

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

SCA EFiled: Aug 07 2024  
12:53PM EDT  
Transaction ID 73976284

IN THE MATTER OF:  
THE HONORABLE ELIZABETH BOSO,  
MAGISTRATE OF NICHOLAS COUNTY &  
FORMER MAGISTRATE CANDIDATE  
OF KANAWHA COUNTY

SUPREME COURT NO. \_\_\_\_\_  
JIC COMPLAINT NO. 22-2024

**FORMAL STATEMENT OF CHARGES**

The West Virginia Judicial Investigation Commission, pursuant to Rules 2.7 (a) and (d) and 2.8 of the Rules of Judicial Disciplinary Procedure, has determined that probable cause does exist to formally charge the Honorable Elizabeth Boso, Magistrate of Nicholas County and former Magistrate Candidate of Kanawha County ("Respondent" or "Magistrate Boso"), with violations of the Code of Judicial Conduct and that formal discipline is appropriate based upon the following probable cause findings:

1. At all times relevant to the proceedings set forth below, 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 Magistrate position there.

**After investigating and evaluating the Complaint, the Judicial Investigation Commission finds that there is probable cause to make the following CHARGES and FINDINGS:**

**CHARGE**

**MAGISTRATE BOSO violated Rule 1.1 (compliance with the law), Rule 1.2 (confidence in the judiciary), Rule 2.16(A) (cooperation with disciplinary authorities), Rule 4.1(A)(9) (political and campaign activities of judges/judicial candidates), Rules 4.2(A)(1) and (2) (political and campaign**

**activities of judicial candidates in public elections) of the Code of Judicial Conduct as set forth in the attached Appendix when she committed the following acts:**

3. W. Va. Code § 50-1-4 sets forth the qualifications to be a magistrate in West Virginia and provides in pertinent part that “[e]ach magistrate . . . shall reside in the county of his election.” W. Va. Code § 50-1-6 states that “when a vacancy occurs in the office of magistrate, the judge of the circuit court or the chief judge thereof . . . shall fill the same by appointment.” Thus, at the time of appointment, a candidate must reside in the County of his/her application. W. Va. Code § 51-3-18(a) provides:

- (a) The Legislature finds that when judicial offices created under the Constitution and laws of the state are vacant for extended periods of time, the proper functioning of the judicial branch of the government is impeded. The Legislature further finds that when a vacancy in a judicial office is to be filled by appointment, it is in the public interest that any questions regarding the qualifications or eligibility of the person nominated or appointed to fill the vacancy be determined expeditiously.  
. . . .

4. In *State ex rel. Sandy v. Johnson*, 212 W. Va. 343, 571 S.E.2d 333 (2002), the State Supreme Court addressed “residence” as it related to candidates for office, holding in Syllabus Points 6 through 9 the following:

- 6. In West Virginia, the term ‘residence’ is synonymous with the term “domicile” for election law purposes.
- 7. Domicile is a combination of residence (or presence) and an intention of remaining. If domicile has once existed, mere temporary absence will not destroy it, however long continued.
- 8. A [person] may live in several different places but he [or she] can have only one domicile. Domicile is a place a person intends to retain as a permanent residence and go back to ultimately after moving away.
- 9. The important facts in determining the domicile of a person who has more than one residence are the physical character of each, the time spent and the things done in each place, and whether or not there is an intention to return to the original domicile.

The Court also noted:

When this court weighs the evidence in a disputed residence case, we are mindful that “[a] domicile once acquired is presumed to continue until it is shown to have been changed . . . . In addition, where physical residency is a condition for election,

“the residency requirement must be strictly construed”. . . . Finally, “[t]he party alleging a change of domicile has the burden of proof.”

*Id.* at 349-350, 571-S.E.2d at 339-40.

5. In 2020, the State Supreme Court again addressed the issue of the word “reside” in *State ex rel. Justice v. King*, 244 W. Va. 225, 852 S.E.2d 292 (2020). In Syllabus pt. 6, the Court stated:

For purposes of the residency provision located in Section 1 of Article VII of the West Virginia Constitution, “reside” means to live, primarily, at the seat of government; and requires that the executive official’s principal place of physical presence is the seat of government for the duration of his or her term of office. Residency, once established, is not lost through temporary absence. Rather, the controlling fact of residency is the intent to return to that principal place of physical presence.

*Id.* The Court also noted:

“[R]esiding” is not a matter of discretion, but rather one of intent – specifically, the intent to return to a certain place. As we previously have held when considering the meaning of “residence,” “[t]he controlling factor is the intent, as evinced primarily by the acts of the person whose residence is questioned. If an absence from a residence is intended to be temporary, it does not constitute an abandonment or forfeiture of the residence.”

*Id.* at 239, 852 S.E.2d at 306.

6. On January 23, 2024, Respondent filed an application to fill a vacancy created by the resignation of Kanawha Magistrate Mike Ferrell on or about January 19, 2024. On the application, Respondent listed her address as **434 21<sup>st</sup> Street, Dunbar, WV** (emphasis added). On page 1, she stated in the application above “Home County” that she is “**Working in Nicholas**” (emphasis added). On page 2, Respondent signed and dated the application effective January 23, 2024. By signing it, Respondent attested “**that the answers given herein are true and complete to the best of my knowledge**” (emphasis added). She also attached a resume listing the Dunbar address as her home. Importantly, at the time she applied to serve as a Magistrate of Kanawha County her residence/domicile was clearly in Nicholas County. The Dunbar address actually belongs to Magistrate Ferrell/Whittington’s Assistant, Kirstie Trabert, who purchased the 865 square foot, two bedroom/one bath home in June 2023 and lives there with her dog and cat.

7. On or about January 26, 2024, Earl Whittington was appointed to replace Magistrate Ferrell. In a 1:17 p.m. text message that same day, Trabert informed Respondent that Whittington had been appointed.

She then opined that “the only thing I think she [Judge Akers] could have tried to make an issue of was your renting from me but the thing is we aren’t related and it doesn’t matter.” On or about the same day, Respondent then filed a Certificate of Announcement with the Nicholas County Clerk declaring her candidacy for Magistrate, Division 2 and listed her current **“legal residence” as 405 Main St., Summersville, WV 26651** (emphasis added). By a text message dated Saturday, January 27, 2024 at 10:23 a.m., Respondent informed Trabert that she “filed in Nicholas” and that “if I win you’re moving!”

8. On January 29, 2024, JDC received an email from the Honorable Maryclaire Akers, Judge of the 13<sup>th</sup> Judicial Circuit (Kanawha) alleging that Respondent lied on her Kanawha County Magistrate application about her address. She found that the Dunbar address provided by Respondent belonged to Trabert and that Respondent really lived in Nicholas County. Judge Akers questioned Trabert who claimed the agreement existed for approximately three months but that she only had one payment receipt from mid-January 2024 in the amount of \$150.00. She said there was no rental contract or agreement.<sup>1</sup> Judge Akers also provided an email from Respondent, dated January 22, 2024, at 1:21:37 p.m., in which she said, **“I had moved to Kanawha County in 2021 and, after transferring to Nicholas, I have maintained a residence in Kanawha due to wanting to run in the upcoming election for one of the new magistrate seats”** (emphasis added). This statement was also a lie as Respondent had no Kanawha County address between June 9, 2023, when she sold her condo and at least January 12, 2024, when she supposedly paid rent to Trabert for the first time.

9. On January 31, 2024, JDC opened a complaint on Respondent. On February 2, 2024, Boso told Trabert the following by text message:

I’m under investigation by the Judicial Investigation Committee. . . Someone filed a complaint against me alluding to the notion that I was somehow aware of Ferrell quitting and trying to use your address to get the appointment. They have copies of my and Doug’s real estate and tax records and shit. I haven’t looked at it completely because my mom is being transported to the hospital now because she can’t breathe. Fuckers. I have been

---

<sup>1</sup> There was never a written rental agreement between Respondent and Trabert. Trabert believed the supposed verbal agreement was month to month. Respondent said she believed it was through election season which ended in mid-May 2024.

actively looking for an apartment for several months to move back down there and when I paid my January rent to you we had absolutely no clue about Ferrell. I'm so pissed. . . . Whatever. I have all my emails to apartment places and facts are facts.

Respondent never submitted any of the emails to the JIC and a subpoena to the Supreme Court's IT Department did not turn up any work emails relating to renting living quarters in Kanawha County.

10. By letter dated February 12, 2024, Respondent replied to the allegations contained in the complaint by falsely claiming:

**I absolutely applied and I used my current rental address on my application. My agreement with Kirstie Trabert was reached last year because I had every intention of running for Magistrate in Kanawha County and per that agreement, I will be paying rent to her through May of 2024.**

(emphasis added). She also stated that “[i]t was never my intent, when I applied for the appointment to be anything other than transparent and honest (emphasis added). Boso also said:

As my tax records show, I purchased a Condo in Charleston in 2021 because I was tired of driving to and from Summersville to Charleston every day and paying for a hotel room when I had weekend court or the weather was bad. My condo sold very quickly, so by the time I realized I wanted to be back in Charleston, the condo was gone.

11. At the time Respondent applied for the Magistrate appointment she was not a resident of Kanawha County. She never visited Trabert's address prior to claiming it as her “residence.” She never lived at the address or stayed there. She never paid any utilities for the Dunbar address or had any of the utilities placed in her name. According to Trabert, Respondent never left any personal belongings at the home. Trabert also testified in a sworn statement that during the timeframe in question she never saw Respondent stay at the house or any evidence of anyone being inside her house when she hadn't been there. Trabert also stated that she had a security camera inside her home to observe her animals but never saw Respondent in any video.

12. Respondent was clearly not domiciled in Kanawha County at the time she applied for the Magistrate appointment. On December 12, 2019, Boso filled out a judicial employment application form to work as a Magistrate Assistant in Kanawha County and listed her home address as 405 Main Street, Summersville [Nicholas County]. Importantly, she never changed the address with the Court even though on September 22, 2021, she bought a condo at 1313 Lee Street East, Charleston, Kanawha County. She sold the condo

on June 9, 2023, after she began working as a Magistrate Assistant in Nicholas County.<sup>2</sup> While she owned the condo, she kept her long term residence in Nicholas County, and her husband resided there. Her address on her driver's license is and has always been in Nicholas County. Respondent's voter registration address is and has always been in Nicholas County. She pays most real<sup>3</sup> and all personal property taxes in Nicholas County. All of her utility bills since selling her Charleston condo only cover and are sent to her Nicholas County address.

13. In her sworn statement of May 22, 2024, Respondent acknowledged that she was a resident of Nicholas County and had lived at the same address there since 2005. Concerning her application for appointment to the Kanawha County Magistrate position where she placed "Working in Nicholas County" above "Home County," Respondent explained, "I put in there that I was working in Nicholas because I thought that was where you put the home county or the county that you are currently working in." Respondent admitted that she "probably should have" put that she lived in Nicholas County on the application but she "just put the address that I was going to use if I ran there . . . I mean I did what I did. I can't make excuses for that. I put the address on there that I thought she would want to see that I was renting, you know, that it was the address that I was going to use if I stayed down here." She further testified:

Q. [Y]ou understand if you substitute the word "appointment" for "election" and you have to reside at the time of your appointment, you weren't residing in Kanawha County, correct?

A. At that point, I was not. Correct. . . .

Q. Well, the appointment was [January] the 26<sup>th</sup>.

A. Yes.

Q. And at the 26<sup>th</sup>, you had never stayed at that address.

A. Correct.

---

<sup>2</sup> On March 11, 2023, West Virginia House Bill 3332 passed the Legislature and gave Kanawha County three additional Magistrates as of January 1, 2025 following election of the same in May 2024. The bill went into effect 90 days from passage. Respondent was aware of this before she sold her Charleston condo.

<sup>3</sup> Respondent has real property taxes only for 2023 for the Kanawha County property; and as of May 22, 2024, she had not paid them.

Q. So it's fair to say you never resided in Kanawha County at the time the appointment was made, correct?

A. Correct. I considered that I had a rental address. I did not reside here, correct.

Q. Okay. And so then immediately after listing your address here in Dunbar, on the 27<sup>th</sup>, you turn around and now say you reside in Nicholas County?

A. It was the afternoon, the 26<sup>th</sup>, yes, because my address was in Nicholas County. . . .

14. When shown her application to run for Nicholas County Magistrate, Respondent acknowledged that her legal residence as of January 26, 2024 was 405 Main Street, Summersville, Nicholas County. She stated that her "primary residence is in Nicholas County." She also agreed that she was not domiciled in Kanawha County at the time she applied for Magistrate of Kanawha County or at the time the appointment was made.

\*\*\*\*\*

Magistrate Boso is advised that she has the right to file responsive pleadings to the charges made against her not more than 30 days after service of the formal charges upon her by the Clerk of the Supreme Court of Appeals of West Virginia. Rule 2.10 of the Rules of Judicial Disciplinary Procedure provides:

The judge may file responsive pleadings as provided in the West Virginia Rules of Civil Procedure. Any such pleadings shall be filed by the judge with the Clerk of the Supreme Court of Appeals and the Office of Disciplinary Counsel not more than thirty (30) days after the date of the formal charges. For good cause shown, the Office of Disciplinary Counsel may extend the time for filing of such pleadings.

**STATEMENT OF CHARGES** issued this 7<sup>th</sup> day of August, 2024.



---

The Honorable Alan D. Moats, Chairperson  
Judicial Investigation Commission

ADM/tat

## **APPENDIX**

### **WEST VIRGINIA CODE OF JUDICIAL CONDUCT**

#### **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 2.16 – Cooperation with Disciplinary Authorities**

- (A) A judge shall cooperate and be candid and honest with judicial and lawyer disciplinary agencies.

#### **Rule 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:
  - (9) knowingly or with reckless disregard for the truth, make any false or misleading statement;

#### **Rule 4.2 – Political and Campaign Activities of Judicial Candidates in Public Elections**

- (A) A judge or candidate subject to public election shall:
  - (1) act at all times in a manner consistent with the independence, integrity, and impartiality of the judiciary;
  - (2) comply with all applicable election, election campaign, and election campaign fund-raising laws and regulations of this jurisdiction;



IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

IN THE MATTER OF:  
THE HONORABLE ELIZABETH BOS,  
MAGISTRATE OF NICHOLAS COUNTY &  
FORMER MAGISTRATE CANDIDATE  
OF KANAWHA COUNTY

SUPREME COURT NO. \_\_\_\_\_  
JIC COMPLAINT NO. 22-2024

**RULE 2.8 NOTICE OF FILING OF  
FORMAL STATEMENT OF CHARGES**

Comes now Judicial Disciplinary Counsel pursuant to Rule 2.8 of the Rules of Judicial Disciplinary Procedure and provides notice to the Honorable Elizabeth Boso, Magistrate of Nicholas County, by email and United States Mail that on or before Friday, August 9, 2024, she will duly file a Formal Statement of Charges in the above-captioned matter with the Clerk of the Supreme Court of Appeals of West Virginia by electronically filing the same with said Clerk.

Respectfully submitted,



Teresa A. Tarr, Counsel  
WV Bar I.D. No. 5631  
Judicial Investigation Commission  
WV Judicial Tower, Suite 700A  
4700 MacCorkle Avenue SE  
Charleston, WV 25304  
(304) 558-0169  
(304) 558-0813

[teresa.tarr@courtswv.gov](mailto:teresa.tarr@courtswv.gov)

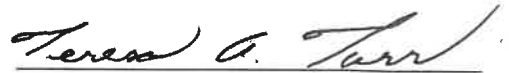
**IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA**

**IN THE MATTER OF:  
THE HONORABLE ELIZABETH BOS,  
MAGISTRATE OF NICHOLAS COUNTY &  
FORMER MAGISTRATE CANDIDATE  
OF KANAWHA COUNTY**

**SUPREME COURT NO. \_\_\_\_\_  
JIC COMPLAINT NO. 22-2024**

**CERTIFICATE OF SERVICE**

I, Teresa A. Tarr, Counsel for the Judicial Investigation Commission, do hereby certify that I informed Magistrate Boso of the filing of formal charges via telephone at approximately 9:30 a.m. on August 7, 2024, and served the Notice of Filing of a Formal Statement of Charges on Respondent by placing the same in the United States mail first-class postage pre-paid and addressed as follows: The Honorable Elizabeth Boso, Magistrate of Nicholas County, 511 Church Street, Summersville, WV 26651, and by email to [elizabeth.boso@courtswv.gov](mailto:elizabeth.boso@courtswv.gov) on this the 7<sup>th</sup> day of August, 2024.



Teresa A. Tarr, Counsel  
Judicial Investigation Commission  
WV Bar I.D. No. 5631  
City Center East, Suite 1200 A  
4700 MacCorkle Avenue  
Charleston, WV 25304  
(304) 558-0169  
(304) 558-0831 (fax)

[teresa.tarr@courtswv.gov](mailto:teresa.tarr@courtswv.gov)