

STATE OF WEST VIRGINIA

At the Supreme Court of Appeals, continued and held at Charleston, Kanawha County, on July 13, 2016, the following order was made and entered **in vacation**:

IN THE MATTER OF: MARK A. GORBY  
MAGISTRATE OF HARRISON COUNTY

No. 14-1195

ORDER

Mark A. Gorby was elected in 2012, to a four-year term to serve as magistrate in the Fifteenth Judicial Circuit, in Harrison County. As such, he is subject to the disciplinary jurisdiction of this Court.

By order entered on October 10, 2014, in Supreme Court Docket No. 14-1022, the respondent, Mark A. Gorby, was suspended without pay pending the outcome of the criminal charges then pending against him. That order further remanded the matter to the Judicial Investigation Commission for the filing of formal charges and proceedings pursuant to Rules 2.7(d) and 4 of the Rules of Judicial Disciplinary Procedure. The formal statement of charges was filed in this matter on November 21, 2014, and was held in abeyance pending the outcome of the criminal charges.

On July 5, 2016, the respondent was found not guilty and was acquitted on all counts in the indictment. Thereafter, on July 6, 2016, Teresa A. Tarr, Judicial Disciplinary Counsel, filed a motion to dismiss the formal statement of charges.

The respondent, Mark A. Gorby, by counsel Belinda A. Haynie, filed a response to the motion to dismiss on July 11, 2016, along with a motion seeking reinstatement as a magistrate and recovery of that salary that was withheld during his suspension.

Upon consideration, the Court is of opinion that the respondent should be reinstated as a Magistrate for Harrison County and that he is entitled to back pay.

It is therefore ORDERED that Mark A. Gorby shall be forthwith reinstated as a Magistrate for the Fifteenth Judicial Circuit, Harrison County, West Virginia, upon compliance with his educational requirements.

It is ORDERED that Mark A. Gorby shall receive back pay from October 10, 2014, the date he was suspended without pay, to the date that he is reinstated to his magistrate position.

The motion to dismiss the formal statement of charges is hereby granted. It is ordered that this matter shall be, and it hereby is, dismissed from the docket of this Court.

Service of an attested copy of this order upon all parties shall constitute sufficient notice of the contents herein.

A True Copy

Attest: //s// Rory L. Perry II  
Clerk of Court

