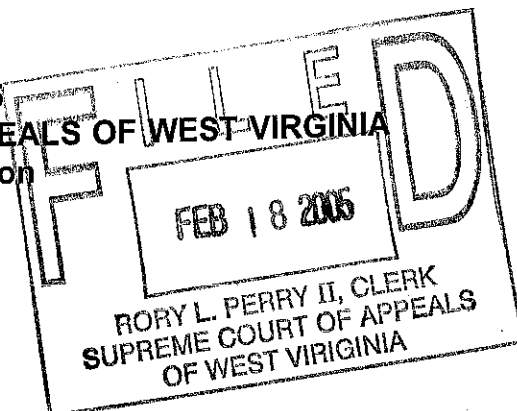


No. 32285  
IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA  
At Charleston



IN RE: **Elsie Smith**  
**Administrative Appeal Pursuant to Section**  
**6.2 of the West Virginia Judicial**  
**Personnel System Manual**

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**APPELLANT'S REPLY BRIEF**

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IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

IN RE: ELSIE SMITH, APPELLANT

No. 32285

APPELLANT'S REPLY BRIEF

Elsie Smith disagrees with opposing counsel's assertion that all three current deputy clerks testified that the office environment was intolerable. For instance, one of the three, Elaine Sanders, stated that she did not recall being upset by Ms. Smith's actions towards her (T. P. 166). Further, she specifically stated that she respected Ms. Smith and did not feel that Ms. Smith mistreated her (T. P. 175). She said that the office would be stressful under anyone's supervision (T. P. 175). However, she did say that currently it was less stressful (T.P.175).

Apparently some stress was related to Ms. Smith's interaction with clerk Paulina Yearego. For instance, Ms. Smith was concerned when the other clerk, Pauline Yearego, received flowers from the mother of a person who had been issued a ticket. The flowers were apparently sent in appreciation for Ms. Yearego's help in having a duplicate charge for the same offense dismissed. Ms. Smith did, understandably, question the circumstances and propriety of Clerk Yearego's receipt of this gift (T.P. 61-66). This may have been stressful, but it was justified.

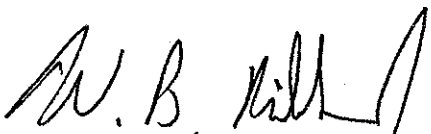
In support of the fact that Ms. Smith was not unduly confrontational, two former court personnel testified that they did not observe a problem with Ms. Smith's operation of her

office. Former Magistrate Margaret Monroe said that Ms. Smith did a fine job and got along well with others (T. p. 228-229). Likewise, former Deputy Clerk, Darlene Roberts stated that Ms. Smith got along well with others and performed her duties in a competent manner (T. p. 230-231).

Finally, counsel objects to the statement in respondent's brief on page 15 that evidence has been mischaracterized by appellant. The letter that was being referred to in Appellant's brief was the letter that the Supreme Court Administrative Director sent on July 13, 2004 to Judge Waters directing removal of the Prosecutor's Office from Magistrate Court. Significantly, despite numerous prior complaints, this is the first time that the Supreme Court directed such action. It is Ms. Smith's contention that this directive is what displeased county officials and caused her to be discharged. The conversation between Elaine Sanders and Judge Waters in which Judge Waters said that changes were going to be made at Magistrate Court occurred within approximately two weeks of this letter being sent. This is not a mischaracterization of the facts.

ELSIE SMITH, Appellant

By Counsel

  
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