BEFORE THE JUDICIAL HEARING BOARD OF WEST VIRGINIA

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IN THE MATTER OF:

HONORABLE ELIZABETH BOSO,
MAGISTRATE OF NICHOLAS COUNTY
AND FORMER MAGISTRATE
CANDIDATE OF KANAWHA COUNTY

JIC COMPLAINT NO. 22-2024
SUPREME COURT NO. 24-436

RECOMMENDED DECISION

On October 25, 2024, came the Honorable Elizabeth Boso ("Respondent" or "Magistrate Boso") and Teresa A. Tarr and Brian J. Lanham, Judicial Disciplinary Counsel ("JDC"), for purposes of a hearing, at which they tendered argument and evidence in support of an Agreement ("Agreement") consisting of the following terms:

1. At all times relevant to the proceedings set forth in the formal Statement of Charges, Respondent was either a candidate for appointment to the position of Magistrate of Kanawha County, a candidate for election to the position of Magistrate of Nicholas County, or the Magistrate-Elect of Nicholas County. As of July 5, 2024, Respondent now serves as a Magistrate of Nicholas County.

2. On January 31, 2024, Judicial Disciplinary Counsel opened the above-captioned judicial ethics complaint against Respondent. The complaint was predicated on false claims by Respondent that she was a resident of Kanawha County in an effort to obtain the appointment to a vacant Magistrate position there.

3. The Judicial Investigation Commission ("JIC") immediately began an investigation into the complaint. On August 7, 2024, the JIC filed a one-count formal statement of charges against Respondent.

4. Accordingly, the parties understand, acknowledge, and agree to the following:

   a. "[A]greements made in open court by the parties in the trial of a case and acted upon are binding and a judgment founded thereon will not be reversed ..." Syl. pt. 3, *In the Matter of Starcher*, 202 W. Va. 55, 501 S.E.2d 772 (1998).

   b. The burden of proof in judicial disciplinary cases is clear and convincing evidence. *Id.*

c. Respondent admits to the allegations contained in Paragraph Nos. 1 through 14 of the Formal Statement of Charges in their entirety.

d. Respondent admits that all of the facts contained in Paragraph Nos. 1 through 14 of the Formal Statement of Charges contain clear and convincing evidence that she violated Rules 1.1, 1.2, 2.16(A), 4.1(A)(9), 4.2(A)(1) and 4.2(A)(2) of the Code of Judicial Conduct.

e. Respondent also admits to violating Rules 1.1, 1.2, 2.16(A), 4.1(A)(9), 4.2(A)(1), and 4.2(A)(2) of the Code of Judicial Conduct for engaging in the conduct set forth in Paragraph Nos. 1 through 14 of the Formal Statement of Charges.

f. Respondent and Judicial Disciplinary Counsel jointly agree that the appropriate discipline pursuant to Rule 4.12 of the Rules of Judicial Disciplinary Procedure is the following:

(1) A public censure which constitutes formal condemnation of a judge who has engaged in conduct which violated the Code of Judicial Conduct.

(2) a suspension without pay for a period of two (2) months.

(3) costs in the amount of $618.45.

g. As mitigation, both parties acknowledge and agree that Respondent was cooperative during the investigation of the instant complaint and admitted her wrongdoing.

h. Pursuant to Rule 4 of the Rules of Judicial Disciplinary Procedure, both parties understand, acknowledge and agree to designate a hearing examiner for purposes of conducting the hearing in this case.

i. Both parties understand, acknowledge and agree that the decision to accept the recommendation concerning discipline rests solely within the purview of the State Supreme Court. The parties understand, acknowledge and agree that the State Supreme Court may award more or less severe discipline than what is recommended by the parties and that the parties are bound by the decision.

j. Both parties understand, acknowledge, and agree that if one party violates any term of this agreement, the opposing party would be free to argue for any sanctions they deem appropriate before the Judicial Hearing Board and/or the State Supreme Court.

5. Respondent understands, acknowledges, and agrees that she is entering into this agreement because it is in her best interest and that no other inducements have been promised other than what is contained within the four corners of this document. All parties agree to do everything necessary to ensure that the foregoing terms of this agreement take effect.

The preceding Agreement, having been thoroughly considered by the Board, and the evidence and argument presented at the hearing, is unanimously recommended to the Supreme Court of Appeals for adoption.

Counsel to the Judicial Hearing Board is hereby directed to file a copy of this Recommended Decision with the Clerk of the Supreme Court of Appeals and to serve a copy on the members of the Judicial Hearing Board and counsel of record upon its entry.

Entered this 25 day of October 2024.

Hon. Michael D. Lorensen, Chairperson
Judicial Hearing Board