

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

SCA EFiled: Apr 30 2025

02:06PM EDT

Transaction ID 76182386

**IN THE MATTER OF:
THE HONORABLE ELIZABETH BOSO,
MAGISTRATE OF NICHOLAS COUNTY,**

**SUPREME COURT NO. 24-0436
JIC COMPLAINT NO. 22-2024**

Respondent.

JDC REPLY BRIEF

Respectfully submitted by:

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JUDICIAL DISCIPLINARY COUNSEL’S REPLY BRIEF

I.

STATEMENT OF THE CASE

On or about March 7, 2025, JDC filed a brief with this Court in the above-captioned matter. The JDC now incorporates by reference and makes a part hereof the entire March 7, 2025 brief. JDC received Respondent’s brief by email on or about April 22, 2025. JDC now timely files its reply brief.

In addition to the original Statement of the Case, JDC submits for consideration additional necessary facts. On October 25, 2024, the JHB held a hearing in the matter. During the hearing, the following colloquy took place after Respondent was placed under oath:

- Q. I’m going to ask you to look at Exhibit Number 2, and Exhibit Number 2 is the agreement that we’ve entered into. And on Page 3 of the agreement, it has the name, Elizabeth Boso, in handwriting listed on there. Is that your signature?
- A. Yes, ma’am, it is.
- Q. And before you signed it, did you read it?
- A. Yes, ma’am.
- Q. Now, the agreement calls for you to admit all of the factual allegations contained in the Statement of Charges. Is that correct?
- A. Yes, ma’am.
- Q. And it also calls for you to admit all of the violations of the Code of Judicial Conduct that are cited in the Statement of Charges. Is that correct?
- A. Yes, ma’am.
- Q. Do you, in fact, admit all of the factual allegations that are contained in the Statement of Charges?
- A. Yes, ma’am.
- Q. And do you admit all of the code violations in the Statement of Charges?
- A. Yes, ma’am.

- Q. Okay. Now the agreement calls for both of us to recommend a public censure, a suspension of two months without pay, and that you pay costs in the amount of \$618.45. Is that your understand of what the agreement says?
- A. Yes ma'am.
- Q. And do you, in fact, agree with the recommended discipline that is set forth in the agreement?
- A. Yes. Ma'am.
- Q. Now, and you also understand that simply because you and I are recommending this does not mean that the Hearing Board or the Supreme Court has to accept it. They can do something either more or less serious in terms of recommended discipline. Is that correct?
- A. Yes, ma'am.

(10/25/2024 JHB Hearing Tr. at 7-8). Respondent, who represented herself *pro se*, also readily agreed to the submission of joint exhibits 1 through 15 into evidence (JHB Hearing Tr. at 5-6).

At the conclusion of the hearing, JHB Chair Judge Lorenson asked Respondent if she “felt there was something else the Supreme Court should know or the other board members should know before they pass upon this.” (10/25/2024 JHB Hearing Tr. at 9). Respondent replied:

I would just like to say that I am so immensely sorry. I’ve been with the Court for over 16 years. I take this work very seriously, I take it to heart, and I was at that moment thinking that I really wanted to be back in Kanawha, and I thought I had found a quick way around that. And I just created a big problem for myself. And I’m so sorry, and I was so busy looking for a light at the end of the tunnel that I overlooked that train that was in front of me. And I wanted to be an asset to the Court. I still do and not a stain. And I am so very sorry.

(10/25/2024 JHB Hearing Tr. at 9-10).

The first time that Respondent ever alleged a “fairly hostile work environment” in Nicholas County was in her brief. It is not contained anywhere in the exhibits, her written response to the JIC Complaint, her May 23, 2024 sworn statement or the JHB hearing transcript. She also never mentioned not wanting to sign a year long lease without first obtaining a new position in Kanawha. In her brief, Respondent mentions filling out the Supreme Court Job application and submitting her resume for the Kanawha Magistrate appointment but fails to discuss that she used the Dunbar address on both as her primary residence or that she had never been to the place let alone stay

there. Respondent also claims that she had been “actively looking” for an apartment in Charleston but she failed to provide any proof thereof despite ample opportunity. Instead, the record only indicates two such contacts between mid-November 2024 and January 12, 2025. Respondent also claims that she “chose to accept [the] agreement [with JDC] based on the fact that I could have been facing a one year suspension.” Respondent was never advised that any discipline would be limited to a one year suspension without pay. Instead, the undersigned informed Respondent consistent with WVRJDP 4.12 and applicable case law that she could be suspended for up to one year without pay for each violation of the Code of Judicial Conduct and that the suspension could run concurrently or consecutively.

II.

ARGUMENT

A. RESPONDENT’S CLAIM THAT SHE WAS NOT “INTENTIONALLY DECEPTIVE” IS DISINGENUOUS.

In her brief, Respondent states that the “judicial application that I signed is not a sworn document but it does state that the information contained in the application is true to the best of my knowledge, and to the best of my knowledge, it was.” Lastly, Respondent asserts that she “was not intentionally deceptive” and that if she “had been questioned regarding anything in my application, I would have been truthful.”

She virtually acknowledges her complete lack of candor in her last statement. If she was not “intentionally deceptive” then she would not have needed to state that she would be “truthful” if she had been questioned regarding her application. She in fact was questioned in her sworn statement concerning the application she filled out for the Kanawha Magistrate appointment. She acknowledged placing the Dunbar rental as her “Home address” on the application. Above “Home County,” she typed “Working in Nicholas.” “Home County” was requested immediately after her

cell phone number and before her date of birth which is indicative to virtually everyone the County in which someone lives. In her sworn statement, Respondent stated that her email to Judge Akers expressing interest in the Kanawha Magistrate position contained “misstatements” and “misrepresentations.” (Jt. JHB Ex. No. 4 at 36, 91). Black’s Law Dictionary 1198-1199 (11th ed. 2019) defines misstatement as “an erroneous assertion, whether as a result of inadvertence or purposeful deception.” It defines “misrepresentation” as:

1. The act or an instance of making a false or misleading assertion about something with the intent to deceive. The word denotes not just written or spoken words but also any other conduct that amounts to a false assertion.
2. The assertion so made; an incorrect, unfair or false statement; an assertion that does not accord with the facts. – Also termed *false representation*. . . .

Importantly, at the hearing, Respondent admitted all of the factual allegations in the Formal Statement of Charges which included specifics about lying in Paragraph 8 and making false claims in Paragraph 10 (Jt. JHB Ex. No. 3 at 8-9). She also admitted to a violation of Rule 2.16 of the Code of Judicial Conduct which relates to lack of candor to disciplinary authorities. Finally, all of the evidence submitted to the Court contains overwhelming proof that Respondent was not truthful about the matter in question. Thus, Respondent was clearly duplicitous in her action.

III.

CONCLUSION

WHEREFORE, JDC respectfully requests that this Court impose the following sanctions:

- a. Respondent receive a public censure;
- b. Respondent receive a two month suspension without pay; and
- c. Respondent be ordered to pay the costs of the investigation and prosecution

of the disciplinary matter in the amount of \$618.45.

Respectfully submitted,

by,



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CERTIFICATE OF SERVICE

I, Teresa A. Tarr, JDC Counsel, do hereby certify that on the 30th day of April, 2025, I served a true and accurate copy of the JDC Reply Brief by placing the same in the United States mail, first-class postage prepaid, to Respondent and addressed to the Honorable Elizabeth A. Boso, Magistrate of Nicholas County, 511 Church Street, Summersville, WV 26651 and by email to elizabeth.boso@courtswv.gov.

Respectfully submitted,



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