

BEFORE THE JUDICIAL INVESTIGATION COMMISSION OF WEST VIRGINIA

IN THE MATTER OF:

COMPLAINT NO. 35-2024

**THE HONORABLE RUDOLPH “BO” WARD,
MAGISTRATE OF PRESTON COUNTY**

PUBLIC ADMONISHMENT OF MAGISTRATE RUDOLPH “BO” WARD

The matter is before the Judicial Investigation Commission (“JIC” or “Commission”) upon complaints filed by Judicial Disciplinary Counsel (“JDC”) setting forth certain allegations against the Honorable Rudolph “Bo” Ward, Magistrate of Preston County (“Respondent”). Upon opening the complaint, an investigation was conducted pursuant to the Rules of Judicial Disciplinary Procedure (“RJDP”). After a review of the complaint, Respondent’s written response, Respondent’s sworn statement and the information, documents and other evidence obtained from the investigation, the JIC found probable cause that Respondent violated Rules 1.1, 1.2, 3.1(B), 3.1(C), 3.7(A)(2), 4.1(A)(9), and 4.2(A)(1) of the Code of Judicial Conduct at a recent meeting and ordered that he 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 was elected Magistrate of Preston County in May 2016. After the election, he was appointed to the bench in May 2016. Respondent was re-elected in 2020 with no competition and in 2024 against one opponent. At all times relevant to this admonishment, Respondent was serving as Magistrate. Before this complaint, Respondent had no prior judicial discipline.

On February 15, 2024, JDC opened a complaint based on a printed card/advertisement Respondent used in his recent campaign. JDC began an immediate investigation into the case. Respondent filed a written response on February 26, 2024, and accompanied by counsel, sat for a sworn statement on July 25, 2024.

USE OF FALSE OR MISLEADING CAMPAIGN MATERIALS

To introduce himself as a candidate in the 2016 campaign, Respondent had cards printed to hand out. One side of the card was a “Shopping List” with horizontal lines on the card for individuals to write their groceries. Above the shopping list, were the words “Please vote Bo Ward Magistrate.” The other side contained a full color, laminated campaign advertisement providing information about Respondent. Included in the information were jobs and activities performed by Respondent. Listed on the campaign card under the “Currently” section was Small Business Owner, Preston County School Bus Operator 20+ Years, WVU Hospitals—Driver [of] Bonnie’s Bus (Mobile Mammography Unit) and Member Reedsville Vol. Fire Department 20+ Years. Respondent re-used these cards during at least one campaign event in 2024 at a time when he no longer was a small business owner or a bus operator.

During his sworn statement Respondent testified that because he had no opposition in 2020 he neither purchased campaign materials nor campaigned. Respondent filed to run for re-election in 2024 and did not anticipate opposition so he initially did not purchase any campaign materials. The closing date to file fell in late January 2024. Respondent claims that he did not know that anyone filed to run against him until February 2024. A few days after he found out he had an opponent, Respondent attended a fundraiser for a local food pantry. Respondent testified that since he did not have any current campaign materials he took some cards from the 2016 campaign with him because he did not want to “miss out on some votes.” Respondent admitted that he did not cross out any of the outdated material on the old cards but claimed that he explained to each card recipient what information was incorrect.

At the conclusion of the sworn statement, Respondent admitted that he should not have used the cards with incorrect information.

BEING A MEMBER OF AND RAISING MONEY FOR THE VOLUNTEER FIRE DEPARTMENT

In JJC Advisory Opinion 2020-28, the Commission issued an opinion that stated that a judge could not concurrently serve as a volunteer firefighter. Importantly, the opinion was sent to all judges and magistrates by email marked high importance on that very same day. The formal opinion stated that a judge “is precluded from serving as an EMT or volunteer firefighter while simultaneously serving as a judge” since it would violate Rules 3.1(A), (B) and (C) of the Code of Judicial Conduct. Based upon information and belief, all judges received the advisory opinion on the same day it was emailed to their court addresses.

In JJC Advisory Opinion 2023-24, the Commission was asked to reconsider Advisory Opinion 2020-28. The Commission unanimously declined to revisit the opinion, leaving intact the holding that magistrates cannot serve as a volunteer firefighter while concurrently serving as a judicial officer. Based upon information and belief, all judges received the advisory opinion on the same day it was emailed to their court addresses.

In his initial reply to the complaint, Respondent wrote:

I am currently a member of the Reedsburg Volunteer Fire Department. I became a member in the fall of 1994. I currently have no responsibilities with the fire department. I have told the Officers of the department that as long as I am a Magistrate that I could not go on calls. I had been President for 9 years, Vice President, Lieutenant and certified First Responder. Yes. I usually help by setting up tables and chairs, decorating, help with parking, tear down tables and chairs, general clean up and help anywhere I am needed. But I do not handle any money nor sell any tips or chances, nor ask anyone to buy any tips or chances.

During his sworn statement, Respondent confirmed that he was still a “social” member of the volunteer fire department which he defined as, “[A] social member does not get on the truck. They’re in a business meeting only and help out.”

Respondent also acknowledged that it was his responsibility to remain current on all advisory opinions issued by the JIC. However, he denied any knowledge of JIC Advisory Opinion 2020-28. Despite seeing the Advisory Opinion at his sworn statement, Respondent testified:

JDC: Going forward, what type of role are you going to take with the Reedsville Fire Department?

Respondent: Very little. But I do very little now.

JDC: Do you think that you will keep your membership with the fire department?

Respondent: As a social member.

When questioned about participation in fundraising for the Volunteer Fire Department, Respondent wrote, "I usually help by setting up tables and chairs, decorating, help with parking, tear down tables and chairs, general clean up and help anywhere I am needed. But I do not handle any money nor sell any tips or chances, nor ask anyone to buy any tips or chances." During his sworn statement, Respondent admitted to being on stage and thanking everyone for coming and supporting the Fire Department. Respondent also admitted to pointing out where people could purchase tickets for games of chance. He also testified to pulling out and announcing the winning numbers for the games of chance purchased at the event. Despite engaging in these activities, Respondent refused to acknowledge that he served as an emcee for the fundraising. Nonetheless, at the conclusion of the statement Respondent conceded that if in fact he performed some function at a fundraising event that that could be perceived as the emcee, he would have been in violation of the Code of Judicial Conduct. Respondent also stated that he would refuse if asked to help fundraise again.

VENDING/VIDEO LOTTERY MACHINES

During JDC's initial inquiry, Respondent claimed that he had not been a small business owner since 2016. In his sworn statement, Respondent testified that in 1994 he started a business called Viking Vending Services. The business initially provided and serviced vending machines

in multiple counties. Eventually, Respondent included video lottery machines in his business. According to Respondent, by the time he ran for Magistrate in 2016 he had sold all parts of the business except the video lottery machines. All of those machines were located in one social club in Preston County.

Respondent testified that after winning the election in 2016, the circuit judge at the time approached him about the remainder of the business. Respondent testified that the judge told him he would not approve of the concurrent employment; and therefore, he would need to divest himself of the business. Respondent testified that he “took it out of my name and put it in a partner’s name.” Respondent’s business partner also happened to be his live-in girlfriend of 25 years. Respondent also admitted that he gave the business to his girlfriend rather than sell it to her. Further, rather than selling the business to her, Respondent just transferred his interest in the business. Respondent admitted that he continues to benefit from the business to this day as his girlfriend pays the water, cable and cellphone bills.

Respondent initially testified that he had no role in the business except to give his girlfriend occasional advice. Later, Respondent admitted to being a long-time member of the social club where the video lottery machines are located and visiting the club approximately once a week. Further, Respondent testified that he sometimes picked up the money collected by the club from the video lottery machines. Respondent also admitted accompanying his girlfriend to the social club when she went to collect the money.

At the conclusion of the sworn statement, Respondent agreed that by retrieving the money or accompanying the owner to retrieve the money it could appear to a reasonable person that he still owned the business and therefore, it could undermine his independence, integrity or

impartiality. Respondent also agreed that he would no longer pick up any money from the social club or accompany his girlfriend on her trips to retrieve the proceeds.

CONCLUSIONS

The Commission unanimously¹ found that probable cause does exist in the matters set forth above to find that the Honorable Rudolph “Bo” Ward, Magistrate of Preston County, violated Rules 1.1, 1.2, 3.1(B), 3.1(C), 3.7(A)(2), 4.1(A)(9), and 4.2(A)(1) 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 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:

- (B) participate in activities that will lead to frequent disqualification of the judge;
- (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 Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities

- A. Subject to the requirements of Rule 3.1, a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by or on

¹ The vote was 8-0. A public member was absent from the meeting.

behalf of educational, religious, 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;

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;

It was further determined that formal discipline was not essential. However, the Commission found that a written admonishment is proper and appropriate in this matter.

By knowingly handing out outdated campaign cards, Respondent violated Rules 1.1, 1.2, and 4.1(A)(9) and 4.2(A)(1) of the Code of Judicial Conduct. Respondent's use of the campaign materials could cause a reasonable person to not have an accurate understanding of judges who are limited as to what outside employment, if any, they can engage in on a concurrent basis. Judges are not able to work for the county school system as bus drivers since they routinely preside over truancy cases and other matters involving county schools. The same could be said for serving as a bus driver for WVU Hospitals, which also regularly appears as a party to litigation in court. Perhaps the most egregious issue is the fact that he held himself out to be a "business owner" at a time when he knew he was precluded from doing so. The question in the mind of the public is

does he still own the video lottery machines in the social club. He says no, but his actions indicate otherwise. If he owns the machines then he is in violation of the judge's order to divest himself of the business. If he doesn't own the machines then he is providing false information as to his activities. He is in a no win situation. Respondent should have campaigned without advertisements until accurate materials were received or at the very least could have taken a magic marker to strike the improper material. By failing to do so, Respondent violated the Code of Judicial Conduct and is admonished for his actions.

By continuing to be on the volunteer fire department and acting as an emcee during fundraising events, Respondent violated Rules 1.1, 1.2, 4.1(A)(9), 4.2(A)(1) and 4.2(A)(5). For several years Respondent, at worst, either ignored the JJC Advisory Opinions against being a member of a fire department or at best overlooked his sworn duty to keep abreast of the Code of Judicial Conduct and JJC Advisory Opinions. Pursuant to the JJC Advisory Opinions, Respondent is directed to resign his membership immediately, and provide verification of his resignation.

Judges simply cannot serve as a volunteer firefighter. The interrelationship between firefighters and law enforcement and firefighters and the county is too great and creates an appearance however wrong it may be that judges favor law enforcement. A judge's first duty is to his/her judicial office. Serving as a firefighter would take up too much time and could conflict judges off multiple civil and/or criminal cases in any given year. This has been the Commission's opinion since late 2020. It is also improper for a judge to fundraise or appear to fundraise for any organization no matter how worthwhile it may be. Judges cannot associate themselves with fundraisers for any organization whether they are involved with that entity or not. As Helen Keller once said, "Be happy with what you have while working for what you want." Serving as a judge is a tough but noble job. Judges have the power to make a difference through their position as a

judge. Judges should remember that at all times and not try to engage in activities that cause the public to question the integrity of the Court. By failing to do so, Respondent violated the Code of Judicial Conduct and is admonished for his actions.

By continuing to collect profits from his video lottery machines, Respondent violated Rules 1.1, 1.2 and 3.1(C) of the Code of Judicial Conduct. Respondent knew that he could not concurrently serve as a Magistrate and maintain ownership in his business. Instead of selling his part of the business and distancing himself therefrom, Respondent engaged in a sham conveyance thereby continuing to be involved in and benefit from the business. Additionally, pursuant to the Outside Employment and Financial Disclosures Policy and Guidelines (see paragraph 3) of the Supreme Court, all judicial officers must have approval of the JJC in order to engage in outside employment. The JJC hereby finds that Respondent conducting or being involved in this business creates at least an appearance of impropriety as a judicial officer and therefore does not approve of the outside employment. Consequently, Respondent is directed that he and his girlfriend must immediately divest themselves of all interest of the business, and provide verification of such divestiture.

Further, Respondent handed out cards on at least one occasion which led people to think he was still owner of the business and he continued to pick up earnings from the social club which he also frequented or accompanied his live-in girlfriend to do so. By engaging in this conduct, Respondent violated the Code of Judicial Conduct and is admonished for the same.

Ordinarily the Commission could issue formal charges but because Respondent has no prior discipline, has cooperated in the investigation, has admitted his misconduct, and has learned from his prior actions, the Commission has unanimously voted to **PUBLICLY ADMONISH** him

for violating Rules 1.1, 1.2, 3.1(B), 3.1(C), 3.7(A)(2), 4.1(A)(9) and 4.2(A)(1) of the Code of Judicial Conduct.

Therefore, it is the decision of the Judicial Investigation Commission that the Honorable Rudolph "Bo" Ward, Magistrate for Preston County, be disciplined by this **ADMONISHMENT**. Consequently, the Judicial Investigation Commission hereby **PUBLICLY ADMONISHES** Rudolph "Bo" Ward 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 Alan D. Moats, Chairperson
Judicial Investigation Commission

11-4-2024
Date

ADM/bjl