

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

Michael J. Cabry, III
Former Magisterial District Judge
Magisterial District Court 15-3-06
Chester County

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2 JD 2021
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RECEIVED AND FILED
DEC 9 2021
COURT OF JUDICIAL DISCIPLINE
OF PENNSYLVANIA

TO: MICHAEL J. CABRY, III

You are hereby notified that the Pennsylvania Judicial Conduct Board has determined that there is probable cause to file formal charges against you for conduct proscribed by Article V, § 17(b) and § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania, and the Rules Governing Standards of Conduct of Magisterial District Judges. The Board's counsel will present the case in support of the charges before the Pennsylvania Court of Judicial Discipline.

You have an absolute right to be represented by a lawyer in all proceedings before the Court of Judicial Discipline. Your attorney should file an entry of appearance with the Court of Judicial Discipline within fifteen (15) days of service of this Board Complaint in accordance with C.J.D.R.P. No. 110.

You are hereby notified, pursuant to C.J.D.R.P. No. 302(B), that should you elect to file an omnibus motion, that motion should be filed no later than thirty (30) days after the service of this Complaint in accordance with C.J.D.R.P. No. 411.

You are further hereby notified that within thirty (30) days after the service of this Complaint, if no omnibus motion is filed, or within twenty (20) days after the dismissal of all or part of the omnibus motion, you may file an Answer admitting or denying the allegations contained in this Complaint in accordance with C.J.D.R.P. No. 413. Failure to file an Answer shall be deemed a denial of all factual allegations in the Complaint.

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COMPLAINT

AND NOW, this 9th day of December, 2021, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (Board) and files this Board Complaint against former Magisterial District Judge Michael J. Cabry, III, Magisterial District Court 15-3-06, Chester County, Pennsylvania, alleging that former Judge Cabry has violated the Constitution of the Commonwealth of Pennsylvania and the Rules Governing Standards of Conduct of Magisterial District Judges, as more specifically delineated herein.

FACTUAL ALLEGATIONS

1. Article V, § 18 of the Constitution of the Commonwealth of Pennsylvania grants to the Board the authority to determine whether probable cause exists to file formal charges against a judicial officer in this Court, and thereafter, to prosecute the case in support of such charges in this Court.
2. From approximately March 22, 2000, until his resignation on September 21, 2021, former Judge Cabry served continuously as the duly elected Magisterial District Judge of Magisterial District Court 15-3-06, Chester County.

3. Pursuant to Article V, § 18(a)(7) of the Constitution of the Commonwealth of Pennsylvania, the Board determined that probable cause exists to file formal charges against former Judge Cabry in this Court.
4. By criminal complaint filed October 6, 2020, at ***Commonwealth v. Michael J. Cabry, III***, MJ-15203-CR-181-2020, the Pennsylvania Office of Attorney General (OAG) filed criminal charges against former Judge Cabry stemming from Presentment No. 13 of the 45th Statewide Investigating Grand Jury.
5. The OAG charged former Judge Cabry with the following offenses: (1) theft by unlawful taking, 18 Pa.C.S.A. § 3921(a), a felony of the third degree; (2) perjury, 25 P.S. § 3249(b), a misdemeanor of the first degree; (3) reporting by candidate and political committee, 25 P.S. § 3246(a), an ungraded misdemeanor; (4) reporting by candidate and political committee, 25 P.S. § 3246(b)(2), an ungraded misdemeanor; (5) reporting by candidate and political committee, 25 P.S. § 3246(b)(4), an ungraded misdemeanor; and (6) lawful election expenditures, 25 P.S. § 3254.1(a)(3), an ungraded misdemeanor.
6. Former Judge Cabry waived his right to a preliminary hearing and the aforementioned charges were bound over for trial in the Court of Common Pleas.
7. On September 22, 2021, at ***Commonwealth v. Michael J. Cabry, III***, CP-15-CR-3380-2020, former Judge Cabry pleaded guilty to the following offenses: (1) theft by unlawful taking, 18 Pa.C.S.A. § 3921(a), a misdemeanor of the second degree; (2) reporting by candidate and political committees, 25 P.S. § 3246(a), an ungraded misdemeanor; (3) report must list each expenditure and person, 25 P.S. 3246(B)(4), an ungraded misdemeanor; and (4) lawful election expenses, 25 P.S. § 3254.1, an ungraded misdemeanor.

8. In his written guilty plea colloquy, executed September 22, 2021, former Judge Cabry admitted the following:

On or about November 13, 2016[,] through January 31, 2018, the defendant, while a candidate for public office, failed to file appropriate and accurate campaign reports of expenditures and receipts; failed to provide full and accurate account of expenditures and withdrew funds from his campaign account for purposes unrelated to his campaign. Additionally, the defendant unlawfully took funds from the campaign account and used the funds for personal expenses unrelated to political activity.
9. As a result of his guilty plea, the Honorable Stephen B. Liberman sentenced former Judge Cabry on September 22, 2021, to an aggregate sentence of one year of probation.
10. Former Judge Cabry has not appealed his judgment of sentence, and, consequently, it is final and factually binding for purposes of proceedings within this Honorable Court.

CHARGES

Count 1 – Violation of Canon 1, Rule 1.1

11. By virtue of some or all of the conduct alleged in paragraphs 1 through 9, former Judge Cabry violated Canon 1, Rule 1.1 of the Rules Governing Standards of Conduct of Magisterial District Judges.
12. Canon 1, Rule 1.1 states the following:

Canon 1, Rule 1.1. Compliance with the Law.

A judge shall comply with the law, including the Rules Governing Standards of Conduct of Magisterial District Judges.
13. The definition of "Law" in the "Terminology" section of the Rules Governing Standards of Conduct of Magisterial District Judges includes, *inter alia*, statutes,

decisional law, and Supreme Court Rules and directives, including the Rules themselves.

14. By virtue of his conviction for the aforementioned criminal acts, which took place during his term of judicial office, former Judge Cabry violated Canon 1, Rule 1.1.

Count 2 – Violation of Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania

15. By virtue of some or all of the conduct set forth above, former Judge Cabry violated Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania.
16. Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania states, in pertinent part, the following:

Article V, § 17(b) [Derivative Violation]

[Magisterial District Judges] shall be governed by rules or canons which shall be prescribed by the Supreme Court.

17. A violation of the Rules Governing Standards of Conduct of Magisterial District Judges constitutes an automatic, derivative violation of Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania.
18. By virtue of some or all of the conduct set forth above, former Judge Cabry violated Canon 1, Rule 1.1, of the Rules Governing Standards of Conduct of Magisterial District Judges.
19. By violation of Canon 1, Rule 1.1, former Judge Cabry violated Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania.

**Count 3 - Violation of Article V, § 18(d)(1) of the Constitution of the
Commonwealth of Pennsylvania**

20. By virtue of some or all of the conduct set forth above, former Judge Cabry violated Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania.

21. Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania states the following:

Article V, § 18(d)(1) [Disrepute]

A justice, judge or justice of the peace may be suspended, removed from office or otherwise disciplined for . . . conduct which . . . brings the judicial office into disrepute, whether or not the conduct occurred while acting in a judicial capacity[.]

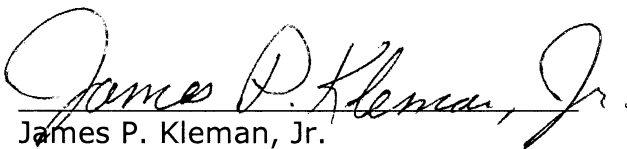
22. By his conduct as described in paragraphs 1 through 9 above, former Judge Cabry engaged in conduct that was so extreme that it brought the judicial office itself into disrepute and thereby constitutes a violation of the Disrepute Clause of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania.

WHEREFORE, Michael J. Cabry, III, former Magisterial District Judge, Magisterial District Court 15-3-06, Chester County, is subject to disciplinary action pursuant to the Constitution of the Commonwealth of Pennsylvania, Article V, § 18(d)(1).

Respectfully submitted,

RICHARD W. LONG
Chief Counsel

DATE: December 9, 2021

By: 
James P. Kleman, Jr.
Deputy Counsel
Pa. Supreme Court ID No. 87637
Judicial Conduct Board
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 3500
Harrisburg, PA 17106
(717) 234-7911

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VERIFICATION

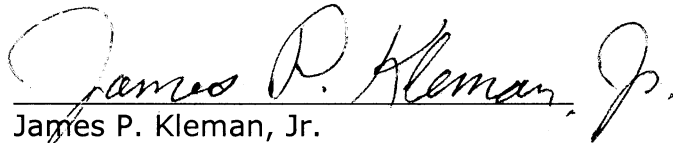
I, James P. Kleman, Jr., Deputy Counsel to the Judicial Conduct Board, verify that the Judicial Conduct Board found probable cause to file the formal charges contained in the *BOARD COMPLAINT*. I understand that the statements herein are made subject to the penalties of 18 Pa. Cons. Stat. Ann. § 4904, relating to unsworn falsification to authorities.

Respectfully submitted,

RICHARD W. LONG
Chief Counsel

Date: December 9, 2021

By:



James P. Kleman, Jr.
Deputy Counsel
Pa. Supreme Court ID No. 87637
Judicial Conduct Board
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PROOF OF SERVICE

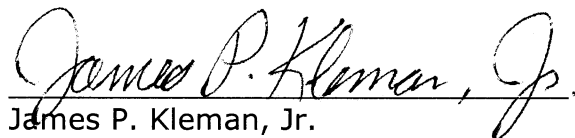
In compliance with Rule 122 of the Court of Judicial Discipline Rules of Procedure, on December 9, 2021, a copy of the Board's foregoing Complaint was sent by UPS Overnight to former Judge Cabry's counsel, Samuel C. Stretton, Esquire, who agreed to accept service, at the following address:

Samuel C. Stretton, Esquire
103 South High Street
P.O. Box 3231
West Chester, PA 19381-3231

Respectfully submitted,

DATE: December 9, 2021

By:



James P. Kleman, Jr.
Deputy Counsel
Pa. Supreme Court ID No. 87637
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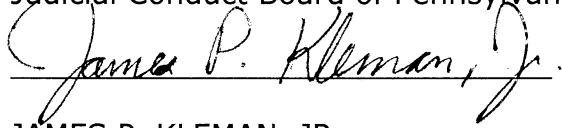
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CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Judicial Conduct Board of Pennsylvania
Signature: 
Name: JAMES P. KLEMAN, JR.
Deputy Counsel
Attorney No.: 87637