

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

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JUDICIAL DISCIPLINE

2017 MAR 30 P 3:08

IN RE:

Mark A. Wilson :
Magisterial District Judge : 1 JD 2017
Magisterial District 27-1-02 :
27th Judicial District :
Washington County :

IMPORTANT NOTICE

TO: MARK A. WILSON:

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 the Administration of Justice and Disrepute Clauses of § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania, Rules 2A, 4A, 4D and 8A of the Old Rules Governing Standards of Conduct of Magisterial District Judges and Rules 1.1, 1.2 and 2.2 of the New 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.

COMPLAINT

AND NOW, this 30st day of March 2017, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania and files this Board Complaint against the Honorable Mark A. Wilson, Magisterial District Judge for Magisterial District Court 27-1-02 of Washington County, Pennsylvania, alleging that Judge Wilson has violated the Rules Governing Standards of Conduct of Magisterial District Judges and Article V, §§ 17(b) and 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania, as more specifically delineated herein:

1. Article V, § 18 of the Constitution of the Commonwealth of Pennsylvania grants to the Board the authority to determine whether there is probable cause 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 January 2006 until the present time, Judge Wilson has served continuously as the magisterial district judge of District Court 27-1-02 in Washington County, Pennsylvania.

3. As a magisterial district judge, Judge Wilson is, and was at all times relevant hereto, subject to all the duties and responsibilities imposed on him by the Constitution of the Commonwealth of Pennsylvania and the Rules Governing Standards of Conduct of Magisterial District Judges.

4. Based on a Confidential Request for Investigation at JCB File No. 2013-370, the Board investigated the instant matter.

5. As a result of its investigation, and pursuant to Article V, § 18(a)(7) of the Constitution of the Commonwealth of Pennsylvania, the Board determined that there is probable cause to file formal charges against Judge Wilson in this Court.

6. Some of the alleged judicial misconduct occurred prior to December 1, 2014 and therefore, the Old Rules Governing Standards of Conduct of Magisterial District Judges (R.G.S.C.M.D.J.) apply to those allegations of misconduct.

7. Some of the alleged judicial misconduct occurred after November 30, 2014 and therefore, the New R.G.S.C.M.D.J. apply to those allegations of misconduct.

A. Commonwealth v. Kepics

8. Robert L. Kepics is the Mayor of Monongahela, Pennsylvania and has served in that public office for approximately nine years.

9. Mayor Kepics' now deceased parents were neighbors to and close friends with John and Shirley Amon.

10. On April 26, 2011, the Amons agreed to make a personal loan to Mayor Kepics in the amount of \$3,935 for purposes of paying taxes on his parents' home and for other expenses.

11. Between November 29, 2011 and September 12, 2012, Mayor Kepics made a series of partial payments to the Amons, which totaled \$1,600.

12. As of December 4, 2012, Mayor Kepics owed a remaining debt of \$2,335 to the Amons.

13. On Tuesday, December 4, 2012, Mr. Amon went to District Court 27-1-02 and spoke directly to Judge Wilson, asking him how to collect the remainder of the personal loan owed by Mayor Kepics.

14. Judge Wilson advised Mr. Amon that he could file either a civil complaint or a private criminal complaint.

15. Mr. Amon chose to file a private criminal complaint and obtained the form at the district court.

16. Mr. Amon filled out the Private Criminal Complaint form in part.

17. An individual at District Court 27-1-02, other than Mr. Amon, completed the Private Criminal Complaint form, including the criminal charge of Theft by Deception with its statutory citation.

18. The criminal offense of Theft by Deception provides, in part:

(a) Offense defined - A person is guilty of theft if he intentionally obtains or withholds property of another by deception. A person deceives if he intentionally:

(1) creates or reinforces a false impression, including false impressions as to law, value, intention or other state of mind; but deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise . . .

18 Pa.C.S.A. § 3922.

19. The Amons' Private Criminal Complaint alleged that Mayor Kepics repaid \$1,600 of the \$3,935 personal loan, leaving a remaining balance of \$2,335.

20. The statute defining the grading of theft offenses provides, in relevant part:

(a.1) . . . theft constitutes a felony of third degree if the amount involved exceeds \$2,000. . .

18 Pa.C.S.A. § 3903.

21. The Amons' Private Criminal Complaint alleged that Mayor Kepics repaid \$1,600 of the \$3,935 personal loan they made to him, leaving a remaining balance of \$2,335.

22. An employee at District Court 27-1-02 told Mr. Amon that the Office of the District Attorney must approve the Private Criminal Complaint before it can be filed in district court.

23. During the week of December 3, 2012, Judge Wilson called Assistant District Attorney Joseph A. Carroll and requested that he come to District Court 27-1-02 to review a private criminal complaint involving a theft by deception charge. ADA Carroll responded that he might be able to review the complaint on Friday of that week.

24. On Monday, December 10, 2012, an employee of the Office of the District Attorney texted ADA Carroll at 9:53 a.m. and informed him that Judge Wilson wanted ADA Carroll to call him.

25. ADA Carroll called Judge Wilson at 9:58 a.m.

26. Judge Wilson asked ADA Carroll whether he was going to come to his office to review the Private Criminal Complaint.

27. ADA Carroll informed Judge Wilson that he would not be able to come that day, but would come the next day, December 11, 2012.

28. On Tuesday, December 11, 2012, ADA Carroll received a text message from the Office of the District Attorney at 10:30 a.m. informing him that Judge Wilson's office called to remind him to come to the office that same day to review the private criminal complaint.

29. On December 11, 2012, ADA Carroll went to Judge Wilson's court and reviewed the Amons' Private Criminal Complaint against Robert Kepics.

30. When ADA Carroll received the Private Criminal Complaint from Judge Wilson, the criminal offense of Theft by Deception and its statutory citation were already typewritten on the form.

31. While ADA Carroll reviewed the Amons' Private Criminal Complaint, Judge Wilson asked him if he believed the facts set forth by Mr. Amon amounted to

a criminal complaint.

32. ADA Carroll told Judge Wilson that he believed the facts in the Amon's Private Criminal Complaint were more civil than criminal, but that there may be criminal aspects to it.

33. Judge Wilson told ADA Carroll that Robert Kepics had only made \$400 in payments to the Amons, that Kepics was avoiding their attempts to contact him, and that the Amons were good people and that he wanted to help them out.

34. ADA Carroll approved the Private Criminal Complaint and returned it to Judge Wilson.

35. Based on the amount of money remaining on the debt owed by Mayor Kepics to the Amons, the charge of Theft by Deception in the Private Criminal Complaint, *Commonwealth v. Kepics*, Docket No. MJ-27102-CR-0000416-2012, was a felony of the third degree.

36. Rule 509 of the Pennsylvania Rules of Criminal Procedure provides in pertinent part:

If a complaint charges an offense that is a court case, the issuing authority with whom it is filed shall:

(2) issue a warrant of arrest when:

(a) one or more of the offenses charged is a felony . . .

Pa.R.Crim.P. No. 509(2)(a).

37. Immediately following ADA Carroll's approval of the Private Criminal Complaint, Judge Wilson's District Court Office Manager called Constable Walter P. Fronzaglio and told him that Judge Wilson wanted to see him right away.

38. Constable Fronzaglio went directly to the District Court where he found Judge Wilson alone in the courtroom, seated at the bench.

39. Judge Wilson handed Constable Fronzaglio the arrest warrant for Mayor Kepics, and angrily yelled, "Go get this motherfucker! I want you to bring this motherfucker in right now."

40. Judge Wilson told Constable Fronzaglio that an elderly couple were good enough to lend money to Mayor Kepics and he did not pay them back.

41. Judge Wilson directed Constable Fronzaglio as follows:

I'm gonna teach him a fucking lesson! Go get him. He's either at his house or he's in his goddamn office at the Municipal Building. Bring his ass in here now, today. I want him in here.

42. Judge Wilson demonstrated an angry demeanor while ordering Constable Fronzaglio to arrest Mayor Kepics.

43. On December 11, 2012, Constable Fronzaglio arrested Mayor Kepics at his office in the municipal building and transported him directly to Judge Wilson's district court for his Preliminary Arraignment.

44. During the December 11, 2012 Preliminary Arraignment, Judge Wilson read the Private Criminal Complaint to Mayor Kepics, advised him of his rights, and imposed a monetary bail condition of \$5,000, a sum that Mayor Kepics and his wife could not provide at that instant.

45. Rule 523 of the Pennsylvania Rules of Criminal Procedure is titled "Release Criteria" and provides, in pertinent part:

(A) To determine whether to release a defendant, and what conditions, if any, to impose, the bail authority shall consider all available information as that information is relevant to the defendant's appearance or nonappearance at subsequent proceedings, or

compliance or noncompliance with the conditions of the bail bond, including information about:

- (1) the nature of the offense charged and any mitigating or aggravating factors that may bear upon the likelihood of conviction and possible penalty;
 - (2) the defendant's employment status and history, and financial condition;
 - (3) the nature of the defendant's family relationships;
 - (4) the length and nature of the defendant's residence in the community, and any past residences;
 - (5) the defendant's age, character, reputation, mental condition, and whether addicted to alcohol or drugs;
 - (6) if the defendant has previously been released on bail, whether he or she appeared as required and complied with the conditions of the bail bond;
 - (7) whether the defendant has any record of flight to avoid arrest or prosecution, or of escape or attempted escape;
 - (8) the defendant's prior criminal record;
 - (9) any use of false identification; and
 - (10) any other factors relevant to whether the defendant will appear as required and comply with the conditions of the bail bond.
- (B) The decision of a defendant not to admit culpability or not to assist in an investigation shall not be a reason to impose additional or more restrictive conditions of bail on the defendant.

Pa.R.Crim.P. No. 523.

46. Pursuant to Pa.R.Crim.P. Rule No. 523, in determining the appropriate bail in *Commonwealth v. Kepics*, Judge Wilson was required to consider particular factors relevant to whether Mayor Kepics would appear at subsequent criminal proceedings and whether he would comply with the conditions of the bail bond.

47. At the Preliminary Arraignment in the *Kepics* matter, Judge Wilson failed to question Mayor Kepics about, or consider the following information relevant to the "Release Criteria" set forth in Pa.R.Crim.P. No. 523:

- a. the offense involved the failure of Mayor Kepics to fully repay a personal loan; an allegation that would not likely lead to a criminal conviction or penalty;
- b. the defendant served as the elected Mayor of Monongahela;
- c. Mayor Kepics did not have sufficient monetary resources to post bail;
- d. the nature of Mayor Kepics' family relationships, including that he was married and resided with his wife;
- e. Mayor Kepics was a lifelong resident of Monongahela;
- f. Mayor Kepics' age of 56, his character and reputation in the community;
- g. Mayor Kepics had no record of fleeing to avoid arrest or prosecution, or of escape or attempted escape;
- h. the allegation contained no information that Mayor Kepics used false identification in the offense charged;
- i. Mayor Kepics had no prior criminal record; or
- j. any other mitigating or aggravating factors relevant to whether Mayor Kepics would appear and comply with the conditions of any bail bond.

48. Judge Wilson set a \$5,000 monetary bail condition in the *Kepics* matter without due consideration of the "Release Criteria" in Pa.R.Crim.P. No. 523.

49. At his December 13, 2016 Board deposition, Judge Wilson remarked about his decision to impose a \$5,000 monetary bail condition in *Commonwealth v. Kepics* as follows:

A: That's a typical bail that I set in those types of cases. It was a theft. When there's elderly people involved it's just what I do it's the way I set bail.

50. At his December 13, 2016 Board deposition, Judge Wilson admitted that he did not consider particular facts about Mayor Kepics' circumstances when he imposed the \$5,000 monetary bail condition:

Q: Did you consider that Mayor Kepics was an elected official?

A: I tried to not let that affect any decision I made, being an elected official.

Q: Did you consider that he didn't have a [prior] criminal record?

A: I didn't know if he did or not.

Q: Did you ask him?

A: No, I didn't.

Q: Did you go through this list of criteria when you were determining the bail?

A: I didn't go through it all, no.

Q: Did you consider his – the risk of whether there was any risk of flight on the part of the mayor?

A: I don't think he would have absconded, no.

Q: Did you consider - - going through these factors, did you consider any of those issues when determining how much bail you planned to set for Mayor Kepics?

A: No. We normally set the same bail for these types of charges in all cases pretty consistently, I would say.

Q: Did you take into consideration that the bail amount of \$5,000 was twice as much as the amount of the money that he owed on the personal loan?

A: I didn't consider that.

51. At the December 13, 2016 Board deposition, Judge Wilson responded to questions about his decision to set the \$5,000 monetary bail condition in *Commonwealth v. Kepics* as follows:

A: I consider the grading of the charge. Typically, I'm setting \$5,000 straight cash bail on these. It's pretty consistent all the way across since I've been there. It didn't matter if it's the mayor or the garbage man. I set the bail the same for whoever it is. I'm not trying to be disrespectful, but that's the way I'm going.

Q: Well, when I asked you whether or not you took into account that he was an elected official that was certainly not whether you were going to grant favoritism toward him on his position.

A: I understand.

Q: The question was aimed at his reputation in the community, his length of residency, his service to the community, whether you believe he was a risk for fleeing while he was awaiting further proceedings, those kind of factors, whether those were considered.

A: They weren't.

52. When Board Counsel asked Judge Wilson if he had considered setting Mayor Kepics' bail type as Release on Recognizance (ROR), Judge Wilson responded under oath:

A: No.

Q: Why is that?

A: I typically set straight cash bail in cases that have these charges and this degree of seriousness to them.

53. The Minor Judiciary Education Board provides all Pennsylvania magisterial district judges with training on bail rules, including Pa.R.Crim.P. No. 523.

54. Judge Wilson attended training for newly elected magisterial district judges in 2006 and attends a week-long training program for magisterial district judges on an annual basis.

55. On May 15, 2012, Judge Wilson attended a continuing education training on bail rules taught by Nicholas J. Wachinski, Esq., and received a training packet titled "2011 Bail Update."

56. The 2011 Bail Update packet included a section on the Pa.R.Crim.P. No. 523 "Release Criteria," which informs magisterial district judges that consideration of the "factors is not discretionary."

57. After imposing the \$5,000 monetary bail condition, Judge Wilson directed Constable Fronzaglio to "take [Mayor Kepics] to jail!"

58. Constable Fronzaglio immediately transported Mayor Kepics to the Washington County Prison where he was incarcerated.

59. Several hours later, on December 11, 2012, Judge Wilson called Constable Fronzaglio and asked if Mayor Kepics had called Judge Wilson any names.

60. Constable Fronzaglio responded that Mayor Kepics did not call Judge Wilson any names.

61. During the same telephone call, Judge Wilson reiterated that Mayor Kepics borrowed money from old people and had not paid them back.

62. During the same telephone call with Constable Fronzaglio, Judge Wilson called Mayor Kepics a "son-of-a-bitch," a "deadbeat," and a "goddamn bum."

63. On December 11, 2012, at or about 3:00 p.m., ADA Carroll observed online news about the arrest and incarceration of Mayor Kepics.

64. ADA Carroll immediately contacted his superiors at the Office of the District Attorney to inform them of the arrest and incarceration of Mayor Kepics.

65. On December 11, 2012, Mayor Kepics' wife arranged for a bail bond and Mayor Kepics was released from Washington County Prison later that same day.

66. On December 14, 2012, Washington County District Attorney Eugene A. Vittone sent a letter to Judge Wilson, stating that he was withdrawing the criminal charge of Theft by Deception against Mayor Kepics for lack of criminal intent, a necessary element for Theft by Deception.

67. DA Vittone considered the personal loan between the Amons and Mayor Kepics to be a civil matter.

B. Bail Issues in Other Private Criminal Complaint Cases

2013 Welfare Fraud Cases

68. On January 7, 2013, Annabel Trappuzano, Investigator for the Office of the Inspector General, filed separate Private Criminal Complaints against B.G and K.P. in Judge Wilson's district court, alleging that the defendants fraudulently obtained public assistance in the form of food stamps (welfare fraud). Docket Nos. MJ-27102-CR-0000009-2013 and MJ-27102-CR-0000010-2013.

69. The value of the fraudulently acquired food stamps on each of the Private Criminal Complaints against B.G. and K.P. was \$1,563.

70. The crime of fraudulently obtaining public assistance in the amount of \$1,563 is a misdemeanor of the first degree, as set forth in 62 P.S. § 481.

71. On January 7, 2013, Judge Wilson's district court issued notices to B.G. and K.P. for their Preliminary Hearings, scheduled for February 7, 2013 at 1:45 p.m.

72. Between 8:34 a.m. and 8:36 a.m. on February 7, 2013, Judge Wilson completed a Commitment Order for the incarceration of B.G. at Washington County Prison based on his inability to meet the \$5,000 monetary bail condition.

73. Between 8:34 a.m. and 8:36 a.m. on February 7, 2013, Judge Wilson completed a Commitment Order for the incarceration of K.P. at Washington County Prison based on her inability to meet the \$5,000 monetary bail condition.

74. On February 7, 2013 at approximately 1:45 p.m., Judge Wilson presided over the Preliminary Hearings of B.G. and K.P., where Washington County District Attorney Eugene Vittone represented the Commonwealth and OIG Investigator Trappuzano appeared as the affiant.

75. Prior to the Preliminary Hearings, DA Vittone and OIG Investigator Trappuzano entered into an agreement with B.G. and K.P. wherein the DA would move for continuances in both cases, and the defendants would repay the value of the fraudulently obtained food stamps. If B.G. and K.P. timely repaid the value of the food stamps, then DA Vittone would withdraw the Private Criminal Complaints against them; however, they would be ineligible to receive welfare benefits in the future.

76. DA Vittone informed Judge Wilson of the agreement and requested continuances in the cases against B.G. and K.P.

77. Upon accepting DA Vittone's request, Judge Wilson arraigned B.G. and K.P. and announced that he was imposing a \$5,000 monetary bail condition in each case.

78. B.G. and K.P. were not able to post the required cash to meet the monetary bail conditions.

79. Judge Wilson directed the constable to put handcuffs on B.G. in preparation for his incarceration.

80. DA Vittone and OIG Investigator Trappuzano objected to the monetary bail condition.

81. DA Vittone indicated that he would withdraw the cases to prevent the defendants' incarceration.

82. Judge Wilson then agreed to set an unsecured monetary bail condition for B.G. and K.P., eliminating the need for them to deposit money to secure their release.

83. Between 2:00 p.m. and 2:01 p.m., Judge Wilson issued the unsecured bail documents, upon which the defendants' signatures appear.

84. Prior to February 7, 2013, OIG Investigator Trapuzzano has appeared before Judge Wilson as the affiant many times and never witnessed Judge Wilson set a monetary bail condition in any other welfare fraud case.

85. OIG Investigator Trapuzzano has appeared as the affiant before many magisterial district judges and has only seen significant monetary bail conditions set in cases involving aggravating circumstances.

86. There is no evidence of aggravating circumstances in the Private Criminal Complaints against B.G. and K.P.

2015 Welfare Fraud Cases

87. On May 29, 2015, Susan Banaszak-Catena, Investigator for the Office of the Inspector General, filed separate Private Criminal Complaints against A.S. and R.Z. in Judge Wilson's district court, alleging that the defendants fraudulently obtained public assistance in the form of food stamps (welfare fraud). Docket Nos. MJ-27102-CR-0000178-2015 and MJ-27102-CR-0000179-2015.

88. The value of the fraudulently acquired food stamps on each of the Private Criminal Complaints against A.S. and R.Z. was \$1,248.13

89. The crime of fraudulently obtaining public assistance in the amount of \$1,248.13 is a misdemeanor of the second degree, as set forth in 62 P.S. § 481.

90. On May 29, 2015, the same day as OIG Investigator Banaszak-Catena filed the Private Criminal Complaints, Judge Wilson issued arrest warrants for A.S. and R.Z.

91. On the morning of June 1, 2015, Investigator Banaszak-Catena received a telephone call from the A.S. and R.Z. who told her that a constable was at their home to arrest them.

92. On June 1, 2015, Investigator Banaszak-Catena called Judge Wilson to inquire as to why he issued arrest warrants against A.S. and R.Z. As Judge Wilson was unavailable, she left a voicemail message asking him to return her call.

93. On June 1, 2015, Judge Wilson presided over the Preliminary Arraignments of A.S. and R.Z. and set a \$5,000 monetary bail condition in each of their cases.

94. On June 1, 2015, A.S. and R.Z. were not able to post the \$5,000 monetary bail conditions and were therefore committed to the Washington County Prison.

95. Following the June 1, 2015 Preliminary Arraignments, Judge Wilson returned Investigator Banaszak-Catena's call and explained that he always issues arrest warrants for defendants in welfare fraud cases.

96. Judge Wilson also informed Investigator Banaszak-Catena that he bases his bail decisions on the criminal charges and the past criminal history of the defendants.

97. Investigator Banaszak-Catena has appeared before every magisterial district judge in Washington County, and many in Allegheny County, and has never known a judge to issue an arrest warrant on a private criminal complaint involving welfare fraud.

98. Judge Wilson failed to follow Rule 509 of the Pennsylvania Rules of Criminal Procedure when he issued arrest warrants based on the Private Criminal Complaints against A.S. and R.Z.

99. Rule 509 of the Pennsylvania Rules of Criminal Procedure provides in pertinent part:

If a complaint charges an offense that is a court case, the issuing authority with whom it is filed shall:

(1) issue a summons and not a warrant of arrest in cases in which the most serious offense charged is a misdemeanor of the second degree . . .

(2) issue a warrant of arrest when:

. . .

(b) the issuing authority has reasonable grounds for believing that the defendant will not obey the summons; or

(c) the issuing authority has reasonable grounds for believing that the defendant poses a threat of physical harm to any other person or to himself or herself.

Pa.R.Crim.P. No. 509(1)-(2)(b)(c).

100. Insufficient facts existed in either of these cases for there to be reasonable grounds for Judge Wilson to believe that A.S. and R.Z. would not obey a summons or pose a threat of physical harm to others or themselves.

Failure to Consider Bail Factors in Other Private Criminal Complaints

101. Prior to December 1, 2014, Judge Wilson imposed a \$5,000 monetary bail condition in each of the following criminal cases involving various theft-related offenses:

Cases Prior to December 1, 2014

<u>Case Name & No.</u>	<u>Criminal Offense</u>	<u>Date Bail Imposed</u>	<u>Bail Imposed</u>
<i>Commonwealth v. Leyda</i> MJ-27102-CR-329-2012	Retail Theft	October 4, 2012	\$5000 Monetary
<i>Commonwealth v. Meehan</i> MJ-27102-CR-389-2012	Bad Checks	December 10, 2012	\$5000 Monetary
<i>Commonwealth v. Fischer</i> MJ-27102-CR-155-2013	Theft by Unlawful Taking	June 17, 2013	\$5000 Monetary
<i>Commonwealth v. Breakwell</i> MJ-27102-CR-313-2014	Retail Theft	July 29, 2014	\$5000 Monetary

102. In accord with his admitted standard practice when imposing bail, Judge Wilson did not consider the Pa.R.Crim.P. No. 523 "Release Criteria" when he imposed a \$5,000 monetary bail condition in the *Leyda*, *Meehan*, *Fischer*, and *Breakwell* matters.

103. After November 30, 2014, Judge Wilson imposed a \$5,000 monetary bail condition in each of the following criminal cases involving various theft-related offenses:

Cases after November 30, 2014

<u>Case Name & No.</u>	<u>Criminal Offense</u>	<u>Date Bail Imposed</u>	<u>Bail Imposed</u>
<i>Commonwealth v. Sinclair</i> MJ-27102-CR-514-2014	Bad Checks	January 7, 2015	\$5000 Monetary
<i>Commonwealth v. Petrosky</i> MJ-27102-CR-137-2015	Theft of Services	April 22, 2015	\$5000 Monetary
<i>Commonwealth v. Leech</i> MJ-27102-CR-181-2015	Bad Checks	June 30, 2015	\$5000 Monetary
<i>Commonwealth v. Sellaro</i> MJ-27102-CR-401-2015	Bad Checks	November 2, 2015	\$5000 Monetary
<i>Commonwealth v. Adams</i> MJ-27102-CR-97-2016	Welfare Fraud	April 15, 2016	\$5000 Monetary
<i>Commonwealth v. Georgiana</i> MJ-27102-CR-122-2016	Bad Checks	May 6, 2016	\$5000 Monetary
<i>Commonwealth v. Cameron</i> MJ-27102-CR-245-2016	Welfare Fraud	July 28, 2016	\$5000 Monetary

104. In accord with his admitted standard practice when imposing bail, Judge Wilson did not consider the Pa.R.Crim.P. No. 523 "Release Criteria" when he imposed a \$5,000 monetary bail condition in the *Sinclair, Petrosky, Leech, Sellaro, Adams, Georgiana* and *Cameron* matters.

C. CHARGES:

COUNT 1

A. Old Rule

105. By virtue of some or all of the conduct set forth in Parts A & B, Judge Wilson violated Rule 4A of the old Rules Governing Standards of Conduct of Magisterial District Judges, effective through November 30, 2014.

106. Rule 4A provides, in pertinent part:

Magisterial district judges shall be faithful to the law and maintain competence in it.

R.G.S.C.M.D.J. No. 4A.

107. By his December 11, 2012 conduct of imposing a \$5,000 monetary bail condition in the *Kepics* matter, without due consideration of the Pa.R.Crim.P. No. 523 "Release Criteria," Judge Wilson failed to be faithful to the law and maintain competence in it.

108. By his February 7, 2013 conduct of imposing a \$5,000 monetary bail condition in each of the welfare fraud cases against B.G and K.P., without due consideration of the Pa.R.Crim.P. No. 523 "Release Criteria," Judge Wilson failed to be faithful to the law and maintain competence in it.

109. By his pre-December 1, 2014 conduct of imposing a \$5,000 monetary bail condition in the criminal cases against *Leyda, Meehan, Fischer* and *Breakwell*, without due consideration of the Pa.R.Crim.P. No. 523 "Release Criteria," Judge Wilson failed to be faithful to the law and maintain competence in it.

110. By his admitted standard practice of setting monetary bail conditions in criminal cases, based solely upon the types of criminal offenses charged, without due consideration of the Pa.R.Crim.P. No. 523 "Release Criteria," Judge Wilson failed to be faithful to the law and maintain competence in it.

111. As a result of all the conduct set forth above, Judge Wilson violated Rule 4A of the Old Rules Governing Standards of Conduct of Magisterial District Judges.

B. New Rule

112. By virtue of some or all of the conduct set for in Part B, Judge Wilson violated Canon 2, Rule 2.2 of the New Rules Governing Standards of Conduct of Magisterial District Judges, effective December 1, 2014.

113. Canon 2 provides:

A magisterial district judge shall perform the duties of judicial office impartially, competently, and diligently.

R.G.S.C.M.D.J. Canon 2.

114. Rule 2.2 is titled "Impartiality and Fairness" and provides:

A magisterial district judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

R.G.S.C.M.D.J. Canon 2, Rule 2.2.

115. By his May 29, 2015 conduct of failing to comply with Pa.R.Crim.P. No. 509 when he issued arrest warrants in the welfare fraud cases against A.S and R.Z., instead of summonses, Judge Wilson failed to uphold and apply the law.

116. By his June 1, 2015 conduct of imposing a \$5,000 monetary bail condition in each of the welfare fraud cases A.S. and R.Z., without due consideration of the Pa.R.Crim.P. No. 523 "Release Criteria," Judge Wilson failed to uphold and apply the law.

117. By his post-November 30, 2014 conduct of imposing a \$5,000 monetary bail condition in the criminal cases against *Sinclair, Petrosky, Leech, Sellaro, Adams, Georgiana* and *Cameron*, without due consideration of the "Release Criteria" set forth in Pa.R.Crim.P. No. 523, Judge Wilson failed to uphold and apply the law.

118. By his failure to consider the Pa.R.Crim.P. No. 523 "Release Criteria" when he imposed a \$5,000 monetary bail condition in the welfare fraud cases against

A.S. and R.Z., and the criminal matters against *Sinclair, Petrosky, Leech, Sellaro, Adams, Georgiana* and *Cameron*, Judge Wilson failed to perform all duties of judicial office fairly, impartially, competently, and diligently.

119. By his admitted standard practice of setting monetary bail conditions in criminal cases, based solely upon the types of criminal offenses charged, without due consideration of the Pa.R.Crim.P. No. 523 "Release Criteria," Judge Wilson failed to perform all duties of judicial office fairly, impartially, competently and diligently.

120. As a result of all the conduct set forth above, Judge Wilson violated Canon 2, Rule 2.2 of the New Rules Governing Standards of Conduct of Magisterial District Judges.

COUNT 2

121. By virtue of some or all of the conduct set forth in Parts A & B, Judge Wilson violated Rule 2(A) of the Old Rules Governing Standards of Conduct of Magisterial District Judges, effective through November 30, 2014.

122. Rule 2 is titled Impropriety and Appearance of Impropriety and provides in pertinent part:

Judges should respect and comply with the law and shall conduct themselves at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

R.G.S.C.M.D.J. No. 2(A).

123. By his December 11, 2012 conduct of imposing a \$5,000 monetary bail condition in the *Kepics* matter, without due consideration of the Pa.R.Crim.P. No. 523 "Release Criteria," Judge Wilson failed to respect and comply with the law.

124. By his February 7, 2013 conduct of imposing a \$5,000 monetary bail condition in each of the welfare fraud cases against B.G and K.P., without due

consideration of the Pa.R.Crim.P. No. 523 "Release Criteria," Judge Wilson failed to respect and comply with the law.

125. By his pre-December 1, 2014 conduct of imposing a \$5,000 monetary bail condition in the *Leyda, Meehan, Fischer* and *Breakwell* matters, without due consideration of the Pa.R.Crim.P. No. 523 "Release Criteria," Judge Wilson failed to respect and comply with the law.

126. By his admitted standard practice of imposing monetary bail conditions in criminal cases, based solely upon the types of criminal offenses charged, without due consideration of Pa.R.Crim.P. No. 523 "Release Criteria," Judge Wilson failed to comply with the law and to conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

127. By his December 4, 2012, conduct of engaging in an *ex parte* conversation with Mr. Amon about the facts of the personal loan and potential legal filing against Mayor Kepics in his district court, Judge Wilson failed to conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

128. By his December 2012 conduct of repeatedly calling ADA Carroll about the Amons' Private Criminal Complaint, personally or through his court staff, Judge Wilson failed to conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

129. By his December 11, 2012 conduct of engaging in an *ex parte* conversation with ADA Carroll about the facts of the Amons' Private Criminal Complaint, and expressing his opinion about and desire to help the Amons, Judge

Wilson failed to conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

130. By his December 11, 2012 conduct of ordering Constable Fronzaglio to immediately arrest Mayor Kepics, and expressing his desire to teach Mayor Kepics a lesson, Judge Wilson failed to conduct himself in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

131. As a result of all the conduct set forth above, Judge Wilson violated Rule 2A of the Old Rules Governing Standards of Conduct of Magisterial District Judges.

B. New Rule

132. By virtue of some or all of the conduct set forth in Part B, Judge Wilson violated Canon 1, Rule 1.1 of the New Rules Governing Standards of Conduct of Magisterial District Judges, effective December 1, 2014, and is therefore subject to discipline pursuant to Article V, § 18(d)(1) of the Pennsylvania Constitution.

133. Rule 1.1 is titled "Compliance with the Law" and provides in pertinent part:

A magisterial district judge shall comply with the law, including the Rules Governing Standards of Conduct of Magisterial District Judges.

R.G.S.C.M.D.J. Canon 1, Rule 1.1.

134. By his May 29, 2015 conduct of issuing arrest warrants in the welfare fraud cases against A.S. and R.Z, instead of summonses as mandated by Pa.R.Crim.P. No. 509, Judge Wilson failed to comply with the law.

135. By his June 1, 2015 conduct of imposing a \$5,000 monetary bail condition in each of the welfare fraud cases against A.S. and R.Z., without due

consideration of the Pa.R.Crim.P. No. 523 "Release Criteria," Judge Wilson failed to comply with the law.

136. By his post-November 30, 2014 conduct of imposing a \$5,000 monetary bail condition in the *Sinclair, Petrosky, Leech, Sellaro, Adams, Georgiana* and *Cameron* criminal matters without due consideration of the "Release Criteria" set forth in Pa.R.Crim.P. No. 523, Judge Wilson failed to comply with the law.

137. By his admitted standard practice of imposing monetary bail conditions in criminal cases, based solely upon the types of criminal offenses charged, without due consideration of Pa.R.Crim.P. No. 523 "Release Criteria," Judge Wilson failed to comply with the law.

138. As a result of all of the conduct set forth above, Judge Wilson violated Canon 1, Rule 1.1 of the New Rules Governing Standards of Conduct of Magisterial District Judges.

C. New Rule

139. By virtue of some or all of the conduct set forth in Part B, Judge Wilson violated Canon 1, Rule 1.2 of the New Rules Governing Standards of Conduct of Magisterial District Judges, effective December 1, 2014.

140. Rule 1.2 is titled "Promoting Confidence in the Judiciary" and provides:

A magisterial district 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.

R.G.S.C.M.D.J. Canon 1, Rule 1.2.

141. By his May 29, 2015 conduct of issuing arrest warrants in the criminal cases against A.S. and R.Z., instead of summonses, as mandated by Pa.R.Crim.P.

No. 509, Judge Wilson failed to act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary.

142. By his May 29, 2015 conduct of issuing arrest warrants in the criminal case against A.S. and R.Z., instead of a summonses as mandated by Pa.R.Crim.P. No. 509, Judge Wilson failed to avoid impropriety and the appearance of impropriety.

143. By his post-November 30, 2014 conduct of imposing a \$5,000 monetary bail condition in the *Sinclair, Petrosky, Leech, Sellaro, Adams, Georgiana* and *Cameron* criminal matters, without due consideration of the "Release Criteria" set forth in Pa.R.Crim.P. No. 523, Judge Wilson failed to act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary.

144. By his post-November 30, 2014 conduct of imposing a \$5,000 monetary bail condition in the *Sinclair, Petrosky, Leech, Sellaro, Adams, Georgiana* and *Cameron* criminal matters, without due consideration of the "Release Criteria" set forth in Pa.R.Crim.P. No. 523, Judge Wilson failed to avoid impropriety and the appearance of impropriety.

145. As a result of all the conduct set forth above, Judge Wilson violated Canon 1, Rule 1.2 of the New Rules Governing Standards of Conduct of Magisterial District Judges.

COUNT 3

146. By virtue of some or all of the conduct set forth in Part A, Judge Wilson violated Rule 4D of the Old Rules Governing Standards of Conduct of Magisterial District Judges, effective through November 30, 2014.

147. Rule 4D provides, in pertinent part:

Magisterial district judges shall accord to every person who is legally interested in a proceeding, or their lawyer, full right to be heard according to law and, except as authorized by law, neither initiate nor consider *ex parte* or other communications concerning a pending or impending proceeding.

R.G.S.C.M.D.J. No. 4D.

148. By his December 4, 2012, conduct of engaging in a conversation with Mr. Amon about the facts of the personal loan to, and potential legal filing against Mayor Kepics in his district court, Judge Wilson considered *ex parte* communications concerning a pending or impending proceeding.

149. By his December 11, 2012 conduct of engaging in conversation with ADA Carroll about the facts of the Amons' Private Criminal Complaint, and expressing his opinion about, and his desire to help the Amons, Judge Wilson initiated an *ex parte* communication about a pending or impending proceeding.

150. As a result of all the conduct set forth above, Judge Wilson violated Rule 4D of the Old Rules Governing Standards of Conduct of Magisterial District Judges.

COUNT 4

151. By virtue of some or all of the conduct set forth in Part A, Judge Wilson violated Rule 8A of the Old Rules Governing Standards of Conduct of Magisterial District Judges, effective through November 30, 2014,

152. Rule 8A provides in part:

Magisterial district judges shall disqualify themselves in a proceeding in which their impartiality might reasonably be questioned, including but not limited to instances where:

- (1) They have a personal bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceeding.

R.G.S.C.M.D.J. No. 8A.

153. By his conduct of issuing an arrest warrant and presiding over the Preliminary Arraignment in *Commonwealth v. Kepics*, after his December 4, 2012 *ex parte* conversation with Mr. Amon about the facts of his personal loan and the filing of a private criminal complaint, Judge Wilson's impartiality might reasonably be questioned.

154. By his December 2012 conduct of repeatedly calling ADA Carroll about the Amons' Private Criminal Complaint, personally or through his court staff, Judge Wilson's impartiality might reasonably be questioned.

155. By his December 11, 2012 conduct of speaking with ADA Carroll about the facts of the Amons' Private Criminal Complaint, his opinion that the Amons were "good people," and his desire to help them, Judge Wilson's impartiality might reasonably be questioned because he demonstrated a personal bias or prejudice in favor of the Amons.

156. By his December 11, 2012 conduct of ordering Constable Fronzaglio to immediately arrest Mayor Kepics, and expressing his desire to teach him a lesson, Judge Wilson's impartiality might reasonably be questioned because of a personal bias or prejudice against Mayor Kepics.

157. Because his impartiality might reasonably be questioned in the above matters, Judge Wilson had a duty to recuse himself from the *Commonwealth v. Kepics* matter.

158. Judge Wilson failed to recuse himself from the *Kepics* matter even though his impartiality could be reasonably questioned.

159. As a result of all the conduct set forth above, Judge Wilson violated Rule 8A of the Old Rules Governing Standards of Conduct of Magisterial District Judges.

COUNT 5

160. By virtue of some or all of the conduct set forth in Parts A and B, Judge Wilson violated Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania.

161. In pertinent part, Article V, § 17(b) provides:

Justices of the peace [magisterial district judges] shall be governed by rules or canons which shall be prescribed by the Supreme Court.

PA CONST. art. V, § 17(b).

162. A violation of the Rules Governing Standards of Conduct of Magisterial District Judges is an automatic derivative violation of Article V, § 17(b).

163. Judge Wilson violated Rules 2A, 4A, 4D, and 8A of the old Rules Governing Standards of Conduct of Magisterial District Judges.

164. Judge Wilson violated Rules 1.1, 1.2, and 2.2 of the new Rules Governing Standards of Conduct of Magisterial District Judges.

165. As a direct result of his violation of all of the Rules set forth above, Judge Wilson violated Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania.

COUNT 6

166. By virtue of some or all of the conduct set forth in Parts A and B, Judge Wilson violated the Administration of Justice Clause of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania.

167. Article V, § 18(d)(1) provides in pertinent part:

A justice, judge, or justice of the peace may be suspended, removed from office or otherwise disciplined for . . . conduct which prejudices the proper administration of justice

PA CONST. art. V, § 18(d)(1).

168. By his conduct of imposing monetary bail conditions in the *Kepics* matter, the welfare fraud cases against B.G., K.P., A.S. and R.Z, and in the *Leyda, Meehan, Fischer, Breakwell, Sinclair, Petrosky, Leech, Sellaro, Adams, Georgiana* and *Cameron* criminal matters, without due consideration of the Pa.R.Crim.P. No. 523 "Release Criteria," Judge Wilson prejudiced the proper administration of justice.

169. By his December 4, 2012 conduct of engaging in *ex parte* communication with Mr. Amon, Judge Wilson prejudiced the proper administration of justice.

170. By his December 11, 2012 conduct of engaging in *ex parte* communications with ADA Carroll, Judge Wilson prejudiced the proper administration of justice.

171. By his May 29, 2015 conduct of issuing arrest warrants in the welfare fraud cases against A.S. and R. Z., instead of summonses as mandated by Pa.R.Crim.P. No. 509, Judge Wilson prejudiced the proper administration of justice.

172. By his admitted conduct of employing a standard practice of setting monetary bail conditions, based solely upon the type of criminal offense charged,

without due consideration of the Pa.R.Crim.P. No. Rule 523 "Release Criteria," Judge Wilson prejudiced the proper administration of justice.

173. As a result of all of the conduct set forth above, Judge Wilson violated the Administration of Justice Clause of Article V, § 18(d)(1) of the Pennsylvania Constitution.

COUNT 7

174. By virtue of some or all of the conduct set forth in Parts A & B, Judge Wilson violated the Disrepute Clause of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania.

175. Article V, § 18(d)(1) provides in pertinent part:

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 or is prohibited by law. . .

PA. CONST. art. V, § 18(d)(1).

176. Judge Wilson engaged in conduct so extreme that it brought disrepute upon the judicial office itself.

177. As a result of all the conduct set forth above, Judge Wilson violated the Disrepute Clause of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania.

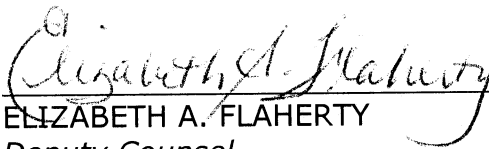
WHEREFORE, Mark A. Wilson, a Magisterial District Judge of Washington County, Pennsylvania, is subject to disciplinary action pursuant to the Constitution of the Commonwealth of Pennsylvania, Article V, §18(d)(1).

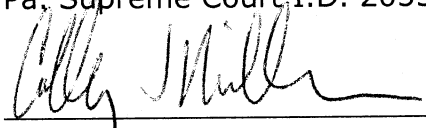
Respectfully submitted,

ROBERT A. GRACI
Chief Counsel

DATE: March 30, 2017

BY:


ELIZABETH A. FLAHERTY
Deputy Counsel
Pa. Supreme Court I.D. 205575


COLBY J. MILLER
Assistant Counsel
Pa. Supreme Court I.D. 311599

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:


Mark A. Wilson	:	
Magisterial District Judge	:	
Magisterial District Court 27-1-02	:	1 JD 2017
Washington County	:	

VERIFICATION

I, Elizabeth A. Flaherty, 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,

March 30, 2017


ELIZABETH A. FLAHERTY
Deputy Counsel
Pa. Supreme Court ID No. 205575

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**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

Mark A. Wilson
Magisterial District Judge
Magisterial District Court 27-1-02
Washington County

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:

1 JD 2017

PROOF OF SERVICE

In compliance with Rule 122(D) of the Court of Judicial Discipline Rules of Procedure, on or about March 30, 2017, a copy of this *Board Complaint* was sent by UPS Overnight Delivery to Christopher D. Carusone, Esquire, counsel to Magisterial District Judge Mark Wilson at the following address:

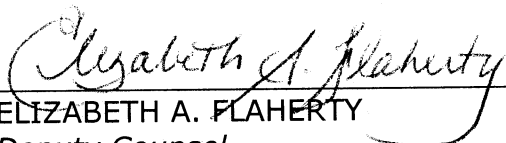
Christopher D. Carusone
Chohen Seglias Pallas Greenhall & Furman PC
240 North Third Street, 7th Floor
Harrisburg, PA 17101

Respectfully submitted,

ROBERT A. GRACI
Chief Counsel

March 30, 2017

BY:


ELIZABETH A. FLAHERTY
Deputy Counsel

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