal Statement of Charges, but by way of further answer, states that he was stopped by Corporal Vaubel, had a conversation at the time and was issued a warning, and did not renew his vehicle registration until after he was informed of its expiration by Corporal Vaubel, therefore, as such, its renewal was untimely.

CHARGE IX

28. Judge Williams denies all allegations of fact and law set forth in the unnumbered bolded Paragraph immediately below the “CHARGE IX” heading in the *Formal Statement of Charges*.

29. Judge Williams admits the allegations of fact and law set forth in Paragraphs 52, 53, and 54 of CHARGE IX of the *Formal Statement of Charges*, but by way of further answer, states he did not immediately identify himself as “Judge Williams,” as alleged in Paragraph 53 because, in discussion with the officer, his identity became known when he answered the officer’s questions as to where he was going and where he worked; and the encounter was a predetermined traffic “check point” in the evening hours after dark and not a discreet traffic stop focused on any particular conduct by Judge Williams.

CHARGE X

30. Judge Williams denies all allegations of fact and law set forth in the unnumbered bolded Paragraph immediately below the “CHARGE X” heading in the *Formal Statement of Charges*.

31. In response to Paragraph 55 of CHARGE X of the Formal Statement of Charges, Judge Williams incorporates as if fully set forth herein his answer to the allegations contained in Paragraph 52, above.

32. Judge Williams admits the allegations of fact and law set forth in Paragraphs 56 and 57 of CHARGE X of the *Formal Statement of Charges*, but by way of further answer, states that he is without information to form a belief as to why Trooper Thorn felt the need to avoid giving Judge Williams a traffic citation for failing to wear his seat belt or why he felt that doing so would, in any way, affect the manner in which Judge Williams may perform his official judicial duties in other unrelated cases.

CHARGE XI

33. Judge Williams admits all allegations of fact and law set forth in the unnumbered bolded Paragraph immediately below the “CHARGE XI” heading in the *Formal Statement of Charges*.

34. Judge Williams denies the allegations of fact and law set forth in Paragraphs 58 and 59 of CHARGE XI (PATTERN AND PRACTICE) of the *Formal Statement of Charges*.

35. Judge Williams denies the allegations of fact and law set forth in Paragraphs 60 and 62 of CHARGE XI (AGGRAVATING FACTORS) of the *Formal Statement of Charges*.

36. Judge Williams admits the allegations of fact and law set forth in Paragraphs 60 and 61 of CHARGE XI (MITIGATING FACTORS) of the *Formal Statement of Charges*.

37. Judge Williams denies all allegations of the Formal Statements of Charges not herein specifically admitted to be true and, pursuant to Rule 10(c), *West Virginia Rules of Civil Procedure*, incorporates, by reference herein, the transcript of his verbal self-report made to Judicial Disciplinary Counsel on July 15, 2021, his written self-report on July 16, 2021, and the videotaped recording and transcript of his sworn statement given to Judicial Disciplinary Counsel on October 6, 2021.

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

Respectfully submitted this 23rd day of November, 2021.



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Counsel for Respondent

CERTIFICATE OF SERVICE

I, J. Michael Benninger, counsel for Respondent, do hereby certify that on November 23, 2021, the foregoing *Respondent 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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Judicial Investigation Commission

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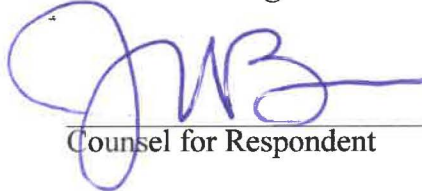
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