

COMMONWEALTH OF KENTUCKY
SUPREME COURT
CASE NO. 2022-SC-0496

JAMES T. JAMESON,
CIRCUIT COURT JUDGE

APPELLANT

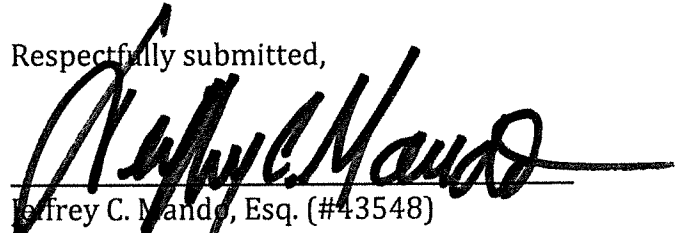
v. ON APPEAL FROM THE KENTUCKY
JUDICIAL CONDUCT COMMISSION IN RE:
JAMES T. JAMESON, CIRCUIT COURT JUDGE

KENTUCKY JUDICIAL CONDUCT COMMISSION

APPELLEE

BRIEF FOR APPELLEE, KENTUCKY JUDICIAL CONDUCT COMMISSION

Respectfully submitted,



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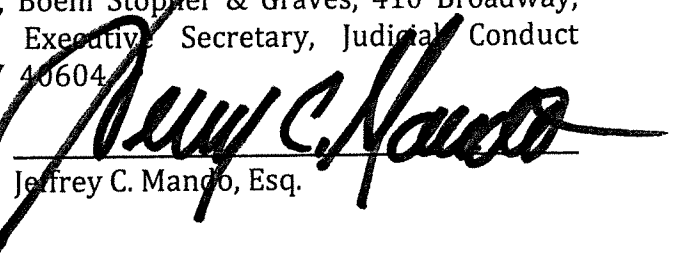
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail, postage prepaid, on this the 7th day of February, 2023, upon: Richard L. Walter, Esq., and Bradley A. Sears, Esq., Boehl Stophier & Graves, 410 Broadway, Paducah, KY 42001; Jimmy Shaffer, Executive Secretary, Judicial Conduct Commission, P.O. Box 4266, Frankfort, KY 40604.



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INTRODUCTION

“Nothing can destroy a government more quickly than its failure to observe its own laws, or worse, its disregard of the charter of its own existence.”

Mapp v. Ohio, 367 U.S. 643, 659 (1961). Justice Clark’s observation from over 50 years ago still rings true today – as a branch of government, the judiciary must not see itself as above the laws that it is entrusted to protect. Instead, the judiciary must maintain the highest integrity to preserve its authority. When one judge abuses his or her power, the fair and impartial administration of justice suffers.

The U.S. Supreme Court has long recognized the “vital state interest in safeguarding public confidence in the fairness and integrity of the nation’s elected judges.” *Williams-Yulee v. Fla. Bar*, 575 U.S. 433, 445 (2015) (internal quotation marks omitted). “The judiciary’s authority . . . depends in large measure on the public’s willingness to respect and follow its decisions.” *Id.* Indeed, public confidence is integral to the judiciary’s very functioning.

In Kentucky, the Judicial Conduct Commission (“Commission”) is entrusted with the responsibility to promote, uphold and defend the integrity of the judicial branch by ensuring that judges adhere to the highest standards of conduct. This appeal involves a challenge to the Commission’s removal of a circuit court judge who was shown, by clear and convincing evidence, to have violated the Kentucky Code of Judicial Conduct through abuses of his judicial influence for the benefit of his personal desires; his flagrant attempts to obstruct justice; his abuse of contempt power in his courtroom; his intimidating and threatening actions including retaliation; and, his repeated attempts to impede the Commission’s investigation.

STATEMENT CONCERNING ORAL ARGUMENT

Given the notoriety of the case and the import of promoting public confidence in an impartial and independent judiciary, the Judicial Conduct Commission believes that oral argument is necessary and that a robust discussion of Judge Jameson's conduct and challenges to the Commission's ruling will assist the Court in its disposition of his appeal.

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COUNTERSTATEMENT OF THE CASE

Judge James T. Jameson began his service as the Circuit Court Judge for Kentucky's 42nd Judicial Circuit, in January of 2015.¹ Following a four-day Hearing, the Commission removed him from office for his egregious behavior in violation of the Kentucky Judicial Code of Conduct. (*See generally*, R.1, R.2)

I. THE CHARGES

In 2021 and 2022, the Commission received a series of complaints alleging Judge Jameson engaged in numerous instances of judicial misconduct. Considering the grave nature of the accusations, the Commission authorized a preliminary investigation, see SCR 4.170(1). The Commission provided Judge Jameson with notice of the allegations, and he submitted a supplemental response. (R.4, Ex.69, Ex.70) Pursuant to SCR 4.170, Judge Jameson also participated in an informal conference with the Commission.

After the informal conference, and based on the evidence secured during the preliminary investigation, including Judge Jameson's own statements, the Commission served Judge Jameson with Notice of Formal Proceedings Charges alleging violations of the Judicial Code of Conduct. (*See generally*, R.3, Ex.1) As the case progressed, additional allegations of misconduct came to light necessitating additional charges. In total, the Commission brought seven charges against Judge Jameson. (*See generally*, R.3, Ex. 9, Ex.24, Ex.25)

¹ Pursuant to SCR 4.290, the JCC filed its Certificate and Transmittal of Record on Appeal to the Supreme Court Clerk. To facilitate citations to the Record, the JCC's "Formal Proceedings Docket Entries" is attached as Appendix 1. The only items not included in this list is the Hearing video, and the video exhibits played at the Temporary Suspension Hearing and introduced at the Hearing, which will be cited as "R.4, Ex. 6 – Ex. 14" and specifically identified.

II. THE FORMAL PROCEEDINGS

Judge Jameson filed a 73-page Response to the Commission's Charges with 160 pages of supporting documentation. (R.3, Ex.7) In his Response, Judge Jameson conceded many of the operative facts in the Charges. (*See id.*)

After the initiation of Formal Proceedings, the Commission provided Judge Jameson with a notice of a hearing seeking his temporary suspension pending final adjudication pursuant to SCR 4.020(1)(a)(ii). (R.3; Ex.8, Ex.10) After the Commission conducted a temporary suspension hearing on August 12, 2022, it unanimously concluded that sufficient evidence had been presented to conclude that Judge Jameson had committed the acts as alleged in Counts III and IV of the charges. (R.3, Ex.11) Based on the evidence, the Commission voted 3-2 to temporarily suspend Judge Jameson from his duties as Circuit Judge for the 42nd Judicial Circuit. (*Id.*)

Following his temporary suspension, Judge Jameson filed a Petition for Writ of Prohibition with this Court alleging a variety of procedural errors during the temporary suspension hearing. (R.3, Ex.28) On October 31, 2022, this Court granted Judge Jameson's petition, ruling there was an insufficient number of Commissioner votes to temporarily suspend Judge Jameson. (R.3, Ex.31)

The Commission commenced the Final Hearing on October 17, 2022 and it concluded on October 20, 2022. (*See generally*, R. 2) At the Final Hearing, and to avoid duplicity, the Commission considered the testimony and evidence presented at the temporary suspension hearing. In addition, the Commission heard testimony from 12 witnesses and reviewed over 100 exhibits. (*Id.*; and *generally*, R.1) Judge Jameson

testified at the Hearing, through direct examination, cross-examination, and as a rebuttal witness. (*See generally id.*)

The evidence presented at the Final Hearing painted a picture of a Judge who turned altruistic intentions into a relentless pursuit of personal desires with no regard for the impact his actions had on the integrity, independence, and impartiality of the judiciary. The evidence demonstrated a pattern of exploitation of Judge Jameson's judicial position to satisfy his personal objectives, as well as a blatant disregard for acceptable standards of judicial conduct. Judge Jameson abused his contempt power, displayed improper behavior on the bench, intimidated and pressured individuals while off the bench, and continually exercised poor judgment in his level of engagement in matters that went far beyond his role as circuit judge.

A. JUDGE JAMESON FORMED, OPERATED AND CONTROLLED THE COMMUNITY CORRECTIONS BOARD

The Commission heard evidence regarding Judge Jameson's inappropriate level of involvement with the 42nd Judicial Circuit Community Corrections Board ("CCB"), a nonprofit entity of his own creation and its President. Through the CCB, Judge Jameson intended to accomplish his lifetime goal of bringing an inpatient drug treatment facility to his circuit. In furtherance of this goal, Judge Jameson developed an ankle monitoring program to raise money for the CCB. The ankle monitors were to be used on eligible Defendants in Marshall and Calloway County criminal cases, which Judge Jameson presided over and would be assigning to individual defendants.

To guarantee selection and implementation of the ankle monitoring program of his choosing, Judge Jameson informed the Marshall and Calloway County Fiscal Courts that current ankle monitor devices being used did not comply with KRS

Chapter 67. In lieu of the then-used ankle monitors, Judge Jameson recommended an ankle monitor vendor who could provide equipment which coupled with KRS Chapter 67 and would result in substantial monetary savings. (*Id.*) At the same time, however, Judge Jameson had already entered into a Memorandum of Understanding (R.4, Ex. 44) on behalf of the CCB.

To select a new ankle monitor vendor, the Marshall and Calloway Counties' respective Fiscal Courts announced a joint Request for Proposal (RFP) process. (R.4, Ex. 35, 36, 37, 38, 39, 41, 42, 44, 61, 63, 64). Even though he was President of the CCB and had negotiated a Memorandum of Understanding with his preferred vendor (Track Group), Judge Jameson was actively involved in the developing and drafting the bid to respond to the RFP, and emailed a draft of the bid to his preferred ankle monitoring vendor to ensure that it complied with the requirements of the RFP prior to the posting of the RFP. (R.4, Ex. 37, 46) Once the RFP commenced, Judge Jameson orchestrated a meeting for his preferred ankle monitoring vendor who had the exclusive opportunity to meet with local officials and community leaders to educate them about the positives of their product. (R.4, Ex.23)

Not surprisingly, the Fiscal Courts awarded the ankle monitoring contract to the CCB. Following the rigged selection, Judge Jameson – through his oversight of the CCB –implemented and operated of the Counties' new ankle monitoring program. Over AOC's objection, Judge Jameson directed the Marshall and Calloway County Clerk's Offices to collect payments on behalf of CCB from defendants he assigned to an ankle monitor. (*See* R. 4, Ex.51) In addition to assigning ankle monitors to defendants in his court, Judge Jameson received *ex parte* electronic notifications of

ankle monitor violations sent directly to his personal email account. (R.2, 10.18.22 Hrg., *See generally* Picket testimony) Instead of waiting for the appropriate party to seek revocation or sanctions in court, CCB staff communicated directly with Judge Jameson immediately after a violation notification regarding the nature of the violation and whether CCB should file a violation report. (*Id.*)

B. JUDGE JAMESON ENGAGED IN UNACCEPTABLE COURTROOM PRACTICES

The Commission heard evidence demonstrating Judge Jameson's gross deviation from acceptable standards of judicial conduct and mismanagement of his courtroom. Video recordings from several cases depicted Judge Jameson exhibiting behavior that was completely void of patience and dignity. (R.4, Ex. 6 – 14) Judge Jameson frequently abused his contempt powers, wielding it as a sword against anyone who disagreed with him. In one instance, Judge Jameson charged a defendant's grandfather with multiple counts of criminal contempt simply for questioning Judge Jameson's rulings. (R.4, Ex. 6 – 7) After further discussion, Judge Jameson carried through with the criminal contempt charges against the grandfather, directing that a new criminal case be opened in the grandfather's name. (R.4, Ex. 7)

Judge Jameson also engaged in overt acts of retaliation while on the bench. In one instance, Judge Jameson had a Marshall County deputy jailer brought to his courtroom in handcuffs after the deputy jailer refused to accept a defendant at the Marshall County jail due to COVID-19 restrictions. (R.4, Ex. 12 – 14)

C. JUDGE JAMESON USED HIS OF JUDICIAL POWER AND INFLUENCE FOR PERSONAL GAIN

The Commission heard evidence demonstrating Judge Jameson's use of his influence and prestige of office to pressure individuals to contribute to his reelection campaign. (R.4, Ex.27, Ex.29, Ex.30 – 31) Although Judge Jameson agreed that the Code of Judicial Conduct prohibits solicitations from individual attorneys, attorney Lisa DeRenard testified that Judge Jameson solicited her for campaign contributions. Judge Jameson went as far as telling DeRenard that a previous campaign contribution was not sufficient. (R.1, 8.12.22 Hrg. VR 10:538:05 AM – 10:39:50 AM DeRenard testimony) Similarly, Judge Jameson used his position of power to pressure DeRenard to not only draft a sworn statement on his behalf rebutting a complaint filed with the JCC, but also pressured DeRenard into filing a bar complaint against another local attorney and political opponent. (R.1, 8.12.22 Hrg. VR 9:13:55 AM – 9:24:05 AM DeRenard testimony)

D. JUDGE JAMESON OBSTRUCTED AND IMPEDED THE JCC'S INVESTIGATION, AND VIOLATED JCC DIRECTIVES

Judge Jameson attempted to obstruct justice and impede the JCC's investigation of the charges against him. Judge Jameson engaged in multiple acts of retaliation, and defied JCC directives throughout the course of these proceedings.

During his suspension, Judge Jameson accessed AOC court resources, which he was prohibited from using. Specifically, after he was suspended, Judge Jameson accessed his KCOJ email account and contacted his court staff. (R.4, Ex.60). Most egregiously, Judge Jameson attempted to stop his judicial staff from complying with a subpoena issued by the Commission to the AOC. (R.2, 10.17.22 Hrg. VR 9:16:20 AM –

9:19:40 AM, Gipson testimony) Judge Jameson contacted his administrative support specialist to discuss her plan to respond with the JCC's subpoena and provided direction on certain items in his office he did not want produced. (*Id.*)

E. JUDGE JAMESON ENGAGED IN ACTS OF RETALIATION

Judge Jameson retaliated against a local university's public radio station manager believing he intended to run a news story concerning camera footage of Judge Jameson walking through the courthouse in his underwear. Judge Jameson used his position as judge to intimidate the station manager from pursuing the story, by informing the manager that he had already spoken to the President of the University and informing him that the President was not happy about the prospect of the story. (R.2, 10.17.22 Hrg., *see generally* Lampe testimony)

III. THE COMMISSION FOUND JUDGE JAMESON VIOLATED THE JUDICIAL CODE OF CONDUCT AND REMOVED HIM FROM OFFICE

After the Hearing, the Commission rendered its Findings of Fact, Conclusions of Law, and Final Order. (R.3, Ex.32) By clear and convincing evidence, the Commission found Judge Jameson guilty of violating the Judicial Code of Conduct and engaging in misconduct on Counts I through VII. (*Id.* at p. 35-39) As a result of his misconduct, and because of the egregious nature of his abuses of judicial power and flagrant violation of the public trust, the Commission removed Judge Jameson from office. (*Id.* at 39) This appeal followed.

ARGUMENT

In Kentucky, the Commission is entrusted to defend the judiciary's authority by ensuring that its judges are held to the highest standards of conduct. The Commission's key purpose "is to ensure to the public that our judiciary is competent,

deliberative, fair, independent, and impartial." *Maze v. Judicial Conduct Comm'n*, 612 S.W.3d 793, 810 (Ky. 2020). Every time a judge engages in acts which are not competent, deliberative, fair, independent, and impartial, it undermines the judiciary's authority, and the public's confidence that justice is blind. It is in these times that the Commission must intervene to defend the integrity of Kentucky's judicial system. Thus, when Judge Jameson's grave abuses of his judicial power came to light, the Commission was obligated to act to defend the reputation of the judiciary and to restore public trust.

Judge Jameson's appeal fails because clear and convincing evidence supported the Commission's findings that he violated Canons in the Code of Judicial Conduct. Judge Jameson's appeal also fails because his actions, which were an affront to the integrity and impartiality of the judiciary, merited permanent removal. For these reasons, this Court should affirm the Commission's Finding of Fact, Conclusions of Law, and Final Order permanently removing Judge Jameson from office.

I. THE COMMISSION'S FINDINGS WERE SUPPORTED BY CLEAR AND CONVINCING EVIDENCE

Section 121 of the Kentucky Constitution authorizes the Commission to reprimand a judge for good cause, with judicial review directly to the Supreme Court. *Gormley v. Judicial Conduct Comm'n*, 332 S.W.3d 717, 725 (Ky. 2010). The evidence to sustain the charges before the Commission must be "clear and convincing." SCR 4.160; *Wilson v. Judicial Retirement & Removal Comm'n*, 673 S.W.2d 426, 427 (Ky. 1984). On appeal, the Court must accept the findings and conclusions of the Commission "unless they are clearly erroneous" or "unreasonable." *Id.* at 427 – 428.

Judge Jameson argues that the Commission's findings are clearly erroneous. Proposing an alternative, self-serving analysis, if not skewed interpretation of the facts, he asserts that the Commission should have reached a different conclusion on each of the charges. There is no merit to Judge Jameson's argument. His interpretation of the evidence is simply not dispositive. Indeed, "Clear and convincing proof does not necessarily mean uncontradicted proof. It is sufficient if there is proof of a probative and substantial nature carrying the weight of evidence sufficient to convince ordinarily prudent-minded people." *Commonwealth, Cabinet for Health & Family Services v. T.N.H.*, 302 S.W.3d 658, 663 (Ky. 2010) (internal quotations and citations omitted). "[A]ppellate courts are obligated to give a great deal of deference to the Commission's findings and should not interfere with those findings unless the record is devoid of substantial evidence to support them." In short, without more, Judge Jameson's mere disagreement with the JCC's factual findings is insufficient to merit appellate interference.

The Commission was presented with substantial evidence to support each charge including court records, emails, CCB official documents, videos, and testimony. Undermining his arguments on appeal, the most compelling evidence came from Judge Jameson's own statements, where he admitted many of the factual allegations in the Charges but failed to acknowledge, recognize, or appreciate that his actions constituted judicial misconduct. Given this evidence, this Court should not disturb the Commission's findings.

A. COUNT I – JUDGE JAMESON ACTED AS THE ALTER EGO FOR THE 42ND JUDICIAL CIRCUIT COMMUNITY CORRECTIONS BOARD (CCB) IN THE CREATION AND DEVELOPMENT OF AN ANKLE MONITORING PROGRAM, FAILING TO SEPARATE HIMSELF AS CIRCUIT JUDGE FROM HIS DUTIES AT CCB, CREATING THE APPEARANCE OF IMPROPRIETY

In Count I, the Commission alleged that Judge Jameson failed to separate himself as Circuit Judge in the creation, development, and operation of CCB's ankle monitoring program in violation of Rules 1.1, 1.2, 1.3, 2.1, 2.4(B), 3.1(A), 3.1(C), 3.1(D), 3.2, and 3.7(A)(4). (R.3, Ex.9, p. 1 – 3) Count I alleges that Judge Jameson created a non-profit Community Corrections Board ("CCB") for an improper purpose and that he was inappropriately involved with the creation, development and operation of the CCB and its ankle monitoring program (*Id.* at p. 1), including developing CCB's procedures, communicating with prospective ankle monitor vendors, aiding in the drafting of the Calloway and Marshall County RFP for ankle monitor bids, and providing exclusive opportunities for a specific ankle monitor provider. (*Id.* at p. 1 – 2) Count I also alleges that Judge Jameson submitted CCB grant applications in which Judge Jameson listed himself as project director², and further used the prestige of judicial office to solicit support and personal donations from elected officials, organizations, and individuals for the CCB and Judge Jameson's desired substance use disorder treatment facility. (*Id.* at p. 2) In its Findings of Fact, Conclusions of Law, and Final Order, the Commission unanimously found that the

² In his Brief, Judge Jameson argues that he believes his role in the CCB is fine. (Appellant's Brief p.44) The Commission does not necessarily disagree that a judge can participate in a non-profit entity. However, there is an important distinction between mere participation in a non-profit organization and Judge Jameson's involvement in the CCB. Indeed, he was the CCB. Judge Jameson fails to appreciate his actions as CCB President and Project Director created conflicts. Judge Jameson assigned defendants in his courtroom to CCB's ankle monitoring program. At the same time, he oversaw the operation of the program and the individual's compliance with program rules.

allegations in Count I had been established by clear and convincing evidence and that Judge Jameson's actions constituted misconduct in office. (R. 32, p.20 – 27)

Judge Jameson does not contest most of the operative facts relating to his involvement in the CCB and the ankle monitoring bid process. He admits that he served as the President of the CCB and that he appeared before the Marshall and Calloway County Fiscal Courts to advise them that they needed new ankle monitoring programs. (Appellant's Br., 14) He admits informing the Fiscal Courts that the CCB – his organization – could deliver ankle monitors to the counties (*Id.*; *see also* R.4, Ex.33, 61) He further admits to gathering a group of community justice partners for an informational meeting about Track Group and signed the CCB's bid promoting Track Group. (R.4, Ex.32) In short, the facts alleged in Count I are largely not in dispute.

Indeed, even while campaigning for Circuit Judge over five years ago, Judge Jameson expressed his desire to bring a substance abuse facility to Marshall and Calloway Counties. Once he was elected, he created the 42nd Circuit CCB and filed their Articles of Incorporation in December of 2018, listing himself as the Incorporator, President, registered agent, and as one of three members on the Board of Directors. (R.4, Ex. 19 – 20) From the start, Judge Jameson made it clear that he created the CCB for the purpose of funding the creation and development of his desired substance abuse treatment facility. (R.4, Ex. 23 – 24) In order to achieve his goal, he realized that the CCB needed to raise the necessary funds. (R.4, Ex. 21 – 23) Despite serving as the Circuit Court Judge in Marshall and Calloway County, Judge Jameson resorted to using the CCB as an instrument to influence the selection of an ankle monitor vendor, which was to be utilized for defendants in his courtroom. Not only would Judge Jameson

have the freedom to assign defendants to this specific ankle monitor, but through his role with CCB, he would have access to the program in ways that allowed him to monitor and influence the program's policies, procedures, and financial success.

After creating the CCB, Judge Jameson informed Marshall and Calloway County officials that he believed the ankle monitoring program that had been utilized by the counties was deficient. (R.4, Ex.32) Furthermore, Judge Jameson emailed the prior ankle monitor vendor, Ensite, and informed their representative that they did not meet the necessary standards. (R.4, Ex.34) Evident through his promotion of Track Group, he wanted Track Group to be the chosen vendor as part of a cost-saving measure, which would supply the CCB with money. Documentary evidence presented at the hearing further supported the JCC's allegations that Judge Jameson used his influence and resources as a judge to manipulate the RFP process and ensure that the CCB preferred vendor, Track Group, won the bid. Judge Jameson began negotiations with Track Group as early as August of 2017, almost one year before he made presentations regarding the initial ankle monitoring program's deficiencies, and nearly three years before the Request for Proposals ran in the Calloway County paper. (R.4, Ex.41 – 42) Judge Jameson communicated with Track Group representatives, provided exclusive opportunities for them to promote their product, and requested input from Track Group as to county ankle monitoring requirements. Counsel for the Commission introduced emails between the Marshall and Calloway County attorneys and Judge Jameson discussing the preparation of the Request for Proposals (RFP). (R.4, Ex.35-38) Judge Jameson emailed a draft of the RFP to a Track Group representative, requesting he review it to make sure that the RFP did not contain

anything that would exclude Track Group. (R.4, Ex.46) If so, Judge Jameson instructed the representative to edit the RFP in a way that would cure the deficiency. (*Id.*) No other prospective vendor had the RFP in advance or the opportunity to comment on its provisions or ensure ability to comply with the RFP's components. Likewise, Judge Jameson did not afford other prospective vendors with the opportunity to meet with local officials and speak about their product as he did with Track Group . And, these obvious advantages afforded Track Group by Judge Jameson was not lost on the other vendors—the Commission was presented with evidence that Buddi, a prospective vendor, opined that they could not fairly compete with Track Group's bid, as the RFP was clearly set up for only Track Group to win the bid. (R.4, Ex.40)

Counsel for the Commission presented evidence that Track Group entered into a Memorandum of Understanding with the CCB, providing that Track Group would be the ankle monitor vendor for Marshall and Calloway Counties if the CCB was awarded the bid. (R.4, Ex.44) This Memorandum of Understanding was signed *before* the Fiscal Court issued the Request for Proposals. (R.4. Ex.44 – 45) The CCB's bid promoting Track Group as the ankle monitor vendor was signed by Judge Jameson, the same Judge who would be assigning those ankle monitors to defendants. (R.4, Ex. 47) Judge Jameson's inappropriate intervention in the bidding process led to the acceptance of CCB's bid in August and September of 2020. (R.3, Ex.32, p.15) This is the crux of the Commission's "bid rigging" findings, the gravity and consequences of which Judge Jameson is unable to grasp. (Appellant's Br., 14) After both Fiscal Court's approval of the CCB's bids in August and September of 2020, respectively, Judge Jameson began

assigning defendants to Track Group's monitors and generating revenue for his own nonprofit, the CCB. (R.4, Ex.49)

Despite this undisputed evidence, Judge Jameson argues that Count I fails because the Commission failed to demonstrate that he acted in bad faith. (Appellant's Br., 3 – 4) However, "bad faith" is not a prerequisite to finding a violation of the Code. (See SCR 4.020) Regardless, although the Commission noted that Judge Jameson may have started the CCB with altruistic intentions, the Commission concluded that those intentions failed to mitigate the severity of his violations. Specifically, the fact that his goal was admirable does not overcome Judge Jameson's exploitation of his judicial position to ensure that the CCB and Track Group won the ankle monitoring bid. (R.3, Ex.32, p. 37) Judge Jameson controlled the bidding process by his involvement in the writing of the RFP and by providing Track Group with exclusive opportunities that were not extended to any other prospective bidders, and by personally signing CCB's bid.

Judge Jameson's actions, emails and testimony demonstrate constitute clear and convincing evidence of his misconduct. The Commission's Findings that Judge Jameson violated the Code of Judicial Conduct in Count I was therefore not clearly erroneous or unreasonable. To the contrary, since the findings and conclusions are supported by clear and convincing evidence, they must be upheld.

B. COUNT II – JUDGE JAMESON ACTED AS THE ALTER EGO FOR THE 42ND JUDICIAL CIRCUIT COMMUNITY CORRECTIONS BOARD (CCB) IN THE IMPLEMENTATION AND OPERATION OF CCB'S ANKLE MONITORING PROGRAM

In Count II, the Commission alleged that Judge Jameson inappropriately involved himself in the implementation and operation of CCB's ankle monitoring

program in violation of Rules 1.1, 1.2, 1.3, 2.1, 2.2, 2.4(B), 2.9(C), 2.12(A), and 3.7(6)(A). (R.3, Ex.9, p.3 – 6) Count II ³ alleges that Judge Jameson inappropriately participated in communications with CCB staff, whom he directly supervised, regarding ankle monitor program rules, violations, and orders for cases which he presided over. (*Id.* at p. 4) Count II also alleges that Judge Jameson received direct notifications of a defendant's ankle monitor violations and directed CCB staff to report to him directly upon violations (*Id.*) Additionally, Count II alleges that Judge Jameson issued warrants upon receipt of notices of alleged violations and directed local authorities to arrest defendants. Finally, Count II alleges that Judge Jameson directly participated in the collection of ankle monitor fees and was involved with the financial transactions of CCB. (*Id.*) In its Order, the Commission found that the allegations in Count II had been established by clear and convincing evidence and constituted misconduct in office. (R.3, Ex. 32, p. 26 – 28)

On appeal, Judge Jameson again does not necessarily dispute the underlying facts supporting this charge. In fact, in his Brief, he does not argue that the Commission's findings were not factual. Instead, he just claims that his oversight of CCB and *ex parte* involvement with ankle monitoring violations were permissible. (Appellant's Br., 31-35)

³ Count II also alleges that Judge Jameson created an appearance of impropriety by ordering individuals to participate in CCB's ankle monitoring program when the costs associated with the program would directly support his desired substance abuse treatment program (Re-life). (*Id.*) During the final hearing, Judge Jameson admitted that assigning individuals to the ankle monitoring program could create an appearance of impropriety, as it could appear to the public that defendants who might have otherwise been released on non-financial conditions were placed on the ankle monitor instead. (R.2, 10.17.22-10.20.22 Hrg., *See generally* Jameson testimony).

The only fact Judge Jameson disputes pertains to the collection of CCB fees by the Clerks' offices—he argues that he did not personally collect those fees nor tell the Clerks that they must do so. Judge Jameson again misses the point. Counsel for the Commission introduced testimony from Tiffany Griffith, the Marshall County Circuit Clerk, that Judge Jameson held a meeting with her and the Calloway County Circuit Clerk, where Judge Jameson asked them to collect ankle monitor fees from individual defendants he assigned to home incarceration. (R.2, 10.17.22 Hrg. VR 10:09:40 AM – 10:11:45 AM, Griffith testimony) Counsel for the Commission presented email evidence that, although AOC explicitly advised against collecting these fees on behalf of CCB, the Clerks agreed to collect the ankle monitor fees because it was the Judge who asked. (See R. 4, Ex.51; R.2, 10.17.22 Hrg. VR 10:13:05 AM – 10:13:32 AM, Griffith testimony)

Although he does not dispute that each of his actions as alleged in Count II actually occurred, Judge Jameson attempts to justify his conduct by transferring the blame to others.⁴ Judge Jameson inappropriately communicated with CCB staff, whom he directly supervised, regarding ankle monitor program rules, violations, and orders for criminal cases over which he presided. CCB employee Christine Pickett testified that Judge Jameson instructed her how the ankle monitor program was to run and how to proceed when violations occurred. (R.2, 10.18.22 Hrg., *See generally* Pickett testimony) Of utmost concern, Ms. Pickett testified that Judge Jameson directed her

⁴ In his Brief, Judge Jameson argues that CCB's poor minute keeping was not due to any malice. (Appellant's Brief p. 44) While the CCB's lack of minutes is puzzling, this was not addressed in the Commission's ruling. The testimony of Christine Pickett, Dominik Mikulcik, and others vividly illustrated his inappropriate involvement with the CCB and its ankle monitoring program, with or without minutes.

and CCB staff to notify him directly of violations committed by defendants in his court, and to draft violation reports for cases in which he was the presiding Judge. (*Id.*) Counsel for the Commission introduced emails showing Judge Jameson directing court staff to issue arrest warrants upon notification of violations which he personally received through his involvement with CCB. (R.4, Ex.53 – 58) On one occasion, Judge Jameson even directed law enforcement to arrest a defendant he believed would flee the county without any communication to either party about the CCB notification he received. (*Id.*)

Judge Jameson was deeply involved in the finances of the CCB and ankle monitoring transactions. The Commission heard testimony that Judge Jameson signed Christine Pickett's paychecks while she served as director of GPS services for the CCB. (R.2, 10.18.22 Hrg. VR 3:46:20 PM – 3:46:42 PM, Pickett testimony) Furthermore, evidence presented at the Hearing demonstrated that he signed various CCB checks related to contract payments stemming from the ankle monitoring process. (R.4, Ex.52) Judge Jameson authorized these payments while acting as the 42nd Judicial Circuit's Circuit Judge.

This testimony and the emails constitute clear and convincing evidence of Judge Jameson's misconduct. And, based on this evidence, the Commission's determination that Judge Jameson violated the Code of Judicial Conduct as set forth in Count II was not clearly erroneous or unreasonable. Since the findings and conclusions are supported by clear and convincing evidence, they must be upheld.

C. COUNT III – JUDGE JAMESON MISMANAGED HIS COURTROOM, ENGAGED IN ACTS OF RETALIATION, AND DEVIATED FROM ACCEPTABLE STANDARDS OF JUDICIAL CONDUCT

In Count III of the Charges, the Commission alleged that Judge Jameson engaged in acts of retaliation and deviated from acceptable standards of judicial conduct in violation of Rules 1.1, 1.2, 2.2, 2.3(A), 2.3(B), 2.4(B), 2.8(B), (R.3, Ex.9, p.6 – 8) Count III alleges that Judge Jameson displayed behavior that was not patient, dignified, or courteous to court staff, attorneys, and others in his courtroom (*Id.*) Count III also alleges that Judge Jameson was biased against individual attorneys, pressured Lisa DeRenard into drafting a complaint against another attorney, pressured DeRenard into drafting a sworn statement on his behalf, and retaliated against a Marshall County Sheriff's Department employee. In its Findings of Fact, Conclusions of Law, and Final Order, the Commission found that the allegations in Count III had been established by clear and convincing evidence and that Judge Jameson's actions constituted misconduct, (aside from III (B) and III (C) which Counsel for Commission choose not to pursue). (R. 3, Ex.32, p. 28 – 30)

At the Temporary Suspension Hearing, Counsel for the Commission introduced video records from cases during Judge Jameson's tenure as Circuit Judge, which were incorporated into the Final Hearing record. (R.4, Ex.6 – 14) These videos provided an opportunity for the Commission to view Judge Jameson's practices while on the bench. The videos displayed an abuse of his contempt powers, with Judge Jameson charging or threatening defendants, attorneys, and county employees with contempt of court. (*Id.*) The Commission found that in each of the cases presented, Judge Jameson abused his contempt power and exhibited a complete lack of patience

and dignity. (R.3, Ex.32, p. 17). In his Brief, Judge Jameson attempts to justify each scenario, but to no avail. Although he claims that these matters were egregious examples of contemptible behavior, the video footage shows Judge Jameson charging or threatening to charge each individual with criminal contempt from the outset of any disagreement. (Appellant's Br., 22 – 30) Judge Jameson again misses the point of the evidence. The issue is not the conduct of the various individuals who came into his courtroom, but rather his own conduct in dealing with issues from his seat on the bench. As the Commission notes, Despite the relative egregiousness of all the matters presented herein, Judge Jameson's abuse of the contempt power still shocks the conscience. (R.3, Ex.32, p. 17).

Judge Jameson spends a significant amount of his Brief challenging the testimony of attorney, Lisa DeRenard. (*Id.* at 17 – 20) However, he conveniently fails to address DeRenard's testimony regarding his requests for her to file a bar complaint against another local attorney in retaliation for a complaint that was filed against him. (R.1, 8.12.22 Hrg. VR 9:13:55 AM – 9:24:05 AM DeRenard testimony) Not long after this inappropriate request, Judge Jameson pressured DeRenard into agreeing to draft a sworn statement on his behalf, which was to be used to rebut complaints that had been filed against him with the Commission (*Id.*) Doubling down, Judge Jameson followed up with DeRenard multiple times, an attorney who practices in his courtroom, pressuring her to draft desired documents for his benefit. (*Id.*)

In challenging the Commission's Findings, Judge Jameson cites his own testimony. The Commission, of course, was not required to find Judge Jameson's contradictory and self-serving testimony on these matters credible. Questions as to

the weight and credibility of a witness's testimony are purely within the province of the factfinder, and appellate courts must give due regard to the fact-finder's opportunity to judge the witness's credibility. *Carroll v. Meredith*, 59 S.W.3d 484, 489 (Ky. App. 2001); CR 52.01. An appellate court may not substitute its judgment upon credibility in place of the judgment made by the trial court. *C.W. Hoskins Heirs v. Wells*, 560 S.W.3d 852, 856 (Ky. 2018); *see also Church and Mullins Corp. v. Bethlehem Minerals Co.*, 887 S.W.2d 321, 323 (Ky. 1992) ("It is not for us to determine whether or not we would have reached a different conclusion, faced with the same evidence confronting the trial court.").

In addition to retaliating against DeRenard, Counsel for the Commission introduced evidence that Judge Jameson retaliated against, and intimidated, other individuals. Marshall County Sheriff, Eddie McGuire, testified that Judge Jameson contacted him after a Marshall County Sheriff's deputy allegedly reviewed and downloaded a courthouse security video which captured Judge Jameson walking through the Marshall County courthouse in his underwear. (R.1, 8.12.22 Hrg. *See generally* McGuire testimony) Without confirming any wrongdoing, Judge Jameson requested that Sheriff McGuire get the deputy "out of the building." (*Id.*) Despite Judge Jameson stating that he did not order anyone to do anything, the implications of such a statement from a Circuit Judge to the county sheriff was readily apparent to the Commission. (Appellant's Br., 21)

The Commission also heard testimony from Sheriff Eddie McGuire detailing how Judge Jameson contacted him and requested deputies be sent to remove an offensive sign from an individual's vehicle during a local flag day event. (R.2, 10.17.22

Hrg. *See generally* McGuire testimony) Although Judge Jameson states he did not order the Sheriff do anything, Sheriff McGuire's testimony suggests that is untrue. (Appellant's Br., 22) Judge Jameson called him on his cell phone and requested a sheriff deputy ask the individual take down his political flag. (R.2, 10.17.22 Hrg. VR 3:35:30 PM – 3:37:15 PM, McGuire testimony) Further, Judge Jameson made it clear that if the individual refused to comply, he believed the individual's actions rose to the level of criminal conduct. (*Id.*) Such statement from a Circuit Judge amount to clear pressure on local authorities to act according to the Judge's personal desires.

Finally, Judge Jameson argues that he was tried with conduct which was uncharged. (Appellant's Br., 45 – 56) The Commission presented evidence that he pressured deputy circuit clerk Tiffany Griffith to discipline her employee, Lacey Cavitt, as a retaliatory measure after Cavitt posted comments on Facebook supporting Judge Jameson's political opponent. (R.2, 10.17.22 Hrg. VR 10:20:00 AM – 10:21:56 AM, Griffith testimony) Judge Jameson told Tiffany Griffith that Lacey Cavitt was a non-tenured employee, which Griffith believed was pressure to fire Cavitt. (*Id.*) To the extent Judge Jameson argues he was not given notice of a charge relating to this conduct, he is mistaken. The evidence fits squarely within Count III. Count III charges that Judge Jameson engaged in acts of retaliation and deviated from acceptable standards of judicial conduct including but not limited to the specified events. Count III (D) also charges that Judge Jameson displayed behavior to court staff which was not patient, dignified, or courteous. Judge Jameson's attempt to retaliate by pressuring Tiffany Griffith to discipline Lacey Cavitt falls within the allegations in Count III.

This evidence, along with Judge Jameson's own testimony, constitutes clear and convincing evidence of his misconduct. The Commission's determination that Judge Jameson violated the Code of Judicial Conduct as set forth in Count III was therefore not clearly erroneous or unreasonable. To the contrary, since these findings and conclusions are supported by clear and convincing evidence, they must be upheld.

D. COUNT IV – JUDGE JAMESON USED HIS INFLUENCE AND THE PRESTIGE OF THE JUDICIAL OFFICE TO PRESSURE PERSONS TO DONATE OR SUPPORT HIS POLITICAL CAMPAIGN

In Count IV, the Commission alleged that Judge Jameson abused his position of power in order to obtain support for his political campaign in violation of Rules 1.1, 1.2, 1.3, 2.1, and 4.8. (R.3, Ex. 9, p.8 – 9) The Commission alleged that Judge Jameson used his influence and the prestige of judicial office to pressure attorneys, individuals, and groups, to fund and support his political campaign, going as far as saying that certain monetary contributions were not sufficient. (*See id.*) In its Findings of Fact, the Commission found that the allegations in Count IV had been established by clear and convincing evidence and that Judge Jameson's action constituted misconduct in office. (R.3, Ex.31, p. 30 – 31)

Lisa DeRenard testified that Judge Jameson called her cell phone and informed her of his intentions to run for re-election as Circuit Judge. (R.1, 8.12.22 Hrg. VR 8:57:14 AM – 8:59:05 AM DeRenard testimony) This is undisputed by Judge Jameson. However, DeRenard further testified that Judge Jameson stated he would "appreciate her support" and, when asked if he was referring to monetary support, he confirmed "that would be nice." (*Id.*) DeRenard testified that Judge Jameson contacted her

multiple times about various campaign events and to garner her support. Likewise, DeRenard received an email from Judge Jameson's wife for his campaign fundraising event suggesting a maximum contribution, prompting DeRenard to feel pressured into contributing additional funds. (R.4, Ex.1) Even more alarming, however, was DeRenard's testimony that after she told Judge Jameson her contribution amount, he replied that he "really needed more than that." (R.1, 8.12.22 Hrg. VR 10:538:05 AM – 10:39:50 AM DeRenard testimony)

In his Brief, Judge Jameson focuses on DeRenard's responses during calls and conversations which he initiated to garner her support, claiming that her willingness to support him made the inappropriateness of the communication a nonissue. (Appellant's Br., 17 – 20) In fact, he admits to making similar campaign announcement calls to several others makes, implying that he was not specifically pressuring DeRenard because everyone received that treatment from him. Judge Jameson once again misses the point—a judge's communications and requests for financial support from an attorney who practices in his courtroom create unavoidable and inappropriate pressure.

This evidence constitutes clear and convincing evidence of Judge Jameson's misconduct. The Commission's determination that he violated the Code of Judicial Conduct as set forth in Count IV was therefore not clearly erroneous or unreasonable. To the contrary, since these findings and conclusions are supported by clear and convincing evidence, they must be upheld.

E. COUNT V – JUDGE JAMESON REPEATEDLY ATTEMPTED TO OBSTRUCT JUSTICE AND IMPEDE THE COMMISSION'S AUTHORITY TO INVESTIGATE THE CHARGES AGAINST HIM

In Count V, the Commission alleged that Judge Jameson repeatedly attempted to obstruct justice and impede the JCC's authority to investigate charges against him in violation of Rules 1.1, 1.2, 2.12(A), and 2.16(B). (R.3, Ex. 25, p.1–2) The Commission alleged that Judge Jameson contacted AOC employees and requested they not comply with JCC subpoenas. Similarly, the Commission alleges that Judge Jameson contacted his judicial staff and instructed them not to comply with JCC subpoenas. In its Findings of Fact, the Commission found that the allegations in Count V had been established by clear and convincing evidence and that Judge Jameson's actions constituted misconduct in office. (R.3, Ex. 32, p. 31 – 33)

Judge Jameson does not directly dispute the sufficiency of the evidence presented at the Hearing. Nonetheless, Counsel for the Commission introduced compelling evidence to demonstrate Judge Jameson's efforts to intimidate and direct his judicial staff not to comply with JCC subpoenas. After failing to convince AOC to not comply with JCC subpoenas and being warned of the inappropriateness of such actions, Judge Jameson re-directed focus to intimidating his judicial staff into defying their duties as AOC employees. Judge Jameson's administrative support specialist, Sarah Gipson, testified that Judge Jameson called her and requested that they not provide the JCC with documents located in his office. (R.4, Ex.73). And, he asked her to send him a copy of all documents they produced. (*Id.*) AOC was forced to intervene and instruct his staff that Judge Jameson's requests were to be disregarded. (*Id.*)

In light of this evidence, and given Judge Jameson's failure to explicitly challenge the sufficiency of the evidence, the Commission's findings were not clearly erroneous or unreasonable. To the contrary, since these findings and conclusions are supported by clear and convincing evidence, they must be upheld.

F. COUNT VI – JUDGE JAMESON ENGAGED IN A PATTERN OF NONCOMPLIANCE AND INTERFERENCE WITH THE COMMISSION'S ORDERS

In Count VI, the Commission alleged that Judge Jameson engaged in a pattern of noncompliance and interference with JCC Orders in violation of Rules 1.1 and 2.16(A) (R.3, Ex. 25, p.3) The Commission alleged that Judge Jameson continued to utilize his KCOJ email account and KCOJ computer after being prohibited from accessing any court resources following his temporary suspension. Landon Norman testified that Judge Jameson contacted him after the temporary suspension in September, 2022 in order to retrieve a KCOJ laptop docking station for use at Judge Jameson's home. (R.2, 10.17.22 Hrg. VR 1:14:00 PM – 1:14:25 PM, Norman testimony) Additionally, Counsel for the Commission introduced evidence that Judge Jameson utilized his suspended KCOJ email account to communicate with his judicial staff. (R.4, Ex. 60) Because Judge Jameson does not necessarily dispute that these acts occurred, the Commission's Findings were not clearly erroneous or unreasonable. To the contrary, since these findings and conclusions are supported by undisputed, clear and convincing evidence, they must be upheld.

G. COUNT VII – JUDGE JAMESON ENGAGED IN ACTS OF INTIMIDATION

In Count VII, the Commission alleged that Judge Jameson attempted to use the prestige of his office to intimidate and pressure a reporter from running a story about

Judge Jameson walking through the Marshall County Courthouse in his underwear or from obtaining the security camera footage from AOC in violation of Rules 1.1, 1.2, 1.3. (R.3, Ex.25, p. 3 – 5)

In support of this charge, Counsel for the Commission presented testimony from Murray State University's radio station manager, Chad Lampe. Lampe received a phone call from Judge Jameson during which Judge Jameson encouraged him to stop his pursuit of video footage of the Judge in his underwear at the Marshall County Courthouse. (R.2, 10.17.22 Hrg., *see generally* Lampe testimony) During their conversation, Judge Jameson represented to Lampe that he had already spoken to the President of Murray State University, and that the President was "not happy" with Lampe about the situation. (R.2, 10.17.22 Hrg. VR 2:24:57 PM – 2:28:20 PM, Lampe testimony) Judge Jameson offered to call back the President and "smooth things over" if Lampe agreed not to pursue the video or run a story on the alleged video footage. (*Id.*) Lampe confirmed that the Provost of the University contacted him within days and requested information concerning the news stations' intentions.

In its Findings of Fact, Conclusions of Law, and Final Order, the Commission found that the allegations in Count VII had been established by clear and convincing evidence and that Judge Jameson's actions constituted misconduct in office. (R.3, Ex.32, p. 34 – 36) The Commission's determination that Judge Jameson violated the Code of Judicial Conduct in Count VII was therefore not clearly erroneous or unreasonable. To the contrary, since these findings and conclusions are supported by clear and convincing evidence, they must be upheld.

II. JUDGE JAMESON'S CHALLENGES TO THE TEMPORARY SUSPENSION HEARING ARE MOOT

In his brief, Judge Jameson alleges that he should not have been temporarily suspended following the August 12, 2022, hearing. These issues are moot. Judge Jameson filed a Writ of Prohibition, this Court heard and granted. Following his return to the bench, Judge Jameson had adequate opportunity to address and remedy any alleged grievances with, or deficiencies in, the proof during the Final Hearing.

To rule on Judge Jameson's grievances relating to the Temporary Suspension Hearing would not "have any practical legal effect upon a[n] . . . existing controversy." *Commonwealth v. Terrell*, 464 S.W.3d 495, 498-99 (Ky. 2015). In short, there is no longer any controversy to which this Court can provide relief relating to the temporary suspension proceedings. Judge Jameson's challenges were addressed in this Court's October 31, 2022 ruling in 22-SC-00454. His temporary suspension having been vacated, any additional challenges to the Temporary Suspension Hearing would merely result in an advisory opinion.

Judge Jameson also argues that all charges for violating restrictions while he was temporarily suspended, should be dismissed. (Appellant's Br., 43 – 44) There is no factual or legal basis to support such a request. The granting of the Writ of Prohibition does not erase the fact that Judge Jameson disregarded JCC directives while the temporary suspension restrictions were in place. Just as a defendant in Judge Jameson's court would be unable to excuse failure to comply with conditions of release even if his case was overturned on appeal, Judge Jameson cannot retroactively excuse his overt acts of non-compliance with the JCC's suspension conditions based on this Court's subsequent issuance of a Writ.

III. JUDGE JAMESON'S CHALLENGES TO THE COMPOSITION AND AUTHORITY OF THE JCC ARE WITHOUT MERIT

The JCC serves many roles throughout the pendency of matters before it—it is the investigator of complaints, finder of fact, and adjudicator of legal issues. With respect to this structure, Judge Jameson raises numerous challenges to the composition and authority of the JCC. He first argues that the JCC is without authority to rule on questions of law. (Appellant's Br. at 46) He also makes repeated attacks on the JCC's role as fact-finder by challenging their assessment of witnesses and evidence. (See generally *id.* at 17 – 30) Finally, Judge Jameson questions the constitutionality of including lay persons as voting members on the JCC. (*Id.* at 9) Judge Jameson's challenges are groundless. The composition and authority of the JCC is derived directly from Ky. Const. § 121, and its multi-layered function has been repeatedly affirmed by this Court as constitutional. See e.g., *Gentry v. Judicial Conduct Comm'n*, 612 S.W.3d 832, 841 (Ky. 2020); *Alred v. Commonwealth, Judicial Retirement Comm'n*, 395 S.W.3d 417, 428-29 (Ky. 2012).

A. JUDGE JAMESON VIOLATED THE KENTUCKY CODE OF JUDICIAL CONDUCT

Throughout the course of these proceedings, Judge Jameson has made numerous objections to the JCC's charges because, based on *his* understanding and *his* interpretation of the Code of Judicial Conduct and Kentucky law, he has done nothing wrong. According to Judge Jameson, "[t]he JCC has no authority to determine if a Judge's reasonable interpretation of the law was improper." (Appellant's Br. at 46) To be clear, Judge Jameson is *not* accusing the JCC of engaging in a quasi-appellate review of his judicial opinions and conclusions in cases over which he presided.

Instead, Judge Jameson believes that the JCC lacks jurisdiction to interpret the Code of Judicial Conduct and decide that his actions are violative. This position is not only misguided, but entirely contradictory to the JCC's purpose.

SCR 4.020 vests the JCC with the authority to impose sanctions upon a judge for a variety of reasons. For example, the JCC may take action against a judge for "misconduct in office," "incompetence," or "Violation of The Code of Judicial Conduct, Rule 4.300." None of these offenses are clearly defined, and a specific list of actions falling in the gambit of these offenses does not (nor reasonably could) exist. Implicit in the JCC's authority is the ability to weigh evidence and assess actions to determine whether they merit discipline. To suggest otherwise would completely undermine the purpose and authority of the JCC.

B. AS THE FACT-FINDER, IT IS WITHIN THE JCC'S PURVIEW TO ASSESS WEIGHT AND CREDIBILITY OF THE EVIDENCE PRESENTED

Judge Jameson objects to the JCC's interpretation and assessment of witnesses and evidence presented at his hearing. (*See e.g.*, Appellant's Br., 47; *see generally id.* 17 – 30) However, it is well-established that questions as to the weight and credibility of a witness's testimony are purely within the province of the fact-finder, and appellate courts must give due regard to the fact-finder's opportunity to judge the witness's credibility. *Carroll v. Meredith*, 59 S.W.3d 484, 489 (Ky. App. 2001); CR 52.01. And, an appellate court may not substitute its judgment upon credibility in place of the judgment made by the trial court. *C.W. Hoskins Heirs v. Wells*, 560 S.W.3d 852, 856 (Ky. 2018); *see also Church and Mullins Corp. v. Bethlehem Minerals Co.*, 887 S.W.2d 321, 323 (Ky. 1992) ("It is not for us to determine whether or not we would

have reached a different conclusion, faced with the same evidence confronting the trial court.”).

The JCC acted within its authority as the fact finder in assessing the weight and credibility of the evidence presented at Judge Jameson’s hearing. *Thomas v. Judicial Conduct Comm’n*, 77 S.W.3d 578, 580 (Ky. 2002) (citing *Wilson v. Judicial Retirement and Removal Com’n*, 673 S.W.2d 426 (Ky. 1984)) (“the discipline of members of the judiciary was the responsibility of the Commission and as the finder of fact it may make reasonable conclusions based upon the facts.”) Judge Jameson may disagree with the JCC’s final conclusions, but that does not inherently create an appealable issue before this Court. Indeed, he has failed to provide any evidence that the JCC’s findings of fact were clearly erroneous so as to merit disturbance on review. *Id.*

C. THE INCLUSION OF A LAY PERSON AS A VOTING MEMBER ON THE JCC IS CONSTITUTIONAL

In 1976, with the revision of the judicial article, the Kentucky Constitution created the Commission and established its composition: three judges, one each from the Court of Appeals, Circuit Court and District Court; one member of the bar; and two persons, not members of the bench or bar, appointed by the Governor. Ky. Const. § 121. Thus, the lay person requirement that Judge Jameson claims is unconstitutional is, in fact, *derived from the Kentucky Constitution, itself*.

Moreover, outside of the scope of JCC proceedings, litigants have a constitutional right to *the exact opposite*. A cornerstone of the justice system is the jury, composed of (mostly) non-lawyer peers. Judge Jameson’s suggestion that the inclusion of a lay person on the JCC – especially in its role as a fact finder – is a

violation of the nondelegation doctrine⁵ runs afoul of the bedrock principles underlying our judicial process.

IV. ALLEGED “MISUSE” OF THE INFORMAL HEARING PROCESS IS NOT AN APPEALABLE ISSUE

SCR 4.170 affords a judge the opportunity to participate in an information conference at the beginning of an investigation. “The purpose of the rule is to permit the Commission and judge to discuss and resolve the matter without the initiation of contested Formal Proceedings.” *Maze v. Judicial Conduct Comm’n*, 612 S.W.3d 793, 802 (Ky. 2020). The Rule serves as an alternative to Formal Proceedings should the JCC find it appropriate. SCR 4.170 does not, however, create any kind of settlement obligation nor does it restrict the JCC’s ability to move forward with formal charges if deemed appropriate.

Judge Jameson does not allege that he was denied an informal conference nor any other procedural safeguard which may have been afforded to him under the Rules. Instead, he takes offense at the “sabotage-style interrogation” allegedly conducted by JCC members during his informal conference. (Appellant’s Br. at 12 – 13) His offense at the JCC’s allegedly aggressive questioning is not, however, a legal issue subject to appeal. To the extent he suggests that JCC was obligated to engage in settlement discussions with him at this time, *see* Appellant’s Br. at 16, Judge Jameson

⁵ Judge Jameson argues the JCC’s inclusion of a lay person is unconstitutional per *TECO Mech. Contractor, Inc. v. Commonwealth*, 366 S.W.3d 386, 397 (Ky. 2012) because that case holds that “any agency or quasi-agency must have appropriately experienced individuals making decisions that affect the ‘property’ of citizens.” However, the cited verbiage in the *TECO Mech.* opinion discusses the nondelegation doctrine and the latitude of discretion afforded to executive agencies in interpreting and applying broad laws. *Id.* at 398. More importantly, not only is this issue irrelevant to the case at bar, this Court rejected the nondelegation challenges asserted. *Id.*

has not and cannot cite to any authority supporting his proposition. Without a specific accusation of appealable error, no response by the Commission is required.

V. THE JCC'S PURSUIT OF FORMAL CHARGES DURING JUDGE JAMESON'S CAMPAIGN FOR REELECTION DOES NOT VIOLATE HIS EQUAL PROTECTION RIGHTS

Because the JCC's proceedings occurred contemporaneously with his bid for reelection, Judge Jameson asserts that the JCC "placed [him] in an unjustifiable class that, even under the most relaxed scrutiny, violated Equal Protection principles." (Appellant's Br. at 40 – 41) In the convoluted explanation that follows, Judge Jameson suggests that the JCC intentionally caused him to lose his election and violated his constitutional rights. Not only is this accusation factually unsupported, it is legally unsound.

Citizens of Kentucky enjoy equal protection of the law under the 14th Amendment of the United States Constitution and Sections 1, 2, and 3 of the Kentucky Constitution. *Vision Mining, Inc. v. Gardner*, 364 S.W.3d 455, 465 (Ky. 2011) (citing *D.F. v. Codell*, 127 S.W.3d 571, 575 (Ky. 2003)). The goal of these sections "is to keep governmental decision makers from treating differently persons who are in all relevant respects alike." *Id.* (citing *Nordlinger v. Hahn*, 505 U.S. 1, 10 (1992)). Here, Judge Jameson asserts that he belongs to a suspect class subject of judges via his active bid for reelection. And because of his inclusion in this suspect class, Judge Jameson believes the JCC exceeded its authority by rendering its final order days before the election. (Appellant's Br. at 42) ("[T]here is no reason the Commission could not or would not have held that [final] order just a few days to let the 'people' weigh in without government influence.")

Judge Jameson’s Equal Protection claim falls flat. He has not pointed to any authority supporting his position that his bid for reelection places him in a suspect class. To the contrary, he fails to appreciate that a large portion of the Code of Judicial Conduct *specifically contemplates and regulates conduct during judicial elections*. See e.g., SCR 4.300, Rules 4.2, 4.4. In short, Judge Jameson’s bid for reelection has no bearing on the scope of the JCC authority and his constitutional right to Equal Protection has remained unequivocally intact.

VI. THE JCC HAS THE AUTHORITY TO PERMANENTLY REMOVE A JUDGE FROM HIS OR HER SPECIFIC JUDICIAL SEAT

Ky. Const. § 121 grants the Commission the power to remove a judge from office. In accordance with this provision, this Court has adopted SCR 4.020, which authorizes the Commission “[t]o impose the sanctions . . . of . . . removal or retirement from judicial office.” While, neither of these provisions specifically address the duration and scope of such a removal, they both contemplate the ability to permanently remove a judge from his or her specific seat,⁶ and that such permanent removal aligns with the spirit of the JCC’s constitutional mission of preserving judicial integrity and maintaining the public trust.

This Court has only addressed the scope of the JCC’s removal authority in *Ky. Judicial Conduct Comm’n v. Woods*, 25 S.W.3d 470 (Ky. 2000). In *Woods*, the JCC sought an order from this Court declaring a previously removed district court judge to be

⁶ Judge Jameson accuses the JCC of exceeding its authority by encroaching upon the House of Representatives’ impeachment power and preventing him “from *ever holding public office again*.” (Appellant’s Br. at 17) (emphasis in original). First, the JCC’s removal authority as set out in Ky. Const. § 121 is distinct from the impeachment power provided in Ky. Const. §§ 66, 67, and 68. Second, “impeachment” is not what the JCC’s Order directs—the JCC’s Final Order permanently removes Judge Jameson as a Circuit Court Judge for the 42nd Judicial Circuit, thereby disqualifying him from ever seeking re-election for that specific judicial seat. (Final Order at 39)

ineligible to seek election to the office from which he was removed in a subsequent election to fill his unexpired term. *Id.* at 471. While the Court declined to set specific parameters on the duration and scope of the JCC's removal authority, it prohibited the former judge "from seeking the office [from which he was removed] by any means during the remainder of the current term of district court judges." *Id.* at 474. The Court likewise prohibited him "from seeking or holding *any other judicial office of the Kentucky Court of Justice* during said term." *Id.* (emphasis added)

Thus, as it currently stands, there is "no doubt that the remedy of removal disqualifies a former judge from judicial office for at least the remainder of the current term." *Id.* As the Court explained, "[t]o hold otherwise would render removal less severe than suspension and possibly convert [a judge's] removal into a suspension of only a few months." *Id.* In assessing the instant question of permanent removal, this observation raises the question of what distinctions remain between removal and suspension—context and plain meaning lead to the inescapable conclusion that the former is permanent while the latter is not.

"[R]emoval from office" is defined as "[d]eprivation of office by act of competent superior officer acting within scope of authority." *Woods*, 25 S.W.3d at 473 (citing Black's Law Dictionary, 6th Ed.) "Suspension," on the other hand, is "the temporary forced removal from the exercise of office." *Id.* A removal would have no more severity than a suspension without some kind of continuity. Thus, *permanent* removal from a specific seat is logically contemplated by the JCC's removal power in Ky. Const. § 121 and SCR 4.020. This authority to permanently remove a judge from office is also found in other states with similar codes of judicial conduct.

For example, when addressing this exact question of permanent removal authority, the Mississippi Supreme Court concluded:

“We hold that the phrase ‘remove from office’ found in Section 177A of the Mississippi Constitution necessarily means a permanent separation from office, such that an individual judge removed from office remains ineligible to return to it. As a necessary extension, there is no removal from office that is not permanent. A removal from office that is not permanent is a suspension.”

Thompson v. AG, 227 So. 3d 1037, 1044 (Miss. 2017).

The Arkansas Supreme Court also interprets constitutional “removal power” afforded to the Arkansas Judicial Discipline and Disability Commission to mean permanent removal “to protect the integrity of the judiciary and to respect and maintain the public trust.” *Proctor v. Daniels*, 392 S.W.3d 360, 364 (Ark. 2010). Countless other states⁷ interpret “removal power” in the same way, and there is no reason for Kentucky to differ.

Because both Ky. Const. § 121 and SCR 4.020 contemplate the ability to permanently remove a judge from office, the JCC acted within the scope of its authority by permanently removing Judge Jameson as the Circuit Court Judge in the 42nd Judicial Circuit. While Judge Jameson may be able to run for any other judicial seat in the circuit, his permanent removal prevents him from holding the Circuit Court Judge seat in the future.

⁷ See also, New York, *In re Backal*, 660 N.E.2d 1104, 1107 (NY 1995) (“petitioner failed to abide by the standards of conduct necessary to preserve the integrity and independence of the judiciary and engaged in conduct prejudicial to the administration of justice justifying her permanent removal from office.”); New Mexico, *In re Garza*, 161 P.3d 876, 879 (NM 20074) (granting a petition for permanent removal from office); Georgia, *Leitch v. Fleming*, 732 S.E.2d 401, 406 (Ga. 2012) (“When judges have displayed systemic incompetence or can be shown to have decided matters in bad faith, they risk discipline, including permanent removal from elected or appointed judicial office[.]”).

VII. JUDGE JAMESON'S ACTIONS MERIT REMOVAL FROM OFFICE

When a judge engages in misconduct, the sanctions available to the Commission are “(1) admonition, private reprimand or public reprimand; (2) suspension without pay, or removal or retirement from judicial office[.] SCR 4.020(1)(b). The preamble to SCR 4.300 provides that “whether sanctions are appropriate, and the degree of any sanctions to be imposed, should be determined on such factors as the seriousness of the transgression, whether there is a pattern of improper activity and the effect of the improper activity on others or on the judicial system.” *Gormley v. Judicial Conduct Comm’n*, 332 S.W.3d 717, 727 n.24 (Ky. 2010).

Even if this Court rejects his assignments of error, Judge Jameson argues that “[this Court] should conclude that removal of Judge Jameson was and is unjustified.” (Appellant’s Br. at 5) In support of this assertion, Judge Jameson outlines multiple other JCC matters and their respective outcomes to opine that the “accusations against [him] do not come even as high as the tailcoat of . . . other investigations” such as those the Commission has prosecuted in *Gentry and Alred* (*Id.* at 6–7 citing *Gentry v. JCC*, 612 S.W.3d 832 (Ky. 2020); *Alred v. JCC*, 395 S.W.3d 417 (Ky. 2012) According to Judge Jameson, the allegations against him are not “the sort of factual circumstances and conduct that brought shame to the judiciary and posed a serious danger justifying removal.” (*Id.* at 6) Ironically, the juxtaposition of *Gentry and Alred*, and with his own case actually *bolsters* the JCC’s removal—not undermines it.

When reviewing the facts of *Gentry and Alred*, Judge Jameson asserts that the sticking point for removal is the presence of “bad faith.” (See Appellant’s Br. at 5 – 6) Kentucky courts have defined “bad faith” generally as “[d]ishonesty of belief or

purpose.” *D. W. Wilburn, Inc. v. Painting Co.*, 577 S.W.3d 782, 785 n.1 (Ky. App. 2019). “Bad faith” has also been defined as “contemplate[ing] a state of mind affirmatively operating with a furtive design or with some motive of self-interest or ill will, or for an ulterior purpose.” *Id.* (quoting *Warfield Natural Gas Co. v. Allen*, 59 S.W.2d 534, 538 (Ky. 1933)). While “bad faith” is not necessarily the defining factor in removal cases, these overarching principles of intent certainly play a role. As this Court recently stated, “[t]ypically, removal stems from a deliberate course of action or numerous examples of separate violations of the Code of Judicial Conduct.” *Gentry*, 612 S.W.3d at 847. With this framework in mind, based on the clear and convincing evidence presented at the Final Hearing, Judge Jameson deliberately acted with ill will and in his own self-interest, thereby warranting removal.

In concluding that removal was appropriate, the JCC detailed a laundry list of violations of the Canons committed by Judge Jameson. (Final Order, 11) This list includes: “serious claims of lack of judicial temperament, abuse of contempt power, due process violations, abuse of judicial office/power, improper implementation, use and administration of ankle monitors and processes, fundraising matters, “bid rigging,” incidents taking place in the Marshall County courthouse investigated by the Marshall County Sheriff’s office, obstruction of justice, misuse and abuse of power, various improprieties as a judicial officer, the appearance of impropriety, improper exercise of influence, misusing and abusing the prestige and power of his judicial office, retaliation, and a lack of candor to the relevant tribunals.” (*Id.*) When viewed in isolation, any one of the violations Judge Jameson was found to have committed

may not, standing alone, have warranted removal from office, his collective body of work paints an alarming and disturbing picture.

First, just as in *Gordon*, Judge Jameson was previously before the Commission on multiple occasions between January 2016 and June 2021. (R.3, Ex.32, p. 10) In these instances, Judge Jameson was “more than once been cautioned or admonished to maintain the constitutional role of being judge, or in a more colloquial description, to ‘stay in his lane’ and not venture into activities of other branches of government.” (Final Order, 10) Some of these admonishments specifically related to his increasingly problematic role with the Community Corrections Board. Disregarding these cautions demonstrates Judge Jameson continued to do as he pleased.

Second, while the gravity of Judge Jameson’s pattern of conduct in forming, governing and operating the Community Corrections Board while serving as judge shocks the conscious, even more concerning is his blatant abuse of judicial authority through exploitation of his contempt powers and a pattern of retaliatory behavior. Adding insult to injury, Judge Jameson’s repeated denial of personal responsibility “leave[s] the clear message he intends to continue his actions and efforts and that he fails to acknowledge or see how his actions and efforts addressed herein are acts of misconduct, violations of the Canons and/or take him far afield of his constitutional role as judge.” (Final Order at 19 – 20)

Judge Jameson’s documented pattern of self-serving misconduct warranted removal. Both in and out of the courtroom, Judge Jameson made it clear that he rules with an iron fist. Inside of the courtroom, no one was safe from the threat of contempt, and criminal defendants were continuously subject to his *ex parte* oversight and

punishment via the CCB. Outside of the courtroom, Judge Jameson used his judicial influence to levy support for his campaign and his nonprofit, and he retaliated against any who did not fall in line with his objectives and desires. To top it off, when confronted with this evidence, Judge Jameson repeatedly shifted blame upon others and displayed a pattern of defiance to the relevant tribunals.

Equally problematic is Judge Jameson's continued refusal to acknowledge wrong-doing. In addition to his testimony before the Commission, Judge Jameson "doubles down" in his Brief with excuses and denials that he has done anything wrong. *See e.g.*, Appellant's Br. at 14 ("Judge Jameson believed, *and still believes*, that a sitting judge can also act as an officer for a nonprofit concerned with the administration of justice . . .") (emphasis added). This pattern of misconduct, coupled with Judge Jameson's steadfast refusal to accept responsibility for his actions, leaves no room to dispute the existence of good cause under Section 121 of the Kentucky Constitution to permanently remove him from his judicial office.⁸

Integrity, independence, and impartiality are the lynchpins for an effective and functional judiciary. Judge Jameson's violations of the Code of Judicial Conduct Rules were direct affronts to all three. Because the Commission's central purpose "is to

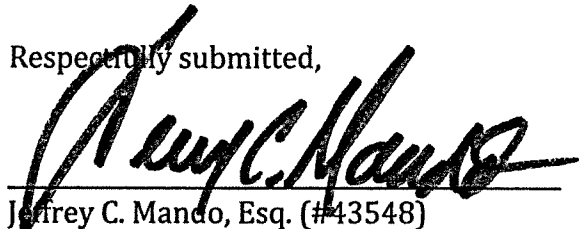
⁸ *See, e.g., Gordon v. Judicial Conduct Comm'n*, 655 S.W.3d 167, 172 (Ky. 2022) (upholding judge's removal from office "based on the pattern and extent of misconduct"); *Alred*, 395 S.W.3d at 446 (upholding judge's removal from office following findings of official misconduct on eight charges (representing separate events)); *Starnes v. Judicial Ret. & Removal Comm'n*, 680 S.W.2d 922, 923 (Ky. 1984) (upholding judge's removal from office for chronic and pervasive absence from court and inattention to business of office, and for refusal to disqualify over cases involving close personal friends); *Wilson v. Jud. Ret. & Removal Comm'n*, 673 S.W.2d 426, 428 (Ky. 1984) (upholding judge's removal from office for course of conduct, intentionally and wrongfully misusing judicial power, to assist close friend, and separate count of dismissing case following *ex parte* meeting with defendant); *see also Kentucky Jud. Conduct Comm'n v. Woods*, 25 S.W.3d 470, 471 (Ky. 2000) (noting multiple instances of judicial abuse which justified district judge's removal from office (although judge in question had not appealed the Commission's order removing him from office)).

ensure to the public that our judiciary is competent, deliberative, fair, independent, and impartial," *Maze*, 612 S.W.3d at 810, the Commission's decision to permanently remove Judge Jameson from office was necessary, warranted and just.

CONCLUSION

For the reasons set forth herein, the Kentucky Judicial Conduct Commission, respectfully requests that this Court AFFIRM the Commission's Findings of Fact, Conclusions of Law, and Final Order.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeffrey C. Mando", written over a horizontal line.

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