

STATE OF WEST VIRGINIA

At the Supreme Court of Appeals, continued and held at Charleston, Kanawha County, on November 30, 2016, the following order was made and entered **in vacation**:

In the Matter of: Stephen O. Callaghan
 Judge-Elect of the 28th Judicial Circuit

No. 16-0670

ORDER

On November 29, 2016, the Judicial Hearing Board, by its chairperson the Honorable Lawrence S. Miller, Jr., filed its written recommended decision in this matter, pursuant to Rule 4.8 of the Rules of Judicial Disciplinary Procedure. Thereafter, on this day, Judicial Disciplinary Counsel, by Teresa A. Tarr and Brian J. Lanham, filed an objection to the recommended disposition. Also on this day, the respondent, by counsel Lonnie C. Simmons, DiTrapano, Barrett, DiPiero, McGinley & Simmons, PLLC, filed an objection the Judicial Hearing Board's recommended disposition. Pursuant to Rule 4.11 of the Rules of Judicial Disciplinary Procedure, the filing of an objection "shall constitute commencement of proceedings to disposition before the Supreme Court of Appeals." Accordingly, this matter is now ripe for consideration by this Court after briefing and oral argument by the parties. See W.Va.R.App.P. 36.

On October 17, 2016, while this matter was pending before the Judicial Hearing Board, Judicial Disciplinary Counsel filed a motion for expedited decision and/or motion to enjoin the respondent from taking the oath of office for Judge of the 28th Judicial Circuit, pending the outcome of the disciplinary proceedings. Thereafter, on November 1, 2016, the respondent, by counsel, filed a response in opposition to the motion to enjoin. In its Prehearing Order entered on

November 3, 2016, the Judicial Hearing Board referred the motion to this Court for its review and decision. The motion is now properly before the Court.

Upon consideration, the Court is of the opinion to and does hereby refuse the motion to enjoin. Justice Benjamin would stay the respondent from engaging in any official judicial acts until this matter is concluded. The Court is further of the opinion to and does hereby grant the motion to expedite as set forth more fully herein.

Pursuant to Rule 4.11 of the Rules of Judicial Disciplinary Procedure, this matter is scheduled for oral argument under Rule 20 of the Rules of Appellate Procedure on Tuesday, January 10, 2017, and this order constitutes the Notice of Argument pursuant to Rule 20(b).

Pursuant to Rule 36 of the Rules of Appellate Procedure, it is ordered that the petitioner, Judicial Disciplinary Counsel, file an original and ten copies of a petitioner's brief on or before December 14, 2016. The petitioner shall file an original and one copy of the transcript of the proceedings before the Judicial Hearing Board at the time of the filing of the petitioner's brief. The respondent is directed to file the respondent's brief on or before December 28, 2016. Any reply brief deemed necessary may be filed by the petitioner on or before January 4, 2017.

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

A True Copy

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

