

**BEFORE THE JUDICIAL INVESTIGATION COMMISSION OF WEST VIRGINIA**

**IN THE MATTER OF,  
THE HONORABLE KELLY CODISPOTI,  
JUDGE OF THE 7<sup>TH</sup> JUDICIAL CIRCUIT**

**COMPLAINT NO. 168-2024**

**PUBLIC ADMONISHMENT OF THE HONORABLE KELLY CODISPOTI  
JUDGE OF THE 7<sup>TH</sup> JUDICIAL CIRCUIT**

The matter is before the Judicial Investigation Commission (“JIC”) upon a complaint filed by Christopher Trent setting forth certain allegations against the Honorable Kelly Codispoti, Judge of the 7<sup>th</sup> Judicial 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, 2.1, 2.4(B), 2.5(A), and 2.7 of the Code of Judicial Conduct at a recent meeting and ordered that she 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 1980. In 2001, Respondent<sup>1</sup> was appointed to the 9<sup>th</sup> Family Court Circuit by then Governor Bob Wise.<sup>2</sup> She was elected to the position in 2002 and re-elected in 2008 and 2016. In 2022, Governor Jim Justice appointed her to a seat on the 7<sup>th</sup> Judicial Circuit. She was subsequently elected to an eight-year term in that position in May 2024. Respondent has not been the subject of any prior judicial discipline.

---

<sup>1</sup>Respondent’s husband served as a Magistrate in Logan County from January 1, 1981 until his retirement on October 31, 2020. Subsequently, her husband has served as a Senior Status Magistrate.

<sup>2</sup> Before becoming a family court judge, Respondent represented at least one judge in a formal discipline case before the Supreme Court of Appeals of West Virginia.

In September 2022, Complainant filed a Freedom of Information Act (“FOIA”) lawsuit against the Logan County Development Authority. The Authority never answered the civil complaint, so Complainant filed a motion for default judgment in October 2022. Respondent never ruled on the motion. On or about February 7, 2023, Complainant saw Respondent’s husband let the Executive Director of the Development Authority out of his car in front of the Logan County Courthouse.

Complainant then promptly filed a FOIA request with the Logan County Sheriff’s Office to obtain security footage of the interaction between Respondent’s husband and the Executive Director. The Sheriff’s Office promptly replied to the request. The video showed the Executive Director entering the husband’s car in front of the Courthouse at 10:48 a.m. on the day in question and exiting the same vehicle approximately 35 minutes later.

On or about February 9, 2023, or the morning Complainant received the video surveillance, Respondent sent out a Notice of hearing on Respondent’s case. The hearing was set for March 7, 2023. On February 13, 2023, Complainant filed a Motion to Disqualify Respondent from presiding over the matter and his basis for relief was the interaction between her husband and the Executive Director. On February 28, 2023, Respondent disqualified herself from the case and signed an Order transferring the case to the other Circuit Judge in the Circuit.

On March 18, 2024, Complainant filed suit against the Logan County Commission alleging that the body had violated the Open Governmental Meetings Act. Respondent was assigned to preside over the case. On April 8, 2024, Complainant filed a Motion to Disqualify the Judge. Respondent never ruled on the Motion and no further action was taken on the case.

On or about August 28, 2024, when Respondent still had not ruled on the disqualification motion, Complainant filed a judicial ethics complaint against her. On October 22, 2024, Judicial Disciplinary Counsel sent the complaint to Respondent and asked her for a response.

In a reply mailed on November 15, 2024, Respondent stated:

I admit that no hearing was held by this court in the FOIA complaint filed by Christopher Trent. I admit I did not submit the motion for disqualification and my response to the Chief Justice [of the Supreme Court]. These were mistakes on my part for which if I offered explanations, it would just sound like excuses. However, these mistakes were just that mistakes that should not have occurred. I deny any political reasons for these mistakes. I sincerely regret the opinions Christopher Trent has formed as a result of my mistakes but they did not happen to give anyone any advantage in either case. I do not intend to let these types of mistakes happen in the future.

### **CONCLUSIONS**

By a vote of 7-0,<sup>3</sup> the Commission found that probable cause exists in the matters set forth above to find that the Honorable Kelly Codispoti, Judge of the 7<sup>th</sup> Judicial Circuit, violated Rules 1.1, 1.2, 2.1, 2.4(B), 2.5(A) and 2.7 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 2.1 – Giving Precedence to the Duties of Judicial Office**

The duties of judicial office, as prescribed by law, shall take precedence over all of judge's personal and extrajudicial activities.

#### **Rule 2.4 – External Influences on Judicial Conduct**

---

<sup>3</sup> Two members were absent from the meeting.

- (B) A judge shall not permit family, social, political, financial or other interests or relationships to influence the judge’s judicial conduct or judgment.

**Rule 2.5 – Competence, Diligence and Cooperation**

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

**Rule 2.7 – Responsibility to Decide**

A judge shall hear and decide matters assigned to the judge, except when disqualification is required by Rule 2.11 or other law.

The Commission further found that formal discipline was not essential given that Respondent admitted her 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

“conduct 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 Comments to Rule 2.5 are also instructive:

- [2] A judge should seek the necessary docket time, court staff, expertise, and resources to discharge all adjudicative and administrative responsibilities.
- [3] Prompt disposition of the court's business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under submission, and to take reasonable measures to ensure that court officials, litigants, and their lawyers cooperate with the judge to that end.
- [4] In disposing of matters promptly and efficiently, a judge must demonstrate due regard for the rights of parties to be heard and to have issues resolved without unnecessary cost of delay. A judge should monitor and supervise cases in ways that reduce or eliminate dilatory practices, avoidable delays and unnecessary costs.

Comment [1] to Rule 2.7 states:

Judges must be available to decide the matters that come before the court. Although there are times when disqualification is necessary to protect the rights of litigants and preserve public confidence in the independence, integrity, and impartiality of the judiciary, judges must be available to decide matters that come before the courts. Unwarranted disqualification may bring public disfavor to the court and to the judge personally. The dignity of the court, the judge's respect for fulfillment of judicial duties, and a proper concern for the burdens that may be imposed upon the judge's colleagues require that a judge not use disqualification to avoid cases that present difficult, controversial or unpopular issues.

Chapter 29B-1-1, et seq. of the West Virginia Code governs FOIA matters. W. Va. Code § 29B-1-5(1) provides that any person who is denied the right to inspect a public record of a public body may institute proceedings for injunctive or declaratory relief in the circuit court in the county where the public record is kept. Importantly, W. Va. Code § 29B-1-5 states that “[e]xcept as to

causes the court considers of greater importance, proceedings arising under subsection one of this section shall be assigned for hearing and trial at the earliest practicable date.”

The Open Governmental Proceedings Act is found in W. Va. Code § 6-9A-1, et seq. W. Va. Code § 6-9A-6 provides:

The circuit court in the county where the public agency regularly meets has jurisdiction and is a proper venue to enforce this article upon civil action commenced by any citizen of this state within 120 days after the action complained of was taken or the decision complained of was made. Where the action seeks injunctive relief, no bond may be required unless the petition appears to be without merit or made with the sole intent of harassing or delaying or avoiding return by the governing body. The court is empowered to compel compliance or enjoin noncompliance with the provisions of this article and to annul a decision made in violation of this article.

The Open Governmental Proceedings Act does not set forth any hearing time standards within the body of the legislation. However, Trial Court 16.05 does. Section (b) states that “[a]n Order shall be entered which sets forth a ruling on pretrial motions which require a hearing or ruling within two months of submission or on the date of the trial whichever is earlier.”

Judges must follow Trial Court Rule 17 whenever a motion to disqualify is filed by a party in a proceeding. Rule 17.01(b) states in pertinent part:

Upon the judge’s receipt of a copy of such motion, regardless of whether judge finds good cause and agrees to the disqualification motion or not, the judge shall: (1) proceed no further in the matter; (2) transmit **forthwith** to the Chief Justice a copy of the motion and certificate, together with a letter stating the judge’s response to the motion and the reasons therefor, including such matters and considerations as the judge may deem relevant; . . .

(emphasis added). Upon receipt of the motion, the Chief Judge “shall enter” an order within fourteen (14) days providing that the judge either remain on the case or is disqualified.

“Justice delayed is justice denied” is an ancient legal maxim that stands for the proposition that an untimely resolution to matters before the court is the same as having no remedy whatsoever.

Respondent admits that she failed to hold a hearing in the FOIA matter and did not follow Trial

Court Rule 17 in the Open Meetings case. Respondent called her actions “mistakes” but declined to explain why they occurred saying it would “just sound like an excuse.” The difference between the two is that an excuse is an intent to avoid blame while an explanation is a statement of fact as to why something happened. Without an explanation, the Commission is left to ponder whether Respondent’s actions really were mistakes.

Respondent is not a new judge. Certainly after 23 years on the bench, she understands time standards. This is evident by the fact that she addressed the Motion to Disqualify in the FOIA matter in a reasonably timely manner – if not forthwith then within two weeks of Complainant’s filing. Waiting approximately seven months to consider a motion to disqualify in the Open Meetings case is unacceptable.

Likewise, failing to hold a hearing on the default judgment motion is insupportable as a mistake without any explanation and particularly when Respondent finally scheduled the matter on the same day that Complainant picked up video from the Sheriff’s Department showing her husband spending time with the Executive Director of the other party to the FOIA proceeding. Is it really coincidental? Unfortunately, without any real explanation, the Commission will never know. What we are left with is an appearance, however wrong it may be, that calls into question the integrity, impartiality and independence of the judiciary. For these reasons, we find that Respondent should be admonished for her conduct.

Ordinarily, the Commission could bring formal charges against Respondent. However, given that Respondent admitted her misconduct and has no prior discipline, the Commission has voted to admonish her. By engaging in such conduct, Respondent violated Rules 1.1, 1.2, 2.1, 2.4(B), 2.5(A) and 2.7 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 Kelly Codispoti, Judge of the 7<sup>th</sup> Judicial Circuit, be disciplined by this Admonishment. Accordingly, the Judicial Investigation Commission hereby publicly admonishes Respondent for her 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

December 11, 2024  
Date

ADM/tat