

RECEIVED AND FILED

OCT - 7 2020

COURT OF JUDICIAL DISCIPLINE
OF PENNSYLVANIA

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

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

.....
5 JD 2020
.....

PETITION FOR RELIEF FOR INTERIM SUSPENSION WITHOUT PAY

AND NOW, this 7th day of October, 2020, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (Board), by and through undersigned counsel, and files this Petition For Relief For Interim Suspension Without Pay pursuant to Rule 701 of the Court of Judicial Discipline Rules of Procedure, and in support thereof, avers the following:

1. The Pennsylvania Constitution provides this Court with the authority to impose interim suspension as follows:

Prior to a hearing, the court may issue an interim order directing suspension, with or without pay, of any justice, judge or justice of the peace against whom formal charges have been filed with the court by the board or against whom has been filed an indictment or information charging a felony. An interim order under this paragraph shall not be considered a final order from which an appeal may be taken.

Pa. Const, Art. V, § 18(d)(2).

2. From approximately March 22, 2000, until the present, Judge Michael J. Cabry, III, served continuously as the duly elected Magisterial District Judge of Magisterial District Court 15-3-06, Chester County.
3. 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 Judge Cabry stemming from Presentment No. 13 of the 45th Statewide Investigating Grand Jury. A true and correct copy of the criminal complaint and Grand Jury Presentment are attached hereto as Attachment A, made a part hereof, and incorporated herein by reference as though set forth in full.

4. The OAG charged 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.
5. The allegations supporting the felony charge and the misdemeanor charges pending against Judge Cabry undermine both public confidence in the judiciary and its reputation. If Judge Cabry is permitted to continue participating in cases before Magisterial District Court 15-3-06 during the pendency of these charges, the public's confidence in the judiciary will continue to erode.
6. Samuel C. Stretton, counsel for Judge Cabry, asked Board counsel to inform the Court that he will not contest the Board's petition.

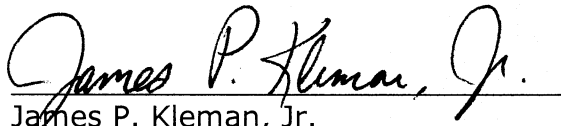
WHEREFORE, it is respectfully requested that this Honorable Court immediately enter an interim order suspending Judge Cabry without pay based on the felony and misdemeanor charges filed against him and to grant such other relief as may be deemed appropriate.

Respectfully submitted,

RICHARD W. LONG
Chief Counsel

DATE: October 7, 2020

BY:



James P. Kleman, Jr.
Deputy Counsel
Pa. Supreme Court ID No. 87637
Judicial Conduct Board
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 3500
P.O. Box 62525
Harrisburg, PA 17106
(717) 234-7911

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

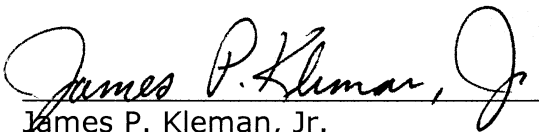
Michael J. Cabry, III
Magisterial District Judge
Magisterial District Court 15-3-06
Chester County

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: 5 JD 2020
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VERIFICATION

I, James P. Kleman, Jr., Deputy Counsel to the Judicial Conduct Board, verify that the facts set forth in the foregoing petition are true and correct to the best of my knowledge, information, and belief. I understand that the statements made in this petition are subject to the penalties of 18 Pa.C.S.A. § 4904, regarding unsworn falsification to authorities.

October 7, 2020

By: 
James P. Kleman, Jr.
Deputy Counsel
Pa. Supreme Court ID No. 87637
Judicial Conduct Board
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 3500
P.O. Box 62525
Harrisburg, PA 17106
(717) 234-7911

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

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

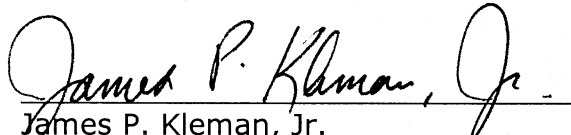
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: 5 JD 2020
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PROOF OF SERVICE

In compliance with Rule 122 of the Court of Judicial Discipline Rules of Procedure, on October 7, 2020, a copy of the Board's foregoing Petition was sent by UPS Overnight to 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,


James P. Kleman, Jr.
Deputy Counsel

DATE: October 7, 2020

Pa. Supreme Court ID No. 87637
Judicial Conduct Board
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 3500
P.O. Box 62525
Harrisburg, PA 17106
(717) 234-7911

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

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

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: 5 JD 2020
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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* 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

COMMONWEALTH OF PENNSYLVANIA
CITY OF CHESTER

**POLICE CRIMINAL COMPLAINT
COMMONWEALTH OF PENNSYLVANIA**



Magisterial District Number: 15-2-03
MDJ: Hon. Martin G. Goch
Address: 601 Westtown Road Suite 110
West Chester, PA 19380

DEFENDANT:
MICHAEL
First Name
119 Freedom Valley
Coatesville, PA 19320

VS.
(NAME and ADDRESS):
J. CABRY III
Middle Name Last Name

Telephone: (610)436-5757

NCIC Extradition Code Type

<input checked="" type="checkbox"/> 1-Felony Full	<input type="checkbox"/> 5-Felony Pending Extradition	<input type="checkbox"/> C-Misdemeanor Surrounding States	<input type="checkbox"/> Distance:
<input type="checkbox"/> 2-Felony Limited	<input type="checkbox"/> 6-Felony Pending Extradition Determ.	<input type="checkbox"/> D-Misdemeanor No Extradition	
<input type="checkbox"/> 3-Felony Surrounding States	<input type="checkbox"/> A-Misdemeanor Full	<input type="checkbox"/> E-Misdemeanor Pending Extradition	
<input type="checkbox"/> 4-Felony No Extradition	<input type="checkbox"/> B-Misdemeanor Limited	<input type="checkbox"/> F-Misdemeanor Pending Extradition	

DEFENDANT IDENTIFICATION INFORMATION

Docket Number <i>CR-181-20</i>	Date Filed <i>10/06/20</i>	OTN/LiveScan Number <i>U 919714-5</i>	Complaint/Incident Number <i>PCS-20-0007</i>	Request Lab Services? <input type="checkbox"/> YES <input type="checkbox"/> NO
GENDER <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	DOB <i>02/08/1961</i>	POB	Add'l DOB <i>/ /</i>	Co-Defendant(s) <input checked="" type="checkbox"/>
First Name	Middle Name	Last Name		Gen.
AKA				

RACE <input checked="" type="checkbox"/> White <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Native American <input type="checkbox"/> Unknown	ETHNICITY <input type="checkbox"/> Hispanic <input checked="" type="checkbox"/> Non-Hispanic <input type="checkbox"/> Unknown	Hair Color <input type="checkbox"/> GRY (Gray) <input type="checkbox"/> RED (Red/Aubn.) <input type="checkbox"/> SDY (Sandy) <input type="checkbox"/> BLK (Black) <input type="checkbox"/> ONG (Orange) <input type="checkbox"/> WHI (White) <input type="checkbox"/> XXX (Unk./Bald) <input type="checkbox"/> BLN (Blonde / Strawberry)	Eye Color <input type="checkbox"/> BLK (Black) <input type="checkbox"/> HAZ (Hazel) <input type="checkbox"/> BLU (Blue) <input type="checkbox"/> MAR (Maroon) <input checked="" type="checkbox"/> BRO (Brown) <input type="checkbox"/> PNK (Pink) <input type="checkbox"/> GRN (Green) <input type="checkbox"/> MUL (Multicolored) <input type="checkbox"/> GRY (Gray) <input type="checkbox"/> XXX (Unknown)
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DNA <input type="checkbox"/> YES <input type="checkbox"/> NO	DNA Location	WEIGHT (lbs.) 260
FBI Number	MNU Number	Ft. HEIGHT In. 5 11
Defendant Fingerprinted <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		

DEFENDANT VEHICLE INFORMATION

Plate #	State	Ha zm at <input type="checkbox"/>	Registration Sticker (MM/YY) /	Comm'l Veh. Ind. <input type="checkbox"/>	School Veh. <input type="checkbox"/>	Oth. NCIC Veh. Code	Reg. same as Def. <input type="checkbox"/>
VIN	Year	Make	Model	Style	Color		

Office of the attorney for the Commonwealth Approved Disapproved because: _____

(The attorney for the Commonwealth may require that the complaint, arrest warrant affidavit, or both be approved by the attorney for the Commonwealth prior to filing. See Pa.R.Crim.P. 507).

DAG MEGAN MADAFFARI
(Name of the attorney for the Commonwealth)

(Signature of the attorney for the Commonwealth)

I, SA PAUL DORMER
(Name of the Affiant)

402301 BADGE #803
(PSP/MPOETC -Assigned Affiant ID Number & Badge #)

of **Pennsylvania Office of Attorney General**
(Identify Department or Agency Represented and Political Subdivision)

PA0222400
(Police Agency ORI Number)

do hereby state: (check appropriate box)

- I accuse the above named defendant who lives at the address set forth above
- I accuse the defendant whose name is unknown to me but who is described as _____
- I accuse the defendant whose name and popular designation or nickname are unknown to me and whom I have therefore designated as John Doe or Jane Doe



POLICE CRIMINAL COMPLAINT

Socket Number: <i>CR-187-2</i>	Date Filed: <i>11/01/20</i>	OTN/LiveScan Number <i>U 919 714-5</i>	Complaint/Incident Number <i>PCS-20-0007</i>
Defendant Name:	First: MICHAEL	Middle: J.	Last: CABRY III

with violating the penal laws of the Commonwealth of Pennsylvania at [247] West Goshen Township
 (Subdivision Code) (Place-Political Subdivision)

in CHESTER County [15] on or about 11/13/16 THROUGH 1/31/18
 (County Code)

The acts committed by the accused are described below with each Act of Assembly or statute allegedly violated, if appropriate. When there is more than one offense, each offense should be numbered chronologically. (Set forth a brief summary of the facts sufficient to advise the defendant of the nature of the offense(s) charged. A citation to the statute(s) allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section(s) and subsection(s) of the statute(s) or ordinance(s) allegedly violated. The age of the victim at the time of the offense may be included if known. In addition, social security numbers and financial information (e.g. PINs) should not be listed. If the identity of an account must be established, list only the last four digits. 204 PA.Code §§ 213.1 – 213.7.)

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older _____					
<input checked="" type="checkbox"/>	1	3921	(a)	of the	18 PA.C.S.A.	1	F3		
Lead?	Offense #	Section	Subsection		PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code
PennDOT Data (if applicable)	Accident Number			<input type="checkbox"/>	Interstate	<input type="checkbox"/>	Safety Zone	<input type="checkbox"/>	Work Zone
Statute Description (include the name of statute or ordinance): THEFT BY UNLAWFUL TAKING									
Acts of the accused associated with this Offense: The actor did unlawfully take or exercise unlawful control over movable property of another with intent to deprive him thereof. To wit: the defendant withdrew and spent approximately \$4,000 from the Citizens for Cabry campaign account on personal expenses unrelated to political activity.									

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older _____					
<input type="checkbox"/>	2	3249	(b)	of the	25 P.S.	1	M1		
Lead?	Offense #	Section	Subsection		PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code
PennDOT Data (if applicable)	Accident Number			<input type="checkbox"/>	Interstate	<input type="checkbox"/>	Safety Zone	<input type="checkbox"/>	Work Zone
Statute Description (include the name of statute or ordinance): PERJURY									
Acts of the accused associated with this Offense: Any willfully false, fraudulent or misleading statement or entry made by any candidate or treasurer in any statement or report under oath as required by this article shall constitute the crime of perjury. To wit: Cabry submitted notarized Campaign Finance reports for his 2017 re-election campaign that contained fraudulent accounting of expenditures.									

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older _____					
<input type="checkbox"/>	3	3246	(a)	of the	25 P.S.	1	M		
Lead?	Offense #	Section	Subsection		PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code
PennDOT Data (if applicable)	Accident Number			<input type="checkbox"/>	Interstate	<input type="checkbox"/>	Safety Zone	<input type="checkbox"/>	Work Zone
Statute Description (include the name of statute or ordinance): REPORTING BY CANDIDATE AND POLITICAL COMMITTEE									



POLICE CRIMINAL COMPLAINT

Docket Number: CR-18F-20	Date Filed: 10/6/20	OTN/LiveScan Number U 919714-5	Complaint/Incident Number FCS-20-0007
Defendant Name:	First MICHAEL	Middle: J.	Last CABRY III

Acts of the accused associated with this Offense: Each candidate for election shall file with the appropriate supervisor reports of receipts and expenditures on forms, designed by the Secretary of the Commonwealth, if the amount received or expended or liabilities incurred shall exceed the sum of \$250. To wit: Cabry failed to file reports of receipts and expenditures of multiple expenditures and/or liabilities where the expenditures and/or liabilities exceeded \$250.

<input type="checkbox"/> Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older _____
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<input type="checkbox"/> Lead?	4	3246	(b)2	of the	25 P.S.	1	M		
	Offense #	Section	Subsection		PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if applicable)	Accident Number	<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
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Statute Description (include the name of statute or ordinance): **REPORTING BY CANDIDATE AND POLITICAL COMMITTEE**

Acts of the accused associated with this Offense: The Campaign Finance Report shall include each contribution over \$50, the full name and address of the person making the contribution. To wit: the Citizens for Cabry campaign account received several contributions that were not listed on the Campaign Finance Reports for Cabry's 2017 re-election campaign.

<input type="checkbox"/> Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older _____
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<input type="checkbox"/> Lead?	5	3246	(b)4	of the	25 P.S.	1	M		
	Offense #	Section	Subsection		PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if applicable)	Accident Number	<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
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Statute Description (include the name of statute or ordinance): **REPORTING BY CANDIDATE AND POLITICAL COMMITTEE**

Acts of the accused associated with this Offense: The Campaign Finance Report shall include each and every expenditure, the date made, the full name and address of the person to whom made and the purpose for which such expenditure was made To wit: Cabry failed to provide a full and accurate account of expenditures related to Campaign Finance Reports for his 2017 re-election campaign.

<input type="checkbox"/> Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older _____
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<input type="checkbox"/> Lead?	6	3254	a	of the	25 P.S.	1	M		
	Offense #	Section	Subsection		PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if applicable)	Accident Number	<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
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Statute Description (include the name of statute or ordinance): **LAWFUL ELECTION EXPENDITURES**

Acts of the accused associated with this Offense: No candidate, chairman or treasurer of any political committee shall make or agree to make any expenditure or incur any liability, except as provided in section 1621(d). To wit: Cabry made withdrawals from his re-election fund for the purpose of gambling at various casinos in Delaware, New Jersey, and Pennsylvania.

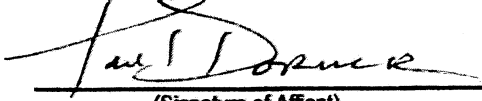


POLICE CRIMINAL COMPLAINT

Docket Number: <i>CR-181-20</i>	Date Filed: <i>10/06/20</i>	OTN/LiveScan Number <i>U 91971475</i>	Complaint/Incident Number <i>PCS-20-0007</i>
Defendant Name:	First: MICHAEL	Middle: J.	Last: CABRY III

- I ask that a warrant of arrest or a summons be issued and that the defendant be required to answer the charges I have made.
- I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 Pa.C.S. § 4904) relating to unsworn falsification to authorities.
- This complaint consists of the preceding page(s) numbered 1 through 6
- 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.

The acts committed by the accused, as listed and hereafter, were against the peace and dignity of the Commonwealth of Pennsylvania and were contrary to the Act(s) of the Assembly, or in violation of the statutes cited.
(Before a warrant of arrest can be issued, an affidavit of probable cause must be completed, sworn to before the issuing authority, and attached.)

 (Date) (Year) 
 (Signature of Affiant)

AND NOW, on this October 6, 2020 I certify that the complaint has been properly completed and verified.
 date
 An affidavit of probable cause must be completed before a warrant can be issued.

15-2-03
 (Magisterial District Court Number)


 (Issuing Authority)





POLICE CRIMINAL COMPLAINT

Docket Number: CR-181-20	Date Filed: 10/06/20	OTN/LiveScan Number U 919 714-5	Complaint/Incident Number PCS-20-0007
Defendant Name: First: MICHAEL		Middle: J.	Last: CABRY III

AFFIDAVIT of PROBABLE CAUSE

- A. Your Affiant, Paul Dormer, Special Agent of the Pennsylvania Office of Attorney General (PA OAG), being duly sworn, depose and say;
- B. Your Affiant has been conducting a criminal investigation into violations of the criminal laws of the Commonwealth of Pennsylvania. This investigation has used the resources of the Forty-Fifth Statewide Investigating Grand Jury. On September 25, 2020, the Forty-Fifth Statewide Investigating Grand Jury issued Presentment Number 13. On September 29, 2020, the Honorable Judge Richard A. Lewis, Supervising Judge, entered a court order accepting the Grand Jury's recommendation of charges and findings. The Presentment, attached and herein incorporated by reference, recommends that the Attorney General of Pennsylvania or his designee file the charges specified in this criminal complaint and Presentment Number 13 against the following individual:

Michael J. Cabry III

- c. Your Affiant believes through participation in this investigation and as recommended by the Forty-Fifth Statewide Investigating Grand Jury that probable causes exists for the arrest of the above named party and respectfully ask this honorable court to issue arrest warrant for the above named parties so that they maybe be brought before this court to answer to the charges set forth herein.

I, SA PAUL DORMER, BEING DULY SWORN ACCORDING TO THE LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

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 THAT NON-CONFIDENTIAL INFORMATION AND DOCUMENTS.



POLICE CRIMINAL COMPLAINT

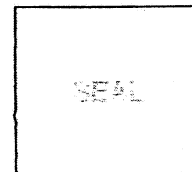
Docket Number: CR-187-20	Date Filed: 10/06/20	OTN/LiveScan Number U 919-714-5	Complaint/Incident Number PCS-20-0007
Defendant Name:	First: MICHAEL	Middle: J.	Last: CABRY III

(Signature of Affiant)

Sworn to me and subscribed before me this _____ day of _____

_____, Date _____, Magisterial District Judge

My commission expires first Monday of January,



IN THE COURT OF COMMON PLEAS
DAUPHIN COUNTY, PENNSYLVANIA

IN RE: : SUPREME COURT OF PENNSYLVANIA
: 13 M.D. MISC. DKT. 2019
THE FORTY-FIFTH STATEWIDE :
: DAUPHIN COUNTY COMMON PLEAS
INVESTIGATING GRAND JURY : CP-22-MD-607-2019
:
: NOTICE NO. 48

ORDER ACCEPTING PRESENTMENT NO. 13

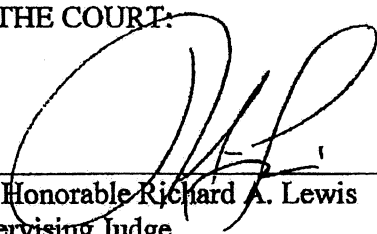
1. The Court finds Presentment No. 13 of the Forty-Fifth Statewide Investigating Grand Jury is within the authority of said Grand Jury and is in accordance with the provisions of the Investigating Grand Jury Act, 42 Pa.C.S. §§ 4541 *et seq.* Accordingly, this Presentment is accepted by the Court.

2. The County for conducting the trial of all charges pursuant to this Presentment shall be Chester County.

3. It is hereby recommended that the Attorney General of the Commonwealth of Pennsylvania, or his designee, institute appropriate criminal proceedings in the aforesaid county.

SO ORDERED this 29th day of September, 2020.

BY THE COURT:



The Honorable Richard A. Lewis
Supervising Judge
The Forty-Fifth Statewide Investigating Grand Jury

**IN THE COURT OF COMMON PLEAS
DAUPHIN COUNTY, PENNSYLVANIA**

IN RE: : **SUPREME COURT OF PENNSYLVANIA**
: **13 M.D. MISC. DKT. 2019**
THE FORTY-FIFTH STATEWIDE :
: **DAUPHIN COUNTY COMMON PLEAS**
INVESTIGATING GRAND JURY : **CP-22-MD-607-2019**
:
: **NOTICE NO. 48**

TO THE HONORABLE RICHARD A. LEWIS, SUPERVISING JUDGE:

PRESENTMENT NO. 13

We, the Forty-Fifth Statewide Investigating Grand Jury, duly charged to inquire into offenses against the criminal laws of the Commonwealth, have obtained knowledge of such matters from witnesses sworn by the Court and testifying before us. We find reasonable grounds to believe that various violations of the criminal laws have occurred. So finding with no fewer than twelve concurring, we do hereby make this Presentment to the Court.



Foreperson
The Forty-Fifth Statewide Investigating Grand Jury

DATED: September 25, 2020

INTRODUCTION

We, the members of the Forty-Fifth Statewide Investigating Grand Jury, having received and reviewed evidence regarding violations of the Pennsylvania Election Code and Crimes Code occurring in Chester County, Pennsylvania pursuant to Notice of Submission of Investigation No. 48, do hereby make the following findings of fact and recommendation of charges.

FINDINGS OF FACT

The Grand Jury conducted an investigation into violations of the Election Code and the Crimes Code committed by Michael J. Cabry III ("Cabry"), a sitting Magisterial District Judge ("MDJ") serving Chester County. The investigation revealed that Cabry failed to file campaign finance reports for several of the required time periods encompassing his 2017 re-election campaign and failed to report all campaign expenditures. He also unlawfully spent approximately \$4,000.00 in donor contributions to pay for personal expenses that had no connection to his campaign or political activity. Many of these illegal campaign fund withdrawals occurred at casinos throughout the area – from Harrisburg to Atlantic City to Delaware – to support a six-figure gambling habit.

Cabry has served as a MDJ since 2000 and his most recent election year was 2017. Running unopposed, he was re-elected to another six-year term. The Grand Jury learned that Cabry had a political committee, "Citizens for Cabry," that was created to receive contributions and make expenditures in support of his candidacy. Citizens for Cabry was officially registered on November 14, 2016 and was to operate solely for the purpose of the 2017 election campaign. Cabry's niece, Kristin Wiggins ("Wiggins"), served as the treasurer of the committee.

The Grand Jury learned that Wiggins opened a business account with PNC Bank in January 2017 under the committee name in order to deposit campaign donations and make withdrawals for

the various expenditures of the campaign. The records for the Citizens for Cabry account revealed that two debit cards were issued to Wiggins and Cabry, respectively, when the account was opened. Although two cards were issued, Wiggins' card was never activated nor used to make any withdrawals from the account. The card issued to Cabry, however, was used to make withdrawals from the account on a consistent basis throughout the duration of the campaign.

As part of the investigation, the Grand Jury obtained and reviewed the campaign finance reports filed by the committee for the required purpose of accounting for the contributions to and expenditures from the campaign account. While there were reports filed on four separate occasions, those reports failed to cover the full calendar year of the campaign. The first campaign finance report - - filed, sworn to, notarized, and signed by Cabry - - covered the period of January 1, 2017 through May 1, 2017. While the report showed multiple campaign donations and what appeared to be expenditures consistent with a political campaign, there were several expenditures that were listed only as reimbursements to Cabry himself. Accordingly, the nature of the expenditures was unclear. An examination of the bank records for the campaign account failed to provide any additional clarity as to what, if any, campaign expense was incurred to justify the reimbursements. One such expenditure, an ATM withdrawal of \$205.00 at Hollywood Casino in Dauphin County, was reported by Cabry as a "reimbursement for Harrisburg." A second campaign expense for this time period, described only as "reimbursement," appeared to be an ATM withdrawal of \$205.99 at Harrah's Casino in Chester.

On June 9, 2017, Cabry again filed a signed and notarized campaign finance report for the time period of May 2, 2017 through June 5, 2017. According to the bank records for the Citizens for Cabry account, Cabry used the debit card to make numerous withdrawals unrelated to his campaign throughout the approximately 30 day period. On May 9, 2017, Cabry withdrew \$204.00

at Delaware Park Casino. Between May 22 and May 23, Cabry made three separate withdrawals from the campaign fund account, totaling \$751.98. One withdrawal occurred at an ATM in Ventnor, New Jersey and two transactions occurred at Bally's Hotel and Casino in Atlantic City. Subsequently, there was a \$204.00 withdrawal from Delaware Park Casino on May 31, followed by a \$200.00 withdrawal from Dover Downs Hotel and Casino on June 5, 2017. Several of these transactions were listed as generic expenditures for "reimbursements" to Cabry on the campaign finance reports. Additionally, there was a debit of \$489.00 at a Microtel Inn in Dover, Delaware -- the same day as the withdrawal at Dover Downs Casino -- which Cabry included as a campaign expenditure on his report for that period.

For the reporting period of June 6, 2017 through September 12, 2017, Cabry failed to file any campaign finance reports whatsoever. However, a review of the bank records showed numerous debits, including six separate transactions in June and July at Delaware Park Casino wherein Cabry withdrew \$1,232.00 from the campaign fund. There were also purchases made at grocery stores, dry cleaners and restaurants, as well as payments for hotel stays. Furthermore, in June 2017 there were five separate cash deposits totaling \$1,900.00. In similar fashion, no report was ever filed for the period of October 24, 2017 through November 27, 2017, despite the fact that there were food purchases and ATM withdrawals, including two withdrawals at Delaware Park Casino in November.

In total, Cabry withdrew \$3,254.97 in 16 separate transactions from the Citizens for Cabry political committee account in 2017 at various casinos in Pennsylvania, New Jersey and Delaware. The Grand Jury reviewed records from Delaware Park Casino, confirming that Cabry frequented that location and was gambling at the casino on the dates of the ATM withdrawals. According to the records, Cabry visited Delaware Park a minimum of once per week throughout 2017, often

more frequently. In total, he wagered \$110,782.62 in 2017.¹ Delaware Park Casino records confirmed that Wiggins had no active play during the time period in question. A review of a personal bank and credit account held by Cabry at Sun East Federal Credit Union revealed that at the times when Cabry was using the campaign funds to gamble, his personal accounts were severely depleted. Thus, Cabry chose to unlawfully use monies that campaign donors intended to be utilized for his political campaign to fund his personal expenses as he saw fit.

As part of the investigation, Special Agent Paul Dormer ("SA Dormer") of the Pennsylvania Office of Attorney General interviewed several individuals associated with Cabry who made contributions to his campaign, and who were served with subpoenas in early August to testify before the Grand Jury. On August 11, 2020, SA Dormer executed a search warrant at the residence of Cabry in an attempt to obtain any additional receipts or ledgers documenting the questionable expenditures listed on the campaign finance reports as well as those evidenced in the bank records. At that time, despite the fact that the campaign had ended nearly three years ago, Cabry had copies of his finance reports, bank records, and handwritten notes on his dining room table, kitchen countertop, and in the trash can.

¹ Cabry also won \$101,709.11 at Delaware Park that year, for a total loss of \$9,073.51, according to casino records.