

BEFORE THE JUDICIAL INVESTIGATION COMMISSION OF WEST VIRGINIA

**IN THE MATTER OF
THE HONORABLE TIM SWEENEY,
JUDGE OF THE 3RD JUDICIAL CIRCUIT**

COMPLAINT NO. 13-2025

The matter is before the Judicial Investigation Commission (“JIC”) upon a complaint filed by Judicial Disciplinary Counsel setting forth certain allegations against The Honorable Tim Sweeney, Judge of the 3rd Judicial Circuit. After a review of the complaint, Respondent’s written reply and sworn statement of May 21, 2025, other evidence gathered and the pertinent Rules contained in the Code of Judicial Conduct, the JIC found probable cause on June 6, 2025, that Respondent violated Rules 1.1, 1.2, 2.10(A), 3.1(C) and 3.7(A)(2) of the Code of Judicial Conduct. Furthermore, the JIC found that formal discipline was not necessary but that Respondent be publicly admonished pursuant to Rules of Judicial Disciplinary Procedure (“RJDP”) 1.11 and 2.7(c) as set forth in the following statement of facts and conclusions of law. Pursuant to the Supreme Court of Appeals of West Virginia, which is the final arbiter of judicial discipline in this State, an admonishment “constitutes advice or caution to a judge to refrain from engaging in similar conduct which is deemed to constitute a violation of the Code of Judicial Conduct.” *See* RJDP 4.12.

STATEMENT OF FACTS

Respondent was appointed to a vacant Circuit Judge position in the Circuit in late 2010. He was first elected to the bench in 2012 and then won re-election in 2016 and 2024. He has served as a circuit judge continuously since 2010. At all times relevant to the matters set forth below, Respondent was serving in his capacity as Judge. Prior to January 1, 2025, the Circuit only had one judge and consisted of Pleasants, Doddridge and Ritchie Counties. Now, the Circuit also includes Wirt County and has a second circuit judge. Before becoming a Judge, Respondent served as the prosecuting attorney of Pleasants County from 1985 to 2010. While a prosecutor, Respondent also served on the Lawyer Disciplinary Board. Respondent has never been disciplined as a lawyer or a judge.

Media Interviews:

In October 2024, Respondent held an abuse and neglect hearing involving a minor child who had been severely traumatized. Respondent ordered the child to be placed in an out of state treatment facility. The local CPS workers were required to go through certain hoops and meet certain deadlines before the child could be sent to an out of state facility. The case fell through the cracks, and Respondent held a hearing on February 3, 2025 to find out why CPS had not yet sent the child to placement. The only people in attendance at the hearing were the prosecuting attorney, the child's attorney, the Guardian Ad Litem, two probation officers, and two local CPS workers. Neither the Department of Human Services ("DoHS") Commissioner or any of his immediate subordinates were in attendance.

The local workers testified at hearing. They stated that the reason for the mix-up was that they were severely overworked and understaffed and had to prioritize cases based on who was safe and who wasn't by way of threat assessment. In addition to counties in the Circuit, the CPS workers were also required to cover Upshur and Lewis Counties. One of the workers testified that the worker assigned the child's case had one hundred families on her caseload when the average should be no more than ten. One of the workers also asked the judge to help them obtain more staff. Both workers assured the judge that the child in question was safe.

The judge opined that he had tried the process of issue a rule to show cause in Charleston in 2014 but that DOHS was untruthful at that time. Respondent noted that he "believe[d] that it is probably the department's job to look out for" the children but "in this case the department has failed grossly in that regard." He also discussed the process of civil contempt. Respondent stated:

I think that it is unfortunate and I'm loathe to get into managing the department, what it does, its employees, and whether they do their job; however, I think it probably falls upon me to make sure that happens because probably the buck stops here.

Importantly, Respondent said:

Maybe we need the commissioner's name so that I can sign a civil contempt order today to require the commissioner to be incarcerated until this situation is rectified. Well, to do that I would have to get them here, which could be done. Then maybe that would bring it to the attention of the folks in Charleston; **maybe if it gets in the Charleston Gazette and on MetroNews and in various news feeds the legislature might recognize something and realize this is a situation that needs to be addressed.**

My concern is this: If I just sit around and these things are not happening and I don't do anything, am I doing my job? Am I part of the solution or part of the problem? As I indicated earlier, the buck kind of stops here.

(emphasis added).

At the conclusion of the hearing, Respondent ordered them to come back on February 20, 2025, at 9:00 a.m. He indicated that he would “enter a placement order which speaks for itself to become part of the record in this proceeding to address the matters that have been discussed today.” Respondent said absolutely nothing about ordering anyone from the state office to appear and serve as case workers, etc. In the February 3, 2025, placement order, Respondent made a finding that the “West Virginia Department of Human Services **HAS NOT** made reasonable efforts to find appropriate placement. . . .”

Respondent also entered another order on February 3, 2025, that contained only the heading “In Re: Critical Understaffing of the Department of Human Services” and has been referred to by Respondent as an administrative order (“DoHS Order”). There was no case number associated with the Order. The Order required members of the State Office, including but not limited to, the Commissioner, the General Counsel and the Deputy Commissioner of Field Operations to appear in Court, “personally, under penalty of contempt” on February 20, 2025, at 9:00 a.m. “to receive their case assignments” as CPS workers, removal workers, case workers, “court workers,” etc.

In his sworn statement, Respondent admitted contacting a reporter for the Parkersburg newspaper on February 4, 2025, providing him with a copy of the DoHS Order and giving an interview on the subject. The article appeared in the newspaper the next morning before any named in the DoHS Order received the actual Order. In the article, Respondent said the Order was meant to get the attention of DoHS. He also said:

I think the bus [sic] stops with me. . . . I think somebody needs to stand up for the public, particularly the most vulnerable members of our community – the children. From a legal point of view, abuse and neglect cases are of the highest priority, and they should be, in my opinion, for the department and the government in Charleston as well. This just needs to be addressed and I couldn't think of any other way to do it other than to enter this order to try to get the attention of these folks to take a look at these issues.

On February 3, 2025, Respondent went on MetroNews to address the DoHS Order. He started the interview by saying:

Well, it was pretty clear **on the record in a proceeding we had this past Monday, February 3rd**, the date of the order, that we had some pretty significant understaffing problems with the department in regard to CPS workers and their ability to handle referrals and do their jobs to protect, really, the most vulnerable segment of our population, abused and neglected children.

(emphasis added). He again reiterated that “the buck stops with me” and that “somebody needs to take the role . . . as a leader to get something to happen on this.” Respondent also indicated that he was fully prepared to move forward on February 20, 2025, as “[w]e have **documented in the hearing that we had Monday**, the issues that I have addressed and noted and made findings with regard to in the order. And that’s been **documented on the record by sworn testimony**” (emphasis added). Importantly, he also noted that “we’ve got people that are in some cases tenfold in excess of the recommended caseload to get this done.” This information clearly came from the confidential hearing. Subsequent to the MetroNews interview, Respondent met with the DoHS Commissioner and worked out an agreement. He then cancelled the February 20, 2025 DoHS hearing.

Meanwhile, on or about February 10, 2025, JDC opened a complaint on Respondent alleging, in part, that he failed to properly provide the DoHS Commissioner and members of his immediate staff with notice and an opportunity to be heard before ordering them to work and that his media interviews were improper. By letter dated February 12, 2025, JDC asked for a written response to the allegations. On May 21, 2025, JDC took Respondent’s sworn statement with his attorney present and representing him.

In his reply and sworn statement, Respondent denied any impropriety with respect to the media interviews. Respondent acknowledged that the purpose of the February 3, 2025 hearing was to “follow up on the Department to accomplish what had been directed in October with regard to the out of state placement.” Respondent admitted that he wanted to know why the placement “hadn’t been done.” He further admitted that the two CPS workers testified that the reason for the delay was because of understaffing in his Circuit:

Q. So you did not realize the severity of the understaffing in February until these two people testified; is that correct?

A. I think understaffing contributed to my previous issues. Yes, I was totally surprised of the few available positions or positions that were supposed to be there being filled, and the requirement of the supervisors to do the CPS worker's job.

Respondent agreed that the two local CPS workers could not bind the State Office. Respondent stated, "From a legal point of view, I don't think that level supervisor could tell them what to do in Charleston." When asked if he should have issued a rule to show cause against the State officials and brought them in to address the matter, he said he did not believe he had too. Respondent admitted that he did not know the reasons for the understaffing in his area. He said, "I don't know that I needed to know. I just know that there was."

Respondent acknowledged that abuse and neglect proceedings are confidential and that the judge is really the only one that can release information from such hearings. However, Respondent stated that he was not sure about making findings and conclusions pertaining to the release of any confidential information but "I would say I didn't release any information from an abuse and neglect case. I don't believe I did." Instead, Respondent stated, "[T]he hearing precipitated the administrative order. And the administrative order was simply done as an administrative order to keep it separate from the abuse [and] neglect proceeding." Respondent denied that the DoHS Order requiring was as a result of the hearing held. Instead, he said:

I think Monday's hearing precipitated [the order]. It was a catalyst. I think it was done based on the many things I enunciated in my comments from the bench, as are reflected in the transcript from the _____ hearings. And it was a culmination of the whole situation up to and including that particular case.

Respondent denied any violation of a party's right to notice and an opportunity to be heard before ordering them to work. Respondent testified:

[I]t really didn't involve any due process rights on their part. It was more directory and supervisory of the department in my capacity as a judge to comport with basically what the Supreme Court has enunciated pretty strongly in several cases, that these matters are of the utmost importance. Judges need to move heaven and earth to get these things done, and have been subject to criticism for not doing so. And I believed it was in the parameters of my administrative authority as a judge over the Department . . . to require that to be done.

Respondent also indicated it was the responsibility of the Department to challenge the order not for him to afford them notice and an opportunity to be heard.

Respondent also tried to argue that there was no pending matter even though he gave comeback dates for both the abuse and neglect matter and the DoHS Order. Respondent testified:

Q. So if you have the _____ matter which is pending and you have this matter [the February 3 Order] why go to the news media?

A. To call attention to the issue, to try to raise it to the level that somebody would respond and pay attention to and hopefully address it. As I indicated this was pre-session [the West Virginia Legislature]. They went in late this year because we got a new Governor, of course, as you are aware. . . . I was desperate, and I thought extreme action needed to be taken. It was an imminent, ongoing problem that needed to be addressed promptly. And I was hoping it would basically sound an alarm of the issues, so the issues could be remediated promptly.

Q. You would agree, though, that if you've got two pending matters and you're on MetroNews talking about it and you're talking to Parkersburg, and you're talking about pending or impending cases, you're violating Rule 2.10(a)?

....
A. Well, I don't believe it was a violation of the ____ hearing because I never disclosed any details or information about that. I referred to it generally number one. Number two, the fact that it was an ongoing matter, it was an administrative proceeding. I didn't consider it a case. I considered it an action that the court was taking for purposes of addressing what I identified as a problem in the administrative order. And furthermore, [I] did not feel that there was really anything to be done or pending other than to try to formulate some kind of a consensus or solution as a result of the consensus to address the issues. So I really didn't see it that way. And I understand what you're saying. If you say the administrative order is a case, I understand. I understand your question, but I didn't perceive it that way and don't consider it to be that.

Respondent stated that as a result of the DoHS Order, he had a meeting with the Commissioner which resulted in some additional help in his jurisdiction.

Facebook posts:

Respondent has had a Facebook account for approximately 15 years. At the start of the investigation, Respondent had a photo of himself in his judicial robe in a courtroom with the American flag behind him as his primary Facebook photo. The posts at issue fall into six categories:

A. Fundraiser reposts:

- (1) St. Mary's VFD Annual Ice Cream Social

- (2) Jeremy Rhodes Subway Fundraiser – Mr. Rhodes is a member of Pleasant’s County Sheriff’s Office
- (3) Jeremy Rhodes fundraiser at Calvary Baptist Church

B. Law Enforcement/Prosecutor Posts:

Respondent reposted several hiring posts for various law enforcement/prosecutor entities including Tyler Co. Sheriff’s Office, Richie County Sheriff’s Office, Paden City Police Dept., City of St. Mary’s Police Clerk, State Police, DNR Police and Doddridge County Assistant Prosecutor.

C. Pleasants County Sheriff’s Post beginning with “Attention Drug Dealers:”

This was a tongue and cheek posting by the Pleasants County Sheriff’s Department which said, “Is your drug dealing competition costing you money? Would you like to eliminate that problem? We can help. We can take your competition off the streets for free.”

D. Jody Alan Satterfield is wanted for Attempted Murder and Attempted Arson in Calhoun County—Considered Dangerous.

Underneath the re-post from the Pleasants County Sheriff’s Office it further stated: “This individual is considered armed and dangerous. He has potentially been seen in an adjoining county and may be in the area. DO NOT APPROACH. If you believe you have seen him contact 911 immediately.”

E. Human Trafficking Reposts:

- 1) The first involved an October 31, 2023 repost from WSAZ-TV which stated, “Pair arrested for alleged human trafficking. State Police say Pearson ‘preys on vulnerable, drug addicted, homeless.’”
- 2) The second involved a November 1, 2023, repost from Newsbreak.com which stated, “West Virginia woman trafficked teen victim for just under \$14,000; sentenced to 40 years.”

F. January 29, 2025 Repost from the Kanawha County WV Prosecuting Attorney on the Whitefeather/Lantz case:

Whitefeather/Lantz were a couple who adopted several African American children, and were the subject of a high profile criminal case in Kanawha County. In late January, a jury convicted the couple of multiple charges of abusing and trafficking the adopted children. They were later sentenced to long prison terms. Respondent reposted a story about the couple’s conviction/sentence which generated multiple negative comments on his Facebook page. Respondent liked three of the negative comments.

With respect to A and B, Respondent testified that he made the reposts for informational purposes only. Upon reflection, Respondent admitted that he could now see where the public, however wrong it may be, might misconstrue the posts as donation requests and/or that he was pro law enforcement/prosecution.

Concerning C, Respondent said he reposted it because he thought it was funny. However, Respondent conceded that he could see where the public, however wrong it might be, could believe along with A and B, that he was pro law enforcement/prosecution.

Respondent indicated that he initially reposted D, E and F for informational purposes only. With regard to D, Respondent admitted that the matter was probably pending/impending before a court and that he could see where the public could misconstrue the post, along with the others, to believe that he was pro law enforcement/prosecution. With respect to E and F, Respondent acknowledged that the matters were still pending in court and was probably not appropriate to repost. Respondent said, “Well, you know, in retrospect, the whole package of my involvement in publicizing these matters . . . has the risk of impugning the impartiality of the judiciary. Respondent also acknowledged that the use of his judicial robe and the courtroom in his primary Facebook photo might have compounded the appearance “that this was under some kind of authority that I had.” Importantly, since receiving the complaint, Respondent has taken down all offending posts, has changed his primary Facebook photo and set his account to private.

CONCLUSIONS

By a vote of 7-1,¹ the Commission found that probable cause exists in the matters set forth above to find that The Honorable Tim Sweeney, Judge of the 3rd Judicial Circuit, violated Rules 1.1, 1.2, 2.10(A), 3.1(C) and 3.7(A)(2) 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 2.10—Judicial Statements on Pending and Impending Cases

¹ The Commission consists of 9 members. One public member was absent and the Chair voted to dismiss with a warning and issue a separate advisory opinion.

- (A) A judge shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court, or make any nonpublic statement that might substantially interfere with a fair trial or hearing.

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.

Rule 3.7 – Participation in . . . Charitable, Fraternal or Civic . . . Activities

- (A) Subject to the requirements of Rule 3.1, a judge may participate in . . . charitable, fraternal or civic organizations not conducted for profit, including but not limited to the following activities:
 - (2) Soliciting contributions for such an organization or entity but only from members of the judge's family or from judges over whom the judge does not exercise supervisory or appellate authority.

The Commission further found that formal discipline was not essential as Respondent had a reputation for being a good judge, had cooperated in the investigation and had no prior discipline. However, 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.

It further states:

Judges should maintain the dignity of judicial office at all times and avoid both impropriety and the appearance of impropriety in their professional and personal lives. They should aspire at all times to conduct that ensures the greatest possible public confidence in their independence, impartiality, integrity and competence.

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 [4] states that “[j]udges should participate in activities that promote ethical conduct among judges and lawyers, support professionalism within the judiciary and the legal profession, and promote access to justice for all.” 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.

Comment [1] to Rule 2.10 states that “[t]his Rule’s restrictions on judicial speech are essential to the maintenance of the independence, integrity and impartiality of the judiciary.” Comment [2] notes that “[t]his Rule does not prohibit a judge from commenting on proceedings in which the judge is a litigant in a personal capacity or represents a client as permitted by these Rules. In cases in which the judge is a litigant in an official capacity, such as a writ of mandamus, the judge must not comment publicly.” Furthermore, JIC Advisory Opinions 2023-23 and 2019-16 support that Respondent’s conduct was inappropriate. In fact, JIC Advisory Opinion 2019-16 is clearly on point. In that opinion, the Commission told a judge who issued a rule to show cause in a case that he could not comment to the media because the case was still pending.

Comment [2] to Rule 3.1 provides some insight in judicial leadership in abuse and neglect cases and states:

Off-the-bench judicial leadership is essential to effective resolution of local systemic problems that impede the progress of child abuse and neglect, delinquency, and status offense cases involving at-risk children and their families. Unlike most other types of cases in the court system, these cases deal with ongoing and changing circumstances, with federal and state legal mandates assigning to the judge a series of time-specific and complex decisions that shape the course of state intervention and determine the future of the child and family. For these reasons, judges are encouraged to regularly convene meetings of local professionals routinely involved in these cases for the purpose of addressing issues in the circuit relating to effective procedures and necessary services. These collaborative meetings **may address systemic problems but shall not include discussion of individual cases.**

(emphasis added). Comment [6] states that “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.”

The Commission is not unmindful that Respondent was trying to do something good for both the children and local DoHS workers when he initiated attempts to correct understaffing in his jurisdiction. As the old saying goes, “A good deed is never lost.” Moreover, “every time you do a good deed you shine the light a little farther into the dark” as was done in this case. Nonetheless, Respondent used his flashlight in the wrong manner to achieve the right result. He should have issued a rule to show cause and brought the DoHS officials before him in court to address the matter thereby insulating his comments pursuant to Rule 2.10(D) since they occurred during the course of his official duties. As an alternative, Respondent could have held a Rule 3.1 Comment [2] meeting. He did neither.

Instead, Respondent issued the DoHS Order requiring the DoHS officials to appear and serve as caseworkers, etc. without any notice or opportunity to be heard. He then contacted the news media, provided the reporter with the order and gave two voluntary interviews. Respondent referred to the confidential hearing and indicated in the interview with MetroNews the testimony from one of the CPS workers that her caseload was tenfold.

Rule 6a of the Rules of Procedure for Child Abuse and Neglect Proceedings states that “[a]ll records and information maintained by the courts in child abuse and neglect proceedings shall be kept confidential except as otherwise provide in W. Va. Code Chapter 49 and this rule.” W. Va. Code § 49-5-101(a) states that “[e]xcept as otherwise provided in this chapter or by order of the court, all records and information concerning a child or juvenile which are maintained . . . by [a] court . . . are confidential and may not be released or disclosed to anyone including any federal or state agency. W. Va. Code § 49-5-101(b) lists the exceptions including “pursuant to an order of a court of record: Provided, That the court shall review the record or records for relevancy and materiality to the issues in the proceeding and safety . . . “

The Commission is of the belief that but for the confidential hearing the news interviews would never have taken place, Even if we were to agree, which we do not, that the DoHS Order was not related

to the hearing, Respondent scheduled a comeback date for the DoHS officials to appear in court under penalty of contempt. At the time he talked to the news media, Respondent did not know that the matter would resolve. The DoHS could have filed a writ against the judge, sought injunctive relief or simply not shown up and Respondent would then have been obliged to hold them in contempt. Thus, either way, there was a pending matter before the court at the time he spoke to the news media. As a result, it is clear that Respondent violated Rules 1.1, 1.2 and 2.10(A) and is admonished for the same.

Respondent also violated Rules 1.1, 1.2, 2.10(A), 3.1(C) and 3.7(A)(2) with respect to his Facebook posts. While judges are not prohibited from being on Facebook, they are required to comply with the Code in their usage thereof. He created the appearance, however wrong it may be, that he solicited funds, favored law enforcement and prosecutors and supported charges or convictions in human trafficking cases. While we have no reason to doubt that Respondent is a fair judge, it is not our measure that counts but public perception. Judges must not only be neutral and detached they must also appear to be neutral and detached. Accordingly, Respondent is admonished for violating Rules 1.1, 1.2, 2.10(A), 3.1(C) and 3.7(A)(2) with respect to his Facebook posts.

Thus, it is the decision of the Judicial Investigation Commission that the Honorable Tim Sweeney, Judge of the 3rd Judicial Circuit, be admonished. Accordingly, the Judicial Investigation Commission hereby publicly admonishes Judge Sweeney 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 Bridget Cohee, Vice Chairperson
Judicial Investigation Commission



Date

BC/tat