

RECEIVED AND FILED

JAN 31 2023

COURT OF JUDICIAL DISCIPLINE
OF PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

IN RE:

Michael J. Cabry, III :
Magisterial District Judge : No. 2 JD 21
Magisterial District Court 15-3-06 :
Chester County :

BEFORE: Honorable Ronald S. Marsico, P.J., Honorable Daniel D. McCaffery, J., Honorable Daniel E. Baranoski, J., Honorable Jill E. Rangos, J., Honorable Thomas E. Flaherty, J., Honorable Sonya M. Tilghman, J., Honorable Charles L. Becker, J., Honorable James J. Eisenhower, P.J.E.*

PER CURIAM

FILED: January 31, 2023

OPINION AND ORDER

Former Magisterial District Judge Michael Cabry is before this Court for the determination of the appropriate sanction for his violations found in our Opinion and Order of October 24, 2022. In that Opinion and Order this Court found violations in Magisterial District Judge Michael Cabry's actions in using campaign funds for personal matters and for improperly accounting for disbursing campaign funds.

Factors Considered in Determining Sanction

In determining what sanction will be imposed for an ethical violation this Court is guided by the jurisprudence of our Supreme Court, and also by its prior decisions. Pennsylvania has adopted ten non-exclusive factors, sometimes called "Deming factors" from the original Washington State case where they were expositied. ***In re Roca*, 151 A.3d 739, 741 (Pa.Ct.Jud.Disc. 2016), aff'd, 173 A.3d 1176 (Pa. 2017), citing *In re Toczydlowski*, 853 A.2d 20 (Pa.Ct.Jud.Disc 2004); *In re Deming*, 736 P.2d 639 (Wa. 1987).**

The ten factors and their application to this case are as follows:

1. Whether the misconduct is an isolated instance or evidenced a pattern of conduct: The conduct at issue here does involve multiple incidents of similar misconduct committed in the course of a continuing violation.

2. The nature, extent, and frequency of occurrence of the acts of misconduct: Former Magisterial District Judge Michael Cabry did illegally access campaign funds on several occasions and swore to the truth of his false campaign report.

3. Whether the conduct occurred in or out of the courtroom: The conduct occurred outside the courtroom.

4. Whether the misconduct occurred in the judge's official capacity: The misconduct at issue here was committed in Former Magisterial District Judge Michael Cabry's capacity as a judge or judicial candidate.

5. Whether the judge acknowledged or recognized that the acts occurred: Former Magisterial District Judge Michael Cabry has acknowledged his improper conduct.

6. Whether the Judge has evidenced an effort to change or modify his conduct: Former Magisterial District Judge Michael Cabry has voiced contrition over his misconduct, and resigned from the bench.

7. The length of service on the bench: Former Magisterial District Judge Michael Cabry served 21 years.

8. Whether there have been prior complaints about the judge: There have not been prior complaints about Former Magisterial District Judge Michael Cabry.

9. The effect the misconduct has upon the integrity of and respect for the judiciary: Former Magisterial District Judge Michael Cabry's misconduct

eroded respect for the judiciary although that is tempered by an understanding of his personal difficulties including the loss of his wife and fire damage to his home.

10. The extent to which the judge exploited his or her position to satisfy personal desires: Former Magisterial District Judge Michael Cabry did commit these acts for personal gain.

Discussion

Former Magisterial District Judge Michael Cabry committed crimes in falsely swearing to the truth of his campaign report and took over \$3,000 in a manner in which he was not entitled. He also resigned and admitted his misconduct. The personal losses he suffered along with his sloppy campaign accounting do not excuse, his misconduct. Magisterial District Judge Michael Cabry testified under oath that he would never seek judicial office again. This Court holds him to this and accepts his sworn promise.

Accordingly, this Court of Judicial Discipline issues a severe reprimand to Former Magisterial District Judge Michael Cabry.

*Although his term has expired, Former President Judge Eisenhower participates in this Opinion and Order pursuant to Article V, §18(b)(2) of the Constitution of Pennsylvania.