IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

September 2026 Term

No. 25-475

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SUPREME COURT OF APPEALS
OF WEST VIRGINIA

In the Matter Of:

THE HONORABLE TIM SWEENEY,
Judge of the Third Judicial Circuit

DISCIPLINARY PROCEEDING

ADMONISHED
AND OTHER SANCTIONS

Submitted: October 14, 2026
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Teresa A. Tarr, Esq.
Judicial Disciplinary Counsel
Charleston, West Virginia
Attorney for the West Virginia
Judicial Investigation Commission

J.H. Mahaney, Esq.
Dinsmore & Shohl LLP
Huntington, West Virginia
Attorney for Respondent

CHIEF JUSTICE BUNN delivered the Opinion of the Court.

SYLLABUS BY THE COURT

1. "The Supreme Court of Appeals will make an independent evaluation of the record and recommendations of the Judicial [Hearing] Board in disciplinary proceedings.'" Syllabus Point 1, *W. Va. Jud. Inquiry Comm'n v. Dostert*, 165 W. Va. 233, 271 S.E.2d 427 (1980).

2. "The purpose of judicial disciplinary proceedings is the preservation and enhancement of public confidence in the honor, integrity, dignity, and efficiency of the members of the judiciary and the system of justice." Syllabus, *In re Gorby*, 176 W. Va. 16, 339 S.E.2d 702 (1985).

3. "Under Rule 4.12 of the Rules of Judicial Disciplinary Procedure [1998] the Judicial Hearing Board may recommend, or this Court may impose, one or more of the following sanctions for each violation by a justice, judge, or magistrate of the *Code of Judicial Conduct*: (1) admonishment; (2) reprimand; (3) censure; (4) suspension without pay for up to one year; (5) a fine of up to $5,000; or (6) involuntary retirement in limited circumstances. Additionally, this Court can assess the cost of the disciplinary proceedings against a justice, judge, or magistrate." Syllabus Point 6, *In re Watkins*, 233 W. Va. 170, 757 S.E.2d 594 (2013).

5. "Always mindful of the primary consideration of protecting the honor, integrity, dignity, and efficiency of the judiciary and the justice system, this Court, in

determining whether to suspend a judicial officer with or without pay, should consider various factors, including, but not limited to, (1) whether the charges of misconduct are directly related to the administration of justice or the public's perception of the administration of justice, (2) whether the circumstances underlying the charges of misconduct are entirely personal in nature or whether they relate to the judicial officer's public persona, (3) whether the charges of misconduct involve violence or a callous disregard for our system of justice, (4) whether the judicial officer has been criminally indicted, and (5) any mitigating or compounding factors which might exist." Syllabus Point 3, *In re Cruickshanks*, 220 W. Va. 513, 648 S.E.2d 19 (2007).

BUNN, Chief Justice:

The Judicial Investigation Commission ("JIC") filed a two-count statement of charges against respondent Tim Sweeney, Judge of the Third Judicial Circuit ("Judge Sweeney") arising out of his Facebook activity and his conduct surrounding an order directed at the West Virginia Department of Human Services ("DHS") (the "DHS order"). The Judicial Hearing Board ("JHB") recommended that Judge Sweeney be admonished for six violations of the West Virginia Code of Judicial Conduct, finding that Judge Sweeney made impermissible public statements about pending and impending matters and otherwise undermined public confidence in his impartiality. Judge Sweeney and Judicial Disciplinary Counsel ("JDC") each object to the JHB's findings and recommendations: Judge Sweeney asks to be exonerated of all violations found by the JHB. JDC objects to the JHB's refusal to find two additional violations but agrees with the JHB's recommendation that Judge Sweeney be admonished.

Based on our de novo review, we conclude that the JHB's recommendation is well-founded and agree with its findings regarding Rule violations. Although we find an additional violation of Rule 2.2 arising from the DHS order, we find that the JHB's recommended admonishment remains proportionate and appropriate discipline and therefore order Judge Sweeney admonished and direct that he pay the costs of these proceedings.

I. FACTS AND PROCEDURAL HISTORY

Judge Sweeney was admitted to the West Virginia State Bar in 1981. He served as the Pleasants County Prosecuting Attorney from 1985 until 2010 when he was appointed to a vacancy in the Third Judicial Circuit to which he has been reelected to date. The Third Judicial Circuit includes Pleasants, Doddridge, Ritchie, and Wirt counties. Judge Sweeney has never been disciplined as a lawyer or judge and, in fact, previously served on the Lawyer Disciplinary Board. On July 22, 2025, the JIC filed a two-count, formal statement of charges against Judge Sweeney.[1]

A. Charge One—The Facebook Activity

Charge One concerns multiple Facebook "reposts" and "likes" Judge Sweeney made under his personal account, identified by a profile picture depicting Judge Sweeney wearing his judicial robe in front of an American flag. The Facebook activity at issue can be grouped into four categories: 1) fundraising reposts; 2) law enforcement hiring reposts; 3) general law enforcement reposts; and 4) reposts and "likes" about criminal cases or investigations.[2]

[1] JDC opened its complaint on February 10, 2025. The JIC found probable cause that Judge Sweeney committed five violations of the Code, but that formal charges were unnecessary and a public admonishment was appropriate. Judge Sweeney objected, requiring the JIC to file a formal statement of charges in accordance with West Virginia Rule of Judicial Disciplinary Procedure 2.7(c).

[2] None of the reposts included any independent commentary from Judge Sweeney, although he "liked" two comments posted in response by others regarding the Whitefeather and Lantz case, discussed *infra*.

The fundraising reposts occurred in July 2024 and included an advertisement for an ice cream social in support of the St. Mary's Volunteer Fire Department and fundraising efforts for a Pleasants County deputy sheriff who was suffering from cancer. Judge Sweeney reposted a church fundraiser and a Subway fundraiser in support of the deputy. None of the reposts included any commentary or encouragement from Judge Sweeney to participate.

Between March 2024 and February 2025, Judge Sweeney reposted hiring notices for seven State and local law enforcement agencies.[3] He also reposted a humorous post by the Pleasants County Sheriff's Department encouraging drug dealers to "report" their "competition" to the Sheriff's Department. Again, none of these reposts contained any independent commentary from Judge Sweeney.

In addition to these law enforcement related postings, Judge Sweeney also reposted articles or notifications regarding criminal cases and investigations. In October and November 2023, Judge Sweeney reposted two reports about human trafficking: a local news station's report regarding a human trafficking arrest in Mason County and an internet

[3] Aside from the West Virginia State Police and Department of Natural Resources, Judge Sweeney's law enforcement hiring reposts pertained to openings within his circuit or adjoining counties: the Doddridge County Prosecutor's Office, the Paden City Police Department, the Ritchie County Sheriff's Department, the City of St. Mary's Police Department, and the Tyler County Sheriff's Department.

news report regarding a West Virginia woman federally convicted of human trafficking and sentenced to forty years in prison.[4]

Judge Sweeney also reposted two items about criminal and investigatory matters within or near his circuit. In July 2023, Judge Sweeney reposted a Pleasants County Sheriff's Department alert about Jody Satterfield, who was wanted for attempted murder and arson in Calhoun County, which abuts Wirt and Ritchie counties. The post indicated that Mr. Satterfield was "considered armed and dangerous" and had "potentially been seen in an adjoining county and may be in the area." In August 2024, Judge Sweeney again reposted a Pleasants County Sheriff's Department notice about an investigation into "Mindfulness," a St. Mary's business offering holistic and therapeutic services. The reposting encouraged anyone whose children were patients there and "had any issues regarding medication that was prescribed" to contact the Sheriff's Department.

Finally, in January 2025, Judge Sweeney reposted a Kanawha County Prosecuting Attorney's Office press release regarding convictions obtained in the Jeanne Kay Whitefeather and Donald Ray Lantz criminal trial that involved the abuse and trafficking of adopted children. Judge Sweeney then "liked" two comments to his repost,

[4] The JHB's recommended decision also identifies a post about a community forum concerning human trafficking. This post is not contained in the statement of charges but also forms no independent basis for any additional rule violations.

made by individuals expressing relief at their conviction and thoughts as to their punishment.[5]

The statement of charges alleges Judge Sweeney violated Rule 1.2[6] which requires conduct that promotes public confidence in impartiality of judiciary, as well as related violations of Rules 2.10(A)[7] and 3.1(C)[8] which prohibit statements that may be reasonably expected to affect the outcome or impair the fairness of pending or impending matters and extrajudicial activities that undermine impartiality, respectively. The charges

[5] These comments stated: "So terrible!!! Thankful these two have been convicted[.]" and "They don't deserve three hots and a cot."

[6] "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." W. Va. Code of Jud. Conduct Rule 1.2.

[7] "A judge shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending* or impending* in any court or make any nonpublic statement that might substantially interfere with a fair trial or hearing." W. Va. Code of Jud. Conduct Rule 2.10(A).

[8] "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: . . .

> (C) participate in activities that would appear to a reasonable person to undermine the judge's independence,* integrity,* or impartiality[.]*"

W. Va. Code of Jud. Conduct Rule 3.1(C).

also alleged violation of Rule 3.7(A)(2)[9] limiting solicitation for charitable and civic organizations and a concurrent violation of Rule 1.1[10] requiring compliance with the law.

B. Charge Two—The DHS order

Charge Two concerns Judge Sweeney's entry of the DHS order, precipitated by developments in a confidential abuse and neglect matter, and his engagement with the media about the order. In October 2024, Judge Sweeney ordered a child subject to an abuse and neglect proceeding to be placed at an out-of-state treatment facility; as of February 2025, the child had not yet been placed as ordered. At a review hearing on February 3, 2025, Judge Sweeney inquired as to why the child had not been placed and two local Child Protective Services ("CPS") workers testified regarding understaffing at their local office and the lack of response from DHS to their requests for help.

Judge Sweeney testified before the JHB that the complaints of the CPS workers regarding understaffing made him "very angry[,]" prompting him to discuss

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[9] "Subject to the requirements of Rule 3.1, a judge may participate in activities . . . sponsored by or on 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[.]"

W. Va. Code of Jud. Conduct Rule 3.7(A)(2).

[10] "A judge shall comply with the law,* including the West Virginia Code of Judicial Conduct." W. Va. Code Jud. Conduct Rule 1.1.

potential resolutions to the understaffing that he conceded were "pretty extreme," including a civil contempt order to "require the [DHS] commissioner to be incarcerated[.]" During the abuse and neglect hearing, Judge Sweeney further referenced his 2014 entry of a rule to show cause, which he characterized as ineffective because he believed DHS was untruthful about staffing ratios during the matter. Judge Sweeney expressed that "the buck" stopped with him, although he was "loathe to get into managing the department[.]" Judge Sweeney further stated that "maybe if it gets in the Charleston Gazette and on MetroNews and in various news feeds the [L]egislature might recognize something" and address the understaffing situation. Judge Sweeney testified before the JHB that he wanted to call attention to the issue in a "very serious and alarming way" and although he set the return hearing for February 20, he "anticipat[ed] a much more prompt reply from [DHS]" but that "nobody was going to go to jail[.]"

That same day following the hearing, Judge Sweeney issued what he characterized as an "administrative" order. The order, entitled "In Re: Critical Understaffing of the [DHS]," included no case number. The order required the DHS's Secretary, General Counsel, and other DHS officials to appear before him—"personally, under penalty of contempt"[11]—on February 20, 2025, to receive "case assignments[]" and

[11] The order provided that the Court

> sua sponte appoints Laurea Ellis, Deputy Commissioner of Field Operations; Kim Ricketts, Special Consultant to the Secretary; Alex Mayer, Secretary; Chanin Krivonyak, General

take on various roles within CPS. On February 4, 2025, Judge Sweeney provided the DHS order to a reporter and solicited an interview that appeared in the *Parkersburg News and Sentinel*. Noting that "[Judge] Sweeney said the order was meant to get the attention of [DHS]," the article further states:

> "I think the bus [sic] stops with me, Sweeney said. "I think somebody needs to stand up for the public, particularly the most vulnerable members of our community—the children. From a legal point of view, abuse and neglect cases are of the highest priority, and they should be, in my opinion, for the department and the government in Charleston as well.
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> "This just needs to be addressed and I couldn't think of any other way to do it other than enter this order to try to get the attention of these folks to take a look at these issues," Sweeney continued.

On February 5, 2025, Judge Sweeney appeared on the "MetroNews" statewide radio broadcast's show "Talkline" to discuss the DHS order, twice referencing the underlying abuse and neglect hearing specifically:

> Judge Sweeney: Well it was pretty clear on the record in a proceeding we had this past Monday, February 3rd, the date of the order, that we had some pretty significant understaffing problems with the [DHS] with regard to CPS workers and their ability to handle referrals[.]
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> * * *

> Counsel; Lorrie Bragg, Deputy Commissioner of Policy and Programs as Child Protective Service Workers, Removal Workers, Case Workers, Court Workers, Intermediate Supervisors, or any other designation determined to alleviate the immediate critical staff shortage in Doddridge, Lewis, Pleasants, Ritchie and Upshur.

> Judge Sweeney: Well, you know, I'm hoping for a solution. I'm fully prepared to go forward on that date. We have documented in the hearing that we had Monday, the issues that I have addressed and noted and made findings with regard to in the order. And that's been documented on the record with sworn testimony.

Judge Sweeney further stated that "somebody needs to . . . take a role, as a leader, to get something to happen on this." Judge Sweeney also twice referred to the "legal mandate" regarding staffing:

> And so there's a legal mandate to get this job done. So I think that probably prioritizes it in terms of any funding that might be necessary to accomplish that.
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> * * *
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> So—but I really think under the circumstances, and given the legal mandate that the Secretary has, it's the Legislature's responsibility, particularly the House of Delegates, who's responsible for the budget, to address this issue and come up with a solution.

Finally, Judge Sweeney also referenced, somewhat obliquely, the legality of his order which could be addressed at the hearing, stating: "So I don't think there's really any question about what I've said. If [DHS] want[s] to question that or take up that issue, I'd be more than glad to do that when they show up on the 20th." Judge Sweeney met with DHS Secretary Alex Mayer on February 10, 2025, and developed a plan to resolve the staffing issue, causing the hearing to be cancelled.

DHS's General Counsel testified during the investigation of this matter that she received the DHS order on February 4, the day after its entry. She further testified that, "when we first got the order, I didn't think that I would end up being a worker. I thought it

was going to be a hearing, although that is the language in the order." She testified further to her understanding that "the original order was to get our attention[]" and that "I never really thought that he was trying to make us go out and be CPS workers."

The statement of charges alleges that Judge Sweeney's entry of the DHS order violated Rule 2.6(A),[12] requiring judges to provide anyone with a "legal interest" the "right to be heard"; specifically, the charges allege that Judge Sweeney's entry of the order reassigning DHS officials to new roles without a hearing deprived them of the right to be heard. For his media statements about the order, the charges assert a violation of Rule 2.10(A) prohibiting public statements reasonably expected to affect the outcome or impair the fairness or outcome of pending matters and Rule 1.2 requiring judges to promote confidence in the impartiality of the judiciary, along with an additional concurrent violation of Rule 1.1 requiring compliance with the law.

C. The JHB's Recommended Decision

The JHB found three violations based on the allegations in Charge One, two violations arising from Charge Two, and a singular concurrent violation of Rule 1.1 arising from the cumulative violations. Regarding Judge Sweeney's Facebook activity, the JHB found that "[s]tanding alone" Judge Sweeney's reposts were not "*per se* ethical violations [because] . . . . [s]haring neutral, community or hiring-related information is often a benign

[12] "A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law.*" W. Va. Code of Jud. Conduct Rule 2.6(A).

act." However, because of the "cumulative and one-sided nature and substance" of his "prosecutor/law enforcement-related" posts, the JHB found that the "aggregate effect" of the posts undermined Judge Sweeney's impartiality in violation of Rule 1.2. The JHB specifically found that the "attention drug dealers" post reflected a "'team' mentality with law enforcement" and that by "liking" the negative comments to the Whitefeather and Lantz repost, Judge Sweeney "publicly signaled approval of the sentiments they conveyed[]" bringing his impartiality into further question. The JHB also found a resulting violation of Rule 3.1(C) for the "cumulative effect" of Judge Sweeney's "extrajudicial" Facebook activity which undermined public confidence in his impartiality.

The JHB also found a Rule 2.10(A) violation within the Facebook activity for making a public statement about one pending and one impending matter. First, the JHB found that the Satterfield repost concerned a "pending" matter because an arrest warrant had been issued and the Mindfulness matter was "impending" because of its reference to an investigation into medication mismanagement. The JHB concluded that these reposts may be reasonably expected to affect the outcome or impair the fairness of those matters because Satterfield was believed to be located in or near Judge Sweeney's circuit and the repost indicated he was "armed and dangerous." With regard to the Mindfulness investigation occurring in his circuit, the JHB found that Judge Sweeney was

"encouraging" members of the community to report to law enforcement and "engaged in investigative functions that could lead to the identification of potential victims."[13]

However, the JHB found no violation of Rule 3.7(A)(2)'s limitations on solicitation arising from the fundraising reposts. It concluded that the Code forbids judges from "personally solicit[ing]" contributions in violation of the rule, which is defined as a "direct request . . . for financial support or in-kind services." W. Va. Code of Jud. Conduct, *Terminology*. The JHB concluded Judge Sweeney "'requested'" no contributions nor made any independent commentary to the fundraising reposts; therefore, it found this activity to be "passive dissemination" rather than "direct or active" solicitation.

As to Charge Two involving the DHS order, the JHB determined that Judge Sweeney again violated Rule 2.10(A) with his public comments to the media about the order. It concluded that his statements involved "pending matters," i.e. the "administrative proceeding" and "generally to some extent," the underlying abuse/neglect; it found his statements could reasonably be expected to affect the outcome in these matters because his comments "in fact, did influence the outcome[]" of the administrative matter—referencing DHS's immediate efforts to address understaffing. The JHB further emphasized that Judge Sweeney "expressly acknowledged" that he intended his public statements to "influence

[13] While the JHB concluded that three other reposts—the Mason County and federal trafficking arrests/convictions and the Whitefeather and Lantz case—were "pending" matters, it concluded that those reposts would not have reasonably been expected to affect the outcome or impair the fairness of those matters because they were outside of Judge Sweeney's jurisdiction.

agency action" and "bring . . . unfair political pressure to bear" on DHS. The JHB expressly rejected Judge Sweeney's defense that these were permissible public statements "in the course of official duties" or about "court procedures."[14] Based on these findings, the JHB found Judge Sweeney also undermined public confidence in his impartiality because of the implication "that DHS was not living up to [its] responsibility[]" in violation of Rule 1.2.

However, the JHB found that Judge Sweeney's issuance of the administrative order did not violate DHS's right to be heard under Rule 2.6(A). The JHB disagreed with JDC's position that Judge Sweeney's "procedural" error of utilizing a so-called "administrative" order instead of a show cause order violated the Rule because the DHS order had "the same effect." It further concluded that the issue addressed in the DHS order was resolved before the return date and Judge Sweeney had no "intent to prejudice the rights of any party" or "improper motive."[15]

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[14] The JHB surmised that if Judge Sweeney had merely issued the DHS order without contacting the media, no violation would have occurred. We disagree. *See* discussion *infra*.

[15] During the December 10, 2025 hearing, the JHB ruled on two evidentiary issues, both of which resulted in the exclusion of exhibits offered by JDC: 1) Judicial Advisory Opinion 2023-23 that was sent to all judges on October 20, 2023 regarding media appearances; and 2) third-party comments that were supportive of Judge Sweeney and critical of DHS, posted in response to the Parkersburg newspaper article.

The JHB ruled that the advisory opinion was not admissible because Judge Sweeney was not the requesting judge. *See* W. Va. Rule of Jud. Discip. Proc. 2.13(d) (stating that advisory opinions, although not binding on the JHB or Court, "shall be admissible in any subsequent disciplinary proceeding involving the requesting judge."). JDC argues that she

In fashioning its recommended discipline, the JHB noted that there is no West Virginia precedent on the judiciary's use of social media, and that Judge Sweeney removed the posts and changed his Facebook page to "private." As for the DHS order, the JHB found that Judge Sweeney's concerns about understaffing were legitimate and prompted necessary corrective action. And while it recognized the Judge Sweeney was trying to bring about positive change, the JHB cautioned that "courts should speak through their orders[]" and that public commentary on pending matters designed to "apply pressure to a party" is "fraught with peril." As recommended by JDC below and before this Court,

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sought admission of the advisory opinion under Rule 4.12 which provides that "[t]he extent to which a judge knew or should have reasonably known that the conduct involved violated the [Code] *may* be considered in determining the appropriate sanction." (Emphasis added). The JHB also noted the advisory opinion's conclusion failed to give the Code's Rule 2.10(A) full treatment. The advisory opinion concludes that "a judge cannot go on television or other media and comment when the topic involves a pending or impending case before any Court" without reference to the additional requirement that the statement must "reasonably be expected to affect the outcome or impair the fairness" of the matter.

We agree with JDC that the advisory opinion was admissible under Rule 4.12 for purposes of considering the appropriate sanction. However, we find that the advisory opinion—particularly without full consideration of the language of the rule—is not instructive under the circumstances of the instant case. Because consideration of the advisory opinion for purposes of sanction is only *permissive* under Rule 4.12 and the JHB adopted JDC's recommended sanction, we find any error harmless in light of our de novo review.

Second, the JHB ruled that the comments posted by others were inadmissible hearsay and irrelevant because whether Sweeney violated the Code is determined under an objective standard, not based on the subjective impressions of the public. We agree that these comments are irrelevant to whether or not Judge Sweeney violated the rules under an objective standard.

the JHB recommended that we issue an admonishment and require Judge Sweeney to pay the costs of these proceedings.

II. STANDARD OF REVIEW

It is well understood that "[t]he purpose of judicial disciplinary proceedings is the preservation and enhancement of public confidence in the honor, integrity, dignity, and efficiency of the members of the judiciary and the system of justice." Syl., *In re Gorby*, 176 W. Va. 16, 339 S.E.2d 702 (1985). To fulfill that duty, the Court "will make an independent evaluation of the record and recommendations of the Judicial [Hearing] Board in disciplinary proceedings." Syl. Pt. 1, *W. Va. Jud. Inquiry Comm'n v. Dostert*, 165 W. Va. 233, 271 S.E.2d 427 (1980); *see also In re Starcher*, 202 W. Va. 55, 60, 501 S.E.2d 772, 777 (1998) ("The independent evaluation of the Court shall constitute a *de novo* or plenary review of the record.").

III. DISCUSSION

While Judge Sweeney asks to be exonerated on all charges, JDC asks that we find additional violations of Rules 3.7(A)(2) and 2.6(A) and find that all of his Facebook reposts violated Rules 1.2, 2.10(A), and 3.1(C), as may apply. Our plenary review demonstrates that the JHB's recommendations regarding Judge Sweeney's rule violations are well-supported but that the content of the DHS order itself supports an additional violation, as we discuss more fully *infra*.

A. Charge One

1. Rules 1.2 and 3.1(C)—Public Confidence in the Impartiality of the Judiciary

JDC argues that all of Judge Sweeney's law enforcement- and criminal case-related Facebook reposts undermine his impartiality and demonstrate pro-prosecution or law enforcement bias, in violation of Rules 1.2 and 3.1(C). JDC appears to urge the Court to include all of Judge Sweeney's cited Facebook activity in these violations. Judge Sweeney, on the other hand, argues that this aggregation of his Facebook activity may not be used to establish a violation of the Code, relying on the JHB's conclusion that the reposts "individually" violated no Rule.

Judge Sweeney cites no binding authority suggesting that the cumulative effect of individual, non-violative activity cannot be used to support a Rule 1.2 or 3.1(C) violation. Nor does any such restriction follow from the language of the Code. While certain Code provisions prohibit specific instances of conduct, the Code's general requirements to protect the foundational pillars of the judiciary are grounded in broad language, as is the violation-triggering language. For example, Canons 1 and 2 include general requirements for a judge to "comply" with the law, "act at all times in a manner" promoting confidence in the judiciary, and "[p]erform [d]uties" impartially, competently and diligently. *See* W. Va. Code of Jud. Conduct Rules 1.1, 1.2, and Canon 2. Rules 1.2 and 3.1(C) expressly premise a violation on unspecified conduct that fails to "promote[] public confidence in" or "undermine[s]" independence, integrity, or impartiality, respectively. *Id*.

As to Judge Sweeney's Facebook activity in particular, it would be illogical to require each isolated post to have the same impact on public confidence in his impartiality as a series of posts that create an overall appearance of law enforcement or prosecutorial partiality. *See, e.g., In re Johnstone*, 2 P.3d 1226, 1236 (Alaska 2000) ("The question presented is not whether Judge Johnstone's individual actions viewed in isolation would give rise to an appearance of impropriety. Rather, the cumulative effect of these actions is at issue." (footnote omitted)). While a singular act may be sufficient to establish conduct that calls into question independence, integrity, or impartiality, it is equally—if not logically more likely—to occur over a more protracted or serialized course of conduct. *Cf. United States v. Rivera-Rodriguez*, 761 F.3d 105, 112 (1st Cir. 2014) ("[D]etermining the appearance of bias and the prejudicial effect of that bias generally involves a cumulative effect inquiry." (footnote omitted)).

Moreover, an aggregation approach—where appropriate—enhances fairness and instills confidence that an isolated act is neither being taken out of context nor its impact exaggerated. Rules 1.2 and 3.1(C) require us to look at conduct contextually and holistically to determine if public confidence in the judiciary's independence, integrity, or impartiality has been affected. In fact, Judge Sweeney benefits in this matter from his "Facebook activity" being viewed as a singular instance of "conduct" or "activity,"

yielding only one violation of each applicable rule, rather than separate violations of each rule for each post.[16]

As such, we agree that the totality of Judge Sweeney's implicated Facebook activity reflects an appearance of ideological alignment with law enforcement—advocating for their hiring needs, publicizing their investigatory efforts, and championing the prosecution of human traffickers, in particular. The cumulative effect of this conduct divorces him from his role as neutral arbiter and, fairly or unfairly, creates the appearance of a pro-law enforcement or prosecution bias.

Because posting on social media is a volitional act, it necessarily suggests endorsement, approval, or, minimally, an interest in the viewpoint or topic espoused in a post. Judges must evaluate whether the post may create an appearance of bias. Posts that are of public interest and adjacent to the work of the judiciary necessarily invite questions and speculation about a judge's particular thoughts, viewpoint, or intentions prompting the post. As stated in the comments to Rule 1.2, "[a] judge should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens, and must accept the restrictions imposed by the Code." *Id*., cmt. 2. Where, as here, the posts are of such a singular viewpoint—pro-law enforcement and pro-prosecution—it creates an

[16] Judge Sweeney also argues that JIC cherry-picked the "worst of the worst" of his Facebook postings to support its claim of pro-law enforcement bias, but which represented only a small portion of his activity. We agree with JDC that Judge Sweeney was free to introduce evidence of other Facebook postings that may have served to minimize or disabuse the appearance created by his reposts but failed to do so.

inference that Judge Sweeney heavily identifies with and deliberately promotes the efforts of those groups, thereby calling into question his impartiality where they are concerned, in violation of Rule 1.2.

2. Rule 2.10(A)—Public Statements About Pending or Impending Matters

As to the Rule 2.10(A) violation, Judge Sweeney argues that simple reposts without commentary—even of pending criminal matters—are not public statements violative of Rule 2.10; more specifically, he contends his posts regarding the Satterfield and Mindfulness matters could not have "reasonably be[en] expected to affect the outcome or impair the fairness" of those matters. JDC, however, objects to the JHB's failure to find that each of Judge Sweeney's reposts regarding pending criminal matters violated Rule 2.10(A), arguing that the JHB improperly excluded reposts that did not concern matters within Judge Sweeney's jurisdiction, contrary to the language of the rule.

Rule 2.10(A) provides, in part: "A judge shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending* or impending* in any court[.]" The Code defines "[p]ending matter," in pertinent part, as "a matter that has commenced." W. Va. Code of Jud. Conduct, "*Terminology*." An "[i]mpending matter" is defined as one "that is imminent or expected to occur in the near future." *Id*.

Despite Judge Sweeney's advocacy for a bright-line rule that public statements containing only factual, publicly available case information is permissible, we are guided by the plain language of our Code as applied to the circumstances presented.[17] Judge Sweeney concedes that the Satterfield matter was "pending," but contends his repost could not be reasonably expected to affect the outcome or impair the fairness of Mr. Satterfield's case because he was wanted on charges in Calhoun County, outside of Judge Sweeney's circuit. However, the public safety alert belies Judge Sweeney's sweeping conclusion that courts within his circuit would not be involved with Mr. Satterfield. The entire purpose of the alert was to warn the public of the danger presented by Mr. Satterfield's potential presence in the area and to aid law enforcement with his apprehension. Having already tacitly characterized him as "armed and dangerous" in his repost, Judge Sweeney was plainly making a public comment on a pending matter that might reasonably be expected to impair the fairness of any appearance made by Mr. Satterfield within his circuit.

Similarly, as to the Mindfulness matter, Judge Sweeney argues there is insufficient evidence that any matter was "impending" and that he was, again, merely passing along public safety information. Yet again, the repost itself leads to a contrary conclusion. The repost very clearly identified an active, ongoing criminal investigation into

[17] We note, however, Judge Sweeney's candid concession during his sworn statement that "in retrospect, . . . publicizing these matters . . . has a risk of impugning the impartiality of the judiciary."

a business within Judge Sweeney's circuit and contained specific allegations of medication mismanagement. The JHB correctly concluded that this post constituted a public comment on an impending matter that may reasonably be expected to impact the fairness or outcome of that matter within Judge Sweeney's circuit. This same analysis, however, leads us to agree with the JHB's conclusion that Judge Sweeney's human trafficking reposts—while public statements on pending matters "in any court"—could not reasonably be said to "affect the outcome or impair the fairness" of those matters given their procedural status and lack of proximity to his jurisdiction. The absence of that critical element fails to establish a violation of Rule 2.10(A) as to these remaining items.[18]

3. Rule 3.7(A)(2)—Solicitation

Similarly, we agree that Judge Sweeney's fundraising reposts did not violate Rule 3.7(A)(2). JDC focuses on Judge Sweeney's admission during his sworn statement that the fundraiser posts for the Sheriff's deputy were not merely "informational" but that he also wanted the public to know he "supported the deputy[.]" Rule 3.7(A)(2) limits a judge's ability to "solicit[] contributions" for charitable or civic fundraising to family members or other judges not under his or her supervisory control. As correctly observed by the JHB, the Code defines "[p]ersonally solicit" as a "*direct* request made by a judge . .

[18] While we acknowledge that the posting of publicly available information about cases not within a judge's circuit or jurisdiction may resist a finding that their outcome or fairness may be impacted, as required by Rule 2.10(A), this acknowledgement should not be construed as an endorsement of this activity. As demonstrated in this case, such postings or other public statements may give rise to violations of other rules where their effect undermines a judge's independence, integrity, or impartiality.

. for financial support or in-kind services, whether made by letter, telephone, or any other means of communication." W. Va. Code Jud. Conduct, "*Terminology*." (Emphasis added). We agree with the JHB that Judge Sweeney's fundraising posts did not constitute active, *direct* solicitation or an expectation of contribution that Rule 3.7(A)(2) was designed to prohibit.

We therefore concur with the JHB's conclusion that, with respect to Charge One, Judge Sweeney violated Rules 1.2 and 3.1(C) by demonstrating law enforcement partiality, Rule 2.10(A) by publicly commenting on pending or impending matters, and a resulting concurrent violation of Rule 1.1 requiring compliance with the law, for these violations of the Code of Judicial Conduct. *See* n.10, *supra*.

B. Charge Two

1. Rule 2.10(A)—Public Statements About Pending or Impending Matters

The JHB determined that Charge Two contained evidence that Judge Sweeney committed a second Rule 2.10(A) violation by speaking to the media about the DHS order. Judge Sweeney objects to this finding, arguing that there is no evidence that his public statements affected the outcome of the proceedings regarding the DHS order; rather, he contends that DHS merely responded to the DHS order itself. Judge Sweeney further argues that the DHS order was not a "case" requiring "adjudication," but instead an administrative matter designed to address "systemic problems." In that regard, Judge Sweeney argues that his comments to the media fall into the exception for public statements

about "court procedures" because he was explaining the effect of DHS understaffing on abuse and neglect proceedings generally and the specific goal of the DHS order. *See* W. Va. Code of Jud. Conduct Rule 2.10(D) ("Notwithstanding the restrictions in paragraph (A), a judge may make public statements in the course of official duties, may explain court procedures, and may comment on any proceeding in which the judge is a litigant in a personal capacity.").

We disagree with Judge Sweeney's characterization of his conduct surrounding the DHS order. Despite characterizing it as an "administrative" order and declining to assign it a case number, Judge Sweeney's issuance of the DHS order created a "pending matter" that embraced legal issues and imposed mandatory obligations subject to further adjudication. He directed the order to specific individuals, it required their compliance under penalty of contempt, and was premised entirely on the legal question of whether DHS was properly fulfilling its statutory and administrative obligations. Almost immediately upon entry of the DHS order which accused DHS of "critical" mismanagement of its staffing obligations, Judge Sweeney solicited an interview with a reporter about the order. In fact, during the Metronews interview, Judge Sweeney twice referenced the State's "legal mandate" regarding staffing and that he would take up "any question" about the details of his order at the scheduled appearance date.

As for Judge Sweeney's insistence that his public comments addressed only a non-case-specific "systemic problem," the use of his judicial authority to compel specific

DHS officials' attendance at a hearing to answer for and rectify that problem demonstrates the opposite. His public comments were very much about a specific matter—alleged DHS understaffing which was the subject of the order and a specific litigant—DHS and its officials. Nor are his public comments fairly characterized as concerning "court procedures." Under Judge Sweeney's argument, any judicial comments that reference an order or the functioning of a governmental agency would be reduced to mere "court procedure"—regardless of their content or impact. Such a reading would render the rule effectively meaningless.

Having established that Judge Sweeney created a "pending matter" by issuing the DHS order, it is clear that Judge Sweeney's public statements, initiated by his own requests to engage with the media before ensuring that DHS had been properly served with the order, impacted the outcome. According to its general counsel, DHS became aware of the newspaper article contemporaneously with the order itself and Judge Sweeney admitted both during the abuse and neglect hearing and these proceedings that his goal was to utilize the press to garner the attention of DHS, the Legislature, and the public. By his own admission, the order simply provided fodder to facilitate the press and public interest. Because Judge Sweeney's public statements were admittedly an integral part of his plan to exert pressure upon DHS to address staffing, he cannot now disavow the impact of the publicity he actively solicited for precisely that purpose.

2. Rule 1.2—Public Confidence in the Impartiality of the Judiciary

Judge Sweeney's challenge to the JHB's finding that the DHS order and media commentary undermined public confidence in his impartiality in violation of Rule 1.2 largely mimics his defense to these charges generally. He argues that, rather than impugning his impartiality, he was taking ownership of a systemic problem that threatened the safety and welfare of the children in his circuit and brought about positive change—all of which inures to the benefit of the judiciary's integrity in the public eye. He further argues that compelling DHS to fulfill its obligations is not demonstrative of bias and that a rule violation in this case would only serve to "silence" judges' First Amendment rights.

As we discuss more fully below, the laudable intentions behind Judge Sweeney's issuance of the DHS order do not shield him from the reach of the Code of Judicial Conduct. Judge Sweeney effectively asks this Court to parse the various attributes required of the judiciary in Rule 1.2—independence, integrity, and impartiality—and counterbalance their relative importance: weighing the public's presumed belief in the "goodness," and therefore "integrity," of his efforts against any incidental damage to his impartiality. Even if we were to accept Judge Sweeney's invitation, on balance, we find that soliciting media attention to publicly criticize a litigant for its dereliction of duty violates the universe of judicial qualities safeguarded by the Code.

We agree, however, that generally requiring litigants to adhere to the law demonstrates no particular bias against that litigant; it is the entire purpose of the court's involvement. However, isolating a litigant's perceived systemic failures within a justiciable

controversy and attempting to resolve those failures through a sua sponte order issued outside of that controversy, all for the admitted purpose of pressuring the litigant to address those failures under solicited media scrutiny unquestionably erodes confidence in a judge's impartiality. As this abbreviated summary of Judge Sweeney's admitted conduct demonstrates, the impartiality requirement does not "silence" judges—it protects the integrity and fairness necessary to a properly functioning judiciary. It also restrains judicial officers from stepping outside their constitutionally defined role as neutral arbiters of the cases and controversies that come before them.

3. Rules 2.6(A) and Rule 2.2—The Right to Be Heard and the Duty to Fairly and Impartially Uphold and Apply the Law

Irrespective of its impact on public confidence, we agree with the JHB's finding that Judge Sweeney's issuance of the DHS order did not violate DHS's right to be heard in violation of Rule 2.6(A). JDC argues that Judge Sweeney violated this Rule by not providing DHS with notice and an opportunity to be heard before ordering DHS officials to report as caseworkers—a product of "us[ing] the wrong process" to make the DHS answerable to the court. Citing our recent decision in *State ex rel. West Virginia Department of Human Services v. Redding*, JDC argues that Judge Sweeney had no authority to insinuate himself into the executive branch functions of DHS and that he was limited to issuing a show cause order to determine why the child at issue in the underlying abuse and neglect matter had not been placed. *See id.*, 253 W. Va. 222, 931 S.E.2d 622 (2026). Judge Sweeney counters that mere legal error does not constitute an ethical

violation and that DHS was free to challenge the order if it took issue with the process or content of the order.[19] *See* Syl. Pt. 1, in part, *W. Va. Jud. Inquiry Comm'n v. Casto*, 163 W.Va. 661, 263 S.E.2d 79 (1979) ("When a judge, with no intent to prejudice the rights of a party, makes a legal error, his act does not constitute a violation of . . . the Judicial Code of Ethics.").

Redding—released by this Court after the underlying events—leaves little doubt that intrusion into the executive branch affairs of DHS in the absence of a justiciable controversy exceeds a circuit court's legitimate authority. *See id*. at ___, 931 S.E.2d at 631 ("[D]irectives issued to the executive branch must, at a minimum, arise from a case or controversy brought to the court, litigated by adverse parties, and be issued within the scope of the relief required by the litigants' successful adjudication of their claims."). However, DHS made no legal challenge to the order because its officials recognized exactly what Judge Sweeney readily admitted: that he was attempting to gain DHS's attention and did not intend to follow through with the order's threats to turn government bureaucrats into front-line child welfare agents. DHS responded immediately to Judge Sweeney after receipt of the order, developed a plan to remediate the staffing issue, and therefore mooted

[19] Judge Sweeney further argues that our decision in *Redding* was issued after the DHS order at issue and that, despite Judge Redding's similar use of an "administrative" order to address systemic DHS understaffing, this Court did not refer him to the JIC. As we explain *infra*, Judge Redding committed a legal error, whereas Judge Sweeney committed misconduct.

any arguments regarding legal infirmity attendant to the order.[20] To this extent, we agree with the JHB's finding that no Rule 2.6(A) violation occurred as a result of the procedural handling of the DHS order.

That is not to say, however, that we find the issuance of the DHS order free of judicial misconduct. While the statement of charges and JHB's recommended decision examines the procedural and public commentary aspects of the order, neither evaluates the content of the order against Judge Sweeney's obligations under our Code. Judge Sweeney admits that the "primary goal [of the DHS order] was to get DHS's attention" about a local matter that he deemed part of a larger systemic failure. To do so, he discarded the option of "incarcerat[ing]" the DHS Secretary and instead theatrically ordered government bureaucrats to "appear" to receive case assignments as child welfare case workers. At no point does Judge Sweeney defend his legal authority to compel a member of an executive branch agency to undertake a different role via administrative order; none of those officials were known to be licensed social workers or have the requisite qualification to perform hands-on work with children or families. But these legalities and practicalities were of no moment because, as even DHS recognized, Judge Sweeney had no intention of forcing compliance with his order.

[20] Moreover, the DHS order did not require those officials to begin work as directed immediately but instead required them to appear before Judge Sweeney in response to the order. As such, the hearing date itself ostensibly served as DHS's opportunity to be heard.

Under the guise of a compulsory job reassignment which had no legal basis and was designed to garner attention and prompt reaction from DHS, Judge Sweeney brazenly threatened its officials with the "penalty of contempt" for failure to appear and submit to the reassignment. While Judge Sweeney argues that *Redding* subsequently clarified the legal error attendant to issuing an order without a justiciable controversy, he offers no specific legal authority in defense of the contrived "stunt" the order required. This was not a good faith legal error of the kind addressed in *Redding*. *See* W. Va. Code of Jud. Conduct Rule 2.2, cmt. 3 ("When applying and interpreting the law, a judge sometimes may make good-faith errors of fact or law. Errors of this kind do not violate this Rule."); *Matter of Goldston*, 246 W. Va. 61, 74, 866 S.E.2d 126, 139 (2021) (Wooton, J., dissenting) (discussing distinction between conduct that is "merely an ostensible legal error" and "judicial behavior so lacking in authority as to constitute an ethical violation."). Entering an order in good faith that lacks a legal basis is error; openly and admittedly utilizing it as a coercive tactic is misconduct.

Rule 2.2 provides that "[a] judge shall uphold and apply the law,* and shall perform all duties of judicial office fairly and impartially.*" We find that Judge Sweeney's issuance of an order requiring DHS officials to appear for a fictitious work assignment as an admitted coercive tactic violates these fundamental precepts of the judiciary. Regardless of Judge Sweeney's intent, he relinquished the judicial restraint required by the Code for the immediacy of public condemnation, which he poorly disguised as an exercise of his

judicial authority. We therefore find a violation of Rule 2.2 within the allegations of Charge Two.

C. Sanctions

Having found seven violations of the Code, we consider the appropriate discipline:

> Under Rule 4.12 of the *Rules of Judicial Disciplinary Procedure* [1998] the Judicial Hearing Board may recommend, or this Court may impose, one or more of the following sanctions for each violation by a justice, judge, or magistrate of the *Code of Judicial Conduct*: (1) admonishment; (2) reprimand; (3) censure; (4) suspension without pay for up to one year; (5) a fine of up to $5,000; or (6) involuntary retirement in limited circumstances. Additionally, this Court can assess the cost of the disciplinary proceedings against a justice, judge, or magistrate.

Syl. Pt. 6, *In re Watkins*, 233 W. Va. 170, 757 S.E.2d 594 (2013). To guide our determination, the Court has identified these considerations:

> (1) whether the charges of misconduct are directly related to the administration of justice or the public's perception of the administration of justice, (2) whether the circumstances underlying the charges of misconduct are entirely personal in nature or whether they relate to the judicial officer's public persona, (3) whether the charges of misconduct involve violence or a callous disregard for our system of justice, (4) whether the judicial officer has been criminally indicted, and (5) any mitigating or compounding factors which might exist.

Syl. Pt. 3, in part, *In re Cruickshanks*, 220 W. Va. 513, 648 S.E.2d 19 (2007). The JHB agreed with JDC's recommendation that Judge Sweeney be admonished for his violations.

Considering these factors, we find that Judge Sweeney's discredit to his impartiality through his Facebook activity and the DHS order directly relates to the administration of justice, the public's perception thereof, and to his public persona, as previously discussed. However, although we take strong issue with the content and intended effect of the DHS order, we cannot conclude Judge Sweeney issued it with "callous disregard" for the justice system. *See, e.g., Matter of Rock*, 249 W. Va. 631, 645, 900 S.E.2d 57, 71 (2024) ("[W]e do not find the underlying circumstances on the whole egregious enough to demonstrate a "callous disregard" for our system of justice that is correlative to "violence," as referenced in that factor.").

With respect to mitigation, Judge Sweeney argues that his Facebook activity was all civic-minded, elicited no complaints, and did no harm. However, as previously discussed, despite containing no express endorsements, his Facebook activity demonstrated that Judge Sweeney regularly championed the needs and causes of law enforcement and the victories secured by prosecutors. This activity undermined public confidence in one of the foundational attributes of the judiciary—his impartiality—and should not be minimized simply because it cannot be quantified.

Judge Sweeney's predominant defense to this matter focuses on the DHS order, insisting that his conduct demonstrated the accountability and leadership needed to effectively remediate an administrative shortcoming that endangered children. He argues that discipline is at odds with the Court's historical directive that judges take active roles

in abuse and neglect matters to ensure children's safety and, by extension, to troubleshoot structural problems that interfere with that goal. However, as we recently emphasized in *Redding*:

> [T]he abuse and neglect provisions of Chapter 49 charge circuit courts with ensuring the welfare of children over whom it exercises jurisdiction arising from proceedings instituted under those statutes. And while that charge may make circuit courts uniquely privy to recurrent, systemic inefficacies or shortcomings of the agencies charged with child welfare, our Constitution does not permit courts to unilaterally investigate and rectify those issues.

253 W. Va. at ___, 931 S.E.2d at 634-35.

Unlike Judge Redding, however, Judge Sweeney did not merely commit the legal error of overreach into the executive branch functions of DHS. Before Judge Sweeney acted upon that legal error, he escalated and publicized the shortcomings of DHS through fictitious "case assignments" and leveraged media coverage. However, within the confines of Judge Sweeney's jurisdiction, the State and its agencies are litigants to whom he owes duties of fairness and impartiality. No part of a court's charge to prioritize abuse and neglect proceedings includes the authority to use judicial powers and improper publicity to pressure the State to address an issue of its choosing and to its subjective satisfaction outside of a justiciable controversy.[21] *See Redding*, 253 W. Va. at ___ n.11, 931 S.E.2d at

[21] Consider Judge Sweeney's conduct if a private citizen or business were substituted in place of DHS. For example, if Judge Sweeney, in the course of an ordinary personal injury case, determined that the defendant corporation was also violating its fiduciary duties to its shareholders and issued an "administrative" order demanding that its

631 n.11 ("At best, the unilateral issuance of the DHS orders effectively places the *circuit court* in an adversarial posture with DHS[] . . . based on the court's own anecdotal concerns, however well-founded or well-intentioned."). While Judge Sweeney's conduct happened to concern a matter that elicits universal agreement—the well-being of children—judges who stray so far outside their role such as to violate the Code are not immunized from discipline based on the popularity or success of their misconduct.

That said, we have no doubt that Judge Sweeney had honorable motives and commendable concern for protection of the children in his circuit; this Court has expressed similar concern regarding understaffing. *See State ex rel. W. Va. Dep't of Health & Hum. Res. v. Bloom*, 247 W. Va. 433, 448, 880 S.E.2d 899, 914 (2022) (expressing the Court's "deep concern regarding ... allegations of systemic staffing issues in CPS offices statewide[.]"). Moreover, the Court is not unmindful of the judiciary's frustrations where the perceived inefficacies or failures of the State or its agencies create potential harm. We also recognize that frustration occasionally reveals itself through judicial overreach or imprudence, particularly where the urgency of abuse and neglect matters is at the forefront. However, judges wield enormous influence that may be utilized, within the bounds of the

officers appear outside the confines of that litigation to be dressed down for their perceived failures, there would be little question that he engaged in misconduct. Consider further if he then went to the media to discuss the company's perceived failures, there would be little hesitation in concluding his impartiality toward that corporation had been compromised, and the fairness of the underlying litigation negatively affected.

Code, to effect improvements and change without violating the Code of Judicial Conduct. As the comment to Rule 3.1 explains:

> *Off-the-bench* judicial leadership is essential to effective resolution of local systemic problems that impede the progress of child abuse and neglect, delinquency, and status offense cases involving at-risk children and their families. Unlike most other types of cases in the court system, these cases deal with ongoing and changing circumstances, with federal and state legal mandates assigning to the judge a series of time-specific and complex decisions that shape the course of state intervention and determine the future of the child and family. For these reasons, *judges are encouraged to regularly convene meetings of local professionals routinely involved in these cases for the purpose of addressing issues in the circuit relating to effective procedures and necessary services*. These *collaborative* meetings may address systemic problems but shall not include discussion of individual cases.

W. Va. Code of Jud. Conduct Rule 3.1, cmt. 2 (emphasis added). The language of the extrajudicial conduct described in this comment is significant: it both empowers the judiciary to become invested caretakers of the abuse and neglect process, while carefully proscribing a judge's institutional involvement to "collaborative" meetings of "local professionals" in a showing of "[o]ff-the-bench" leadership.

The foregoing notwithstanding, we readily acknowledge that Judge Sweeney has never been disciplined as a lawyer or judge despite many years of service. He was cooperative and forthright in this matter, and his misconduct was neither self-promoting nor dishonest. And while his motivations do not justify his actions, we find that an admonishment adequately deters similar misconduct in the future and is a proportionate sanction for Judge Sweeney's conduct viewed in its totality.

IV. CONCLUSION

The Court imposes the following discipline:

1. Judge Sweeney is hereby admonished for these violations; and

2. he is ordered to pay the costs of this proceeding.

Admonished and other sanctions ordered.