

BEFORE THE JUDICIAL INVESTIGATION COMMISSION OF WEST VIRGINIA

**IN THE MATTER OF,
THE HONORABLE C. DARREN TALLMAN,
JUDGE OF THE 3RD FAMILY COURT CIRCUIT**

**COMPLAINT NOS. 82-2024
110-2024**

**PUBLIC ADMONISHMENT OF THE HONORABLE C. DARREN TALLMAN
JUDGE OF THE 3RD FAMILY COURT CIRCUIT**

The matter is before the Judicial Investigation Commission (“JIC”) upon complaints filed by Mark Goudy and Judicial Disciplinary Counsel setting forth certain allegations against the Honorable C. Darren Tallman, Judge of the 3rd 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 found probable cause that Respondent violated Rules 1.1, 1.2, 3.1(A), (B), and (C), and 4.1(A)(3) 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 has been a lawyer in West Virginia since 1986. He was first elected as a family court judge in 2002 and took office on January 1, 2003. He was re-elected to eight year terms in 2008, 2016 and 2024. He has also been the Wood County Juvenile Drug Court Judge since 2010. At all times relevant to facts giving rise to the complaints, Respondent was serving as a family court judge. In 2008, Respondent was admonished by the JIC for violating Canons 1A, 2A and 3B(4) of the former Code of Judicial Conduct.

The two complaints at issue revolve around Respondent’s posts on two social media accounts. The first deals with the photo he used on his Google account. The second involved

posts made to his X (formerly “Twitter”) account. Both accounts are public.

Complaint No. 82-2024:

Complainant Goudy attached a large photo of Respondent wearing a Bane mask and his judicial robe to his complaint. The “Bane” photo was taken in Respondent’s courtroom. Complainant also attached proof that Respondent used the photo for his Google profile.

Bane is a villain in the DC Comic series “Batman.” He is often credited as the only villain to have bested Batman physically and mentally. Bane was born in a prison on a remote Caribbean Island and raised without pity or compassion. As an adult, he served as a test subject for a super steroid. Bane appeared in the 2012 movie “The Dark Knight Rises.”

Even though the large photo has references to Twitter on it, Respondent denied ever placing it on that website. Respondent admits using the photo for his Google website as his profile picture and said he only removed the photo when he received a copy of the complaint to respond to. During his sworn statement, Respondent stated that the photo was initially taken as a joke for his sons during Covid. Respondent said he did not know much about Bane except from watching the Dark Knight Rises but that he was aware the character was a villain.. Respondent stated:

It started out as me texting my kids back and forth. We were all making sure we wore our masks because that was during the masking period. And I put it on and said, “Well I’ve got mine on.” And that’s how the picture was originally taken. I didn’t Tweet it out or put it on Twitter right away or anything like that. . . . It was originally just a text between me and my kids.”

Respondent said the mask belonged to his son and he “took it with him that day to joke with.”

Respondent admitted it was a mistake to use the photo on social media saying that “[i]t could give the wrong idea about a judge or judges . . . that we’re Batman villains, I guess, yes.”

Complaint No. 110-24:

Respondent’s X(“Twitter”) name is “DarrenTallman@judgecdt.” Respondent

acknowledged having the account for quite a while but claimed he did not start actively using it until 2019. Respondent's posts can be broken into several categories.

The first involves statements where Respondent publicly endorsed Donald Trump and opposed Joe Biden for President. Respondent would not agree that he was endorsing Trump and opposing Biden. However, he did say he was a supporter of Trump and not of Biden and that by doing so he could see where the public could misconstrue it as an endorsement. Respondent admitted that these posts violated Rule 4.1(A)(3) of the Code of Judicial Conduct and agreed not to engage in such conduct in the future.

The second set of improper posts deals with comments about sexual orientation or that were gender specific. In a March 5, 2024 post/re-post it states, "There's only 2 genders. At the end of the day, you're a cut-up, drugged up, dressed up man or woman. You didn't change the DNA God gave you. This is demonic." Respondent acknowledged that the post could create in the minds of the public, however wrong it may be, that he was anti-transsexual and that he shouldn't have posted/reposted it on his account.

In a September 14, 2023 post/repost on his X account two women are depicted in tight fitting dresses with the caption "Can we just skip the election and have these two mud wrestle on the floor of the house to decide which old geriatric gets in office." Respondent acknowledged that the post was inappropriate and that he should have immediately removed it from his account.

On the same day, someone else posted a woman with her legs spread and a green dot over her vaginal area with the caption "Green new deal." Respondent recognized that the post was improper. Respondent stated that he did not post the photo to his account but acknowledged that he could have removed access to it from his account.

In a July 10, 2023, Respondent reposted a photo with the caption "Roe v. Wade . . . The

Supreme Court Changed our Sex Lives Forever.” Above it, he wrote that “this is great !!” Respondent acknowledged the impropriety of the post.

The final category dealt with ill-advised comments about marriage and divorce. In a May 18, 2023 post, he wrote: “I’m always disappointed when I hear about a high profile conservative like Lauren Boebert getting a divorce. I realize there may be legitimate reasons but maybe there isn’t. Conservatives have a higher standard of morality that we have to adhere to in order to be an example.” In a June 16, 2023 post, Respondent wrote “Marriage is still the best way to bond a father to his children / Institute for Family Studies.” Respondent acknowledged making these statements but claimed they are merely his opinion and that he can nonetheless be fair and impartial.

CONCLUSIONS

By a vote of 6-1,¹ the Commission found that probable cause exists in the matters set forth above to find that the Honorable C. Darren Tallman, Judge of the 3rd Family Court Circuit, violated Rules 1.1, 1.2, 3.1(A),(B), and (C) and 4.1(A)(3) 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.

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: . . .

- (A) participate in activities that will interfere with the proper performance of the judge’s judicial duties;

¹ One member voted to issue a formal statement of charges, one member recused himself, and one member was absent from the meeting.

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

4.1 – Political and Campaign Activities of Judges and Judicial Candidates in General

- (A) Except as permitted by law, or by Rules 4.2, 4.3 and 4.4, a judge or a judicial candidate shall not:
 - (3) Publicly endorse or oppose a candidate for any public office.

The Commission further found that formal discipline was not essential given that Respondent admitted his misdeeds and agreed to refrain from any such conduct in the future. 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.

The following Comments to Rule 3.1 are also instructive:

- [4] Discriminatory actions and expressions of bias and prejudice by a judge, even outside the judge's official or judicial actions are likely to appear to a reasonable person to call into question the judge's integrity and impartiality. Examples include jokes or other remarks that demean individuals based upon their race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation or socioeconomic status. For the same reason, a judge's extrajudicial activities must not be conducted in connection or affiliation with an organization that practices invidious discrimination. . . .
- [6] The same Rules of the Code of Judicial Conduct that govern a judicial officer's ability to socialize and communicate in person, on paper, or over the telephone also apply to the internet and social networking sites like Facebook.

Comment [4] to Rule 4.1 notes the importance of paragraph (A)(3) in that it is designed to prevent a judge "from abusing the prestige of judicial office to advance the interests of others."

Judges are not precluded from using social media, but they cannot expect to be treated like every other member of the public given the restrictions placed on them by the Code of Judicial Conduct. Therefore, judges must exercise extreme caution when posting on social networking sites. Any statement from a judge on social media "should be professional, dignified and calculated to preserve the high standards of the judicial office." North Carolina Judicial Standards Commission "Tips on the Use of Social Media" (2021). Respondent repeatedly failed in this task despite admittedly knowing better and while he cannot travel back in time to correct his misdeeds he can and has learned from them.

Ordinarily, the Commission could bring formal charges against Respondent. However, given that Respondent admitted his misconduct, agreed to refrain from such activity in the future, and fully cooperated in the investigation, the Commission has voted to admonish him. By engaging in such conduct, Respondent violated Rules 1.1, 1.2, 3.1 (A), (B) and (C) and 4.1(A)(3) 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 C. Darren Tallman, Judge of the 3rd Family Court Circuit, be disciplined by this Admonishment. Accordingly, the Judicial Investigation Commission hereby publicly admonishes Respondent 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

October 21, 2024
Date

ADM/tat