

BEFORE THE JUDICIAL HEARING BOARD OF WEST VIRGINIA

IN THE MATTER OF

**THE HONORABLE TIM SWEENEY,
JUDGE OF THE THIRD JUDICIAL
CIRCUIT**

**SUPREME COURT NO. 25-475
JIC COMPLAINT NO. 13-2025**

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**THE HONORABLE TIM SWEENEY, JUDGE OF THE THIRD JUDICIAL CIRCUIT'S
RESPONSE TO FORMAL STATEMENT OF CHARGES**

The Honorable Tim Sweeney, Judge of the Third Judicial Circuit, in response to the Formal Statement of Charges filed against him in this matter, states as follows:

1. Respondent admits the allegations contained in paragraph 1 of the Formal Statement of Charges.

2. With respect to the allegations contained in paragraph 2 of the Formal Statement of Charges, Respondent admits all but the final sentence of that paragraph. Regarding that final sentence, Judge Sweeney admits that he was serving in his capacity as Judge in the actions described in paragraphs 1–5 and 13–37 of the Formal Statement of Charges, but only those which he admits in this Response that he performed. Respondent denies the remaining allegations contained in paragraph 2 of the Formal Statement of Charges.

3. Respondent admits the allegations contained in paragraph 3 of the Formal Statement of Charges.

4. With respect to the allegations contained in paragraph 4 of the Formal Statement of Charges, Respondent admits that in his capacity as a Circuit Judge he is required to be reasonably familiar with the contents of the Code of Judicial Conduct. Respondent further states that, as the filing of this Response, he has not been provided with a copy of this sworn statement given in connection with this matter, and therefore can neither admit nor deny the accuracy of the quote contained therein. Respondent denies the remaining allegations contained in paragraph 3 of the Formal Statement of Charges.

5. Respondent admits the allegations contained in paragraph 5 of the Formal Statement of Charges.

With respect to the allegations contained in the introductory paragraph entitled Charge I that is contained before paragraph 6 of the Formal Statement of Charges, Respondent denies that

his conduct or actions violated the Code of Judicial Conduct provisions cited therein such that an admonishment or any other sanction of any type or kind is appropriate, warranted and/or justified under the circumstances of this case.

6. With respect to the allegations contained in paragraph 6 of the Formal Statement of Charges, Respondent admits to having a Facebook account for a period of time in excess of 10 years. Respondent further admits that during this time, he was the administrator of his Facebook account, and that for a portion of the time that he has maintained this account, he used a picture of himself in a judicial robe in a courtroom with the American flag behind him as a personal photo for the account. The Respondent denies the remaining allegations contained in Paragraph 6 of the Formal Statement of Charges.

7. With respect to the allegations contained in paragraph 7 of the Formal Statement of Charges, Respondent denies that his conduct or actions violated the Code of Judicial Conduct provisions cited therein such that an admonishment or any other sanction of any type or kind is appropriate, warranted and/or justified under the circumstances of this case. Respondent admits the factual allegations contained in subparagraphs A–G. The Respondent denies the remaining allegations contained in Paragraph 7 of the Formal Statement of Charges.

8. With respect to the allegations contained in paragraph 8 of the Formal Statement of Charges, Respondent has not been provided with a copy of this sworn statement given in connection with this matter and therefore can neither admit nor deny the accuracy of the allegations as to the contents thereof.

9. With respect to the allegations contained in paragraph 9 of the Formal Statement of Charges, Respondent has not been provided with a copy of this sworn statement given in connection with this matter and therefore can neither admit nor deny the accuracy of the allegations as to the contents thereof.

10. With respect to the allegations contained in paragraph 10 of the Formal Statement of Charges, Respondent has not been provided with a copy of this sworn statement given in connection with this matter and therefore can neither admit nor deny the accuracy of the allegations as to the contents thereof.

11. With respect to the allegations contained in paragraph 11 of the Formal Statement of Charges, Respondent has not been provided with a copy of this sworn statement given in

connection with this matter, and therefore can neither admit nor deny the accuracy of the allegations as to the contents thereof.

12. Respondent admits the allegations contained in paragraph 12 of the Formal Statement of Charges.

With respect to the allegations contained in the introductory paragraph entitled Charge II that is contained before paragraph 13 of the Formal Statement of Charges, Respondent denies that his conduct or actions violated the Code of Judicial Conduct provisions cited therein, and further denies that an admonishment or any other sanction of any type or kind is appropriate, warranted and/or justified under the circumstances of this case.

13. Respondent admits the allegations contained in paragraph 13 of the Formal Statement of Charges.

14. With respect to the allegations contained in paragraph 14 of the Formal Statement of Charges, Respondent admits that he held a hearing on February 3, 2025, and that one of the purposes of that hearing was to find out why CPS had not yet sent that child to the facility at which the court had placed her. Respondent admits that the only persons to make appearances for the record at the February 3, 2025 hearing were the prosecuting attorney, the child's attorney, the guardian ad litem, two probation officers, and two local CPS workers. Respondent is without knowledge or information sufficient to form a belief as to the truth of the allegations in the final sentence of this paragraph. Respondent denies the remaining allegations contained in paragraph 14 of the Formal Statement of Charges.

15. Respondent admits the allegations contained in paragraph 15 of the Formal Statement of Charges.

16. With respect to the allegations contained in paragraph 16 of the Formal Statement of Charges, Respondent admits that the CPS workers for the Third Circuit were also required to cover Upshur and Lewis Counties. Respondent also admits that one CPS worker in the Third Circuit was assigned 100 families, each of which could include 1–12 children, but that the recommended caseload for a CPS worker is just 10 children. Respondent admits that one of the CPS workers asked Respondent for help in obtaining more staff, among other things. Respondent denies the remaining allegations contained in paragraph 16 of the Formal Statement of Charges.

17. With respect to the allegations contained in paragraph 17 of the Formal Statement of Charges, Respondent admits that he indicated from the bench that he previously issued a rule to

show cause, but that the statistics provided by DoHS during the show cause hearing were not accurate. Respondent admits the accuracy of the quotations used in this paragraph. Respondent denies the remaining allegations contained in paragraph 17 of the Formal Statement of Charges.

18. With respect to the allegations contained in paragraph 18 of the Formal Statement of Charges, Respondent admits that he continued the matter until February 20, 2025 at 9:00am and admits the accuracy of the quotation used in this paragraph. Respondent denies the remaining allegations contained in paragraph 18 of the Formal Statement of Charges.

19. Respondent admits the allegations contained in paragraph 19 of the Formal Statement of Charges.

20. With respect to the allegations contained in paragraph 20 of the Formal Statement of Charges, Respondent admits that he issued an administrative order with the heading “In Re: Critical Understaffing of the Department of Human Services.” Respondent admits that there was no case number associated with the administrative order. Respondent admits that the administrative order required various leaders at DoHS, including its General Counsel and Deputy Commissioner of Field Operations, to appear “personally, under pain of contempt” on February 20, 2025 at 9:00am “to receive their case assignments” as “CPS workers, removal workers, case workers, court workers, immediate supervisors, or any other designation determined to alleviate the immediate critical staff shortage in Doddridge, Lewis, Pleasants, Ritchie and Upshur.” Respondent denies the remaining allegations contained in paragraph 20 of the Formal Statement of Charges.

21. With respect to the allegations contained in paragraph 21 of the Formal Statement of Charges, Respondent has not been provided with a copy of this sworn statement given in connection with this matter and therefore can neither admit nor deny the accuracy of the allegations as to the contents thereof.

22. Respondent admits the allegations contained in paragraph 22 of the Formal Statement of Charges.

23. With respect to the allegations contained in paragraph 23 of the Formal Statement of Charges, Respondent admits all the allegations except the allegations in the final sentence. Respondent admits that the information identified in paragraph 23 was supported by the information obtained in the hearing, but Respondent denies that such information came solely from that hearing.

24. With respect to the allegations contained in paragraph 24 of the Formal Statement of Charges, Respondent admits that he spoke with one or more leaders from DoHS, and in that meeting, the DoHS took steps to promptly address those issues. Respondent admits that he continued the February 20, 2025 hearing ordered by his administrative order. Respondent denies the remaining allegations contained in paragraph 24 of the Formal Statement of Charges.

25. With respect to the allegations contained in paragraph 25 of the Formal Statement of Charges, Respondent has not been provided with a copy of this reply or sworn statement given in connection with this matter and therefore can neither admit nor deny the accuracy of the allegations as to the contents thereof.

26. With respect to the allegations contained in paragraph 26 of the Formal Statement of Charges, Respondent denies that his administrative order was unlawful, affirmatively states that all persons in interest were granted the process due to them under the law, if any. Respondent has not been provided with a copy of this sworn statement given in connection with this matter and therefore can neither admit nor deny the accuracy of the allegations as to the contents thereof. Respondent denies the remaining allegations contained in paragraph 26 of the Formal Statement of Charges.

27. Respondent denies the allegations contained in paragraph 27 of the Formal Statement of Charges.

28. With respect to the allegations contained in paragraph 28 of the Formal Statement of Charges, Respondent has not been provided with a copy of this sworn statement given in connection with this matter and therefore can neither admit nor deny the accuracy of the allegations as to the contents thereof.

29. With respect to the allegations contained in paragraph 29 of the Formal Statement of Charges, Respondent has not been provided with a copy of this sworn statement given in connection with this matter and therefore can neither admit nor deny the accuracy of the allegations as to the contents thereof.

30. With respect to the allegations contained in paragraph 30 of the Formal Statement of Charges, Respondent has not been provided with a copy of this sworn statement given in connection with this matter and therefore can neither admit nor deny the accuracy of the allegations as to the contents thereof.

31. With respect to the allegations contained in paragraph 31 of the Formal Statement of Charges, Respondent has not been provided with a copy of this sworn statement given in connection with this matter and therefore can neither admit nor deny the accuracy of the allegations as to the contents thereof.

32. Respondent admits the allegations contained in paragraph 32 of the Formal Statement of Charges.

33. Respondent admits the allegations contained in paragraph 33 of the Formal Statement of Charges.

34. With respect to the allegations contained in paragraph 34 of the Formal Statement of Charges, the Respondent admits the allegations contained in the first sentence of that paragraph. With respect to the remaining allegations contained in paragraph 34, Respondent denies the allegations contained therein, and affirmatively states that he objected to an admonishment or any other sanction being assessed against him under the circumstances of this case.

35. Respondent is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 35 of the Formal Statement of Charges and therefore cannot admit or deny the same.

36. Respondent admits the allegations contained in paragraph 36 of the Formal Statement of Charges.

37. Respondent admits the allegations contained in paragraph 37 of the Formal Statement of Charges.

38. Respondent states that the Formal Statement of Charges fails to state a violation of the Code of Judicial Conduct for, *inter alia*, the reason that the allegations contained therein are, under the facts as alleged and as a matter of law, insufficient to support a claim therefor.

39. Respondent objects to all contents of paragraphs 13–19 and 25 of the Formal Statement of Charges that disclose information concerning the subject child, as they “are confidential and may not be released or disclosed to anyone, including any federal or state agency.” W. Va. Code § 49-5-101(a) (2024).

40. Respondent states that he acted in accordance with his moral and professional ethical obligations to promote the best interests of children and adjudicate child abuse and neglect cases in a diligent and expeditious fashion.

41. Respondent states that discipline of Respondent would run contrary to West Virginia public policy.

42. Respondent states that the allegation that he violated Rule 2.6(a) was raised at the first time in the Formal Statement of Charges and was never addressed in the complaint, the admonishment, or any prior correspondence between Respondent and the JIC or JDC.

43. Respondent hereby incorporates by reference, as though specifically set forth herein, any and all affirmative defenses generally recognized as applicable to actions of this type, including but not limited to any and all affirmative defenses known under existing law, rule, regulation, or statute, or which may become recognized in the future by courts or promulgated by rule or regulation or otherwise enacted into law.

44. Respondent preserves any and all claims or defenses to the extent that subsequent discovery in this matter supports such claims or defenses.

45. Respondent reserves the right to amend this Response to Formal Statement of Charges upon further discovery and any amendment of the Formal Statement of Charges by JIC, including but not limited to the right to list additional affirmative defenses.

By: /s/ J.H. Mahaney
Of Counsel

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