

RECEIVED AND FILED

OCT 14 2021

COURT OF JUDICIAL DISCIPLINE  
OF PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA  
COURT OF JUDICIAL DISCIPLINE

IN RE: : DOCKET NO. 5 JD 2020  
: :  
JUDGE MICHAEL J. CABRY, III :  
MAGISTERIAL DISTRICT JUDGE :  
MAG. DISTRICT COURT 15-3-06 :  
CHESTER COUNTY, PENNSYLVANIA :

REPLY TO THE RESPONSE OF THE JUDICIAL CONDUCT BOARD TO THE  
PETITION OF THE RESPONDENT, MICHAEL J. CABRY, III, TO TERMINATE  
THE STAY OF SALARY AND BENEFITS

The Respondent, Michael J. Cabry, III, by and through his counsel, Samuel C. Stretton, Esquire, files this Reply to the Response of the Judicial Conduct Board to his Petition to Terminate the Stay of Salary and Benefits, and again asks this Honorable Court to terminate the stay of his salary and other benefits for the following reasons:

1. The Respondent, Michael J. Cabry, III, filed on or about October 6, 2021, a Petition to Terminate the Stay of Salary and Benefits. A copy of that petition is attached and marked as Exhibit "A".

2. The Judicial Conduct Board then filed a Response on or about October 7, 2021 to the aforementioned Petition to Terminate the Stay of Salary and Benefits. The Response of the Judicial Conduct Board is attached and marked as Exhibit "B".

3. The crimes to which Mr. Cabry pled guilty would not impact on his pension benefits since it did not impact the Statute 43 P.S. 1313, etc.

4. Although there is a current investigation, the investigation is in progress and there has been no decision or finding by the Judicial Conduct Board to file a Petition for Discipline at the present time.

5. The only way Mr. Cabry's pension could be removed in the future is if he was found in disrepute and removed under the applicable constitutional statute pursuant to the Pennsylvania Constitution, Article V, Section 16(b), which allows for a pension loss if the judicial office has been brought into disrepute. The crimes for which Mr. Cabry pled were not felonies.

6. The Judicial Conduct Board states they are concerned Mr. Cabry could seek a senior judgeship. That will never happen and Mr. Cabry has no interest in serving as a judge again or being a senior judge. Further, he could never get appointed. Under the current way of senior judgeship appointment for District Judges and Common Pleas Judges, no one can be appointed to a senior judge status if they have a pending case before the Judicial Conduct Board. As noted, Mr. Cabry has a pending case before the Judicial Conduct Board. Therefore, even if he wanted to apply for senior judge, he would be denied unless and until all of these matters are resolved. But Mr. Cabry has no intention of ever seeking a senior judgeship and that would not

be an issue. Even if he wanted to, he could not be appointed, so that should not be a concern of this Honorable Court.

7. Finally, the concern Mr. Stretton, on behalf of Mr. Cabry, has is the fact that the Judicial Conduct Board is attempting to control Mr. Cabry when their role should be to proceed, investigate and, if determined based on the plea, then seek the prosecution and sanctions. Mr. Cabry is not trying to deny that. He has retired as a District Judge after 19 plus years. He is not seeking another judgeship. There are ample times and cases in the past where a judge has resigned and retired with resolutions of relatively minor discipline. Mr. Stretton has handled several of those cases and those names and cases could be provided if there is a hearing on this matter. But at this point, Mr. Cabry is retired as a District Judge, he has worked out his criminal matters with pleas, he is on probation, he is not seeking senior judgeship and he needs monies to live on. He wants to now apply for pension benefits, which he fully earned for most of his judicial career. Mr. Cabry is only asking that the stay of his salary and benefits be terminated because he is no longer an active judge and there is no longer anything to prevent a stay, and he wants to make sure that he has not interfered with his ability to receive his contribution and his pension benefits currently.

WHEREFORE, the Respondent, Michael J. Cabry, III, by and through his counsel, Samuel C. Stretton, Esquire, respectfully requests this Honorable Court terminate the Order suspending his salary and any other benefits and his interim suspension.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'S. Stretton', is written over a horizontal line.

Samuel C. Stretton, Esquire  
Attorney for the Respondent,  
Michael J. Cabry, III  
103 South High Street  
P.O. Box 3231  
West Chester, PA 19381-3231  
(610) 696-4243  
Attorney I.D. No. 18491

COMMONWEALTH OF PENNSYLVANIA  
COURT OF JUDICIAL DISCIPLINE

IN RE: : DOCKET NO. 5 JD 2020  
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JUDGE MICHAEL J. CABRY, III :  
MAGISTERIAL DISTRICT JUDGE :  
MAG. DISTRICT COURT 15-3-06 :  
CHESTER COUNTY, PENNSYLVANIA :

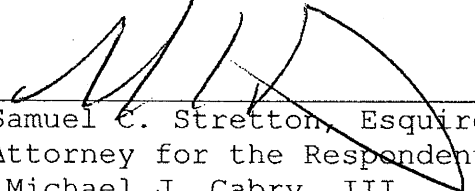
CERTIFICATE OF COMPLIANCE

I, Samuel C. Stretton, Esquire, certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Respectfully submitted,

10/14/21

Date

  
\_\_\_\_\_  
Samuel C. Stretton, Esquire  
Attorney for the Respondent,  
Michael J. Cabry, III  
103 South High Street  
P.O. Box 3231  
West Chester, PA 19381-3231  
(610) 696-4243  
Attorney I.D. No. 18491

COMMONWEALTH OF PENNSYLVANIA  
COURT OF JUDICIAL DISCIPLINE

IN RE: : DOCKET NO. 5 JD 2020  
:  
JUDGE MICHAEL J. CABRY, III :  
MAGISTERIAL DISTRICT JUDGE :  
MAG. DISTRICT COURT 15-3-06 :  
CHESTER COUNTY, PENNSYLVANIA :

CERTIFICATE OF SERVICE

I hereby certify I am this date serving a copy of the foregoing Petition on behalf of the Respondent in the captioned matter upon the following persons in the manner indicated below.

Service by email & Federal Express, overnight delivery addressed as follows:

1. Stephanie Stump, Court Administrator  
Court of Judicial Discipline  
Pennsylvania Judicial Center  
601 Commonwealth Ave., Suite 5500  
P.O. Box 62595  
Harrisburg, PA 17106-2595  
Stephanie.Stump@pacourts.us

Service by email addressed as follows:

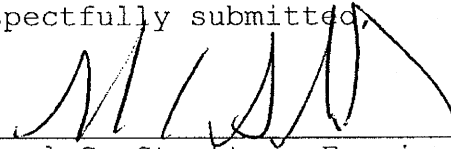
2. James P. Kleman, Jr., Esquire  
Deputy Counsel  
Judicial Conduct Board  
Pennsylvania Judicial Center  
P.O. Box 52525  
Harrisburg, PA 17106-2525  
James.KlemanJr@jcbpa.org

3. Honorable Michael J. Cabry, III  
119 Freedom Valley Circle  
Coatesville, PA 19320  
mikecabry@aol.com

10/14/22

Date

Respectfully submitted,



Samuel C. Stretton, Esquire  
Attorney for the Respondent,  
Michael J. Cabry, III  
103 South High Street  
P.O. Box 3231  
West Chester, PA 19381-3231  
(610) 696-4243  
Attorney I.D. No. 18491

COMMONWEALTH OF PENNSYLVANIA  
COURT OF JUDICIAL DISCIPLINE

IN RE: : DOCKET NO. 5 JD 2020  
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JUDGE MICHAEL J. CABRY, III :  
MAGISTERIAL DISTRICT JUDGE :  
MAG. DISTRICT COURT 15-3-06 :  
CHESTER COUNTY, PENNSYLVANIA :

PETITION TO TERMINATE THE STAY OF SALARY AND BENEFITS

The Respondent, Michael Cabry, by his counsel, Samuel C. Stretton, Esquire respectfully requests this Honorable Court lift and terminate the stay of his salary and other benefits for the following reasons:

1. Michael J. Cabry, III resigned as Magisterial District Judge for Magisterial District 15-3-06 effective September 21, 2021.

2. Michael J. Cabry, III has also pled guilty in the Court of Common Pleas of Chester County to criminal charges arising out of his handling of campaign funds.

3. Since Michael J. Cabry, III is no longer a judge, there is no longer any basis to have a stay on his salary and benefits.

4. Mr. Cabry wishes to, as part of his retirement, collect what pension benefits would be available to him.

5. There is no basis for a stay any longer since this Honorable Court would no longer have any jurisdiction since Mr. Cabry is no longer a District Judge and he is no longer

Exhibit "A"



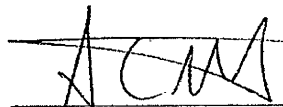
receiving a salary or any further benefits since he has resigned his position as Magisterial District Judge.

6. There is no other case pending before this Honorable Court involving Michael J. Cabry, III at the current time. There is an investigation still ongoing before the Judicial Conduct Board.

7. As a result, Mr. Cabry asks that any and all stay of his salary and benefits be lifted for all of the above reasons.

WHEREFORE, Michael J. Cabry, III respectfully requests this Honorable Court lift the stay of any and all benefits because he has retired and is no longer receiving salary and benefits, and since he wishes to apply for whatever pension benefits he is entitled to.

Respectfully submitted,



---

Samuel C. Stretton, Esquire  
Attorney for the Respondent,  
Michael J. Cabry, III  
103 South High Street  
P.O. Box 3231  
West Chester, PA 19381-3231  
(610) 696-4243  
Attorney I.D. No. 18491

COMMONWEALTH OF PENNSYLVANIA  
COURT OF JUDICIAL DISCIPLINE

IN RE: : DOCKET NO. 5 JD 2020  
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MAGISTERIAL DISTRICT JUDGE :  
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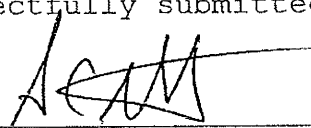
CERTIFICATE OF COMPLIANCE

I, Samuel C. Stretton, Esquire, certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Respectfully submitted,

10/6/21

Date

  
\_\_\_\_\_  
Samuel C. Stretton, Esquire  
Attorney for the Respondent,  
Michael J. Cabry, III  
103 South High Street  
P.O. Box 3231  
West Chester, PA 19381-3231  
(610) 696-4243  
Attorney I.D. No. 18491

COMMONWEALTH OF PENNSYLVANIA  
COURT OF JUDICIAL DISCIPLINE

IN RE: : DOCKET NO. 5 JD 2020  
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MAGISTERIAL DISTRICT JUDGE :  
MAG. DISTRICT COURT 15-3-06 :  
CHESTER COUNTY, PENNSYLVANIA :

CERTIFICATE OF SERVICE

I hereby certify I am this date serving a copy of the foregoing Petition on behalf of the Respondent in the captioned matter upon the following persons in the manner indicated below.

Service by email & Federal Express, overnight delivery addressed as follows:

1. Cathy Kane, Court Administrator  
Court of Judicial Discipline  
Pennsylvania Judicial Center  
601 Commonwealth Ave., Suite 5500  
P.O. Box 62595  
Harrisburg, PA 17106-2595  
Cathy.Kane@pacourts.us

Service by email addressed as follows:


2. James P. Kleman, Jr., Esquire  
Deputy Counsel  
Judicial Conduct Board  
Pennsylvania Judicial Center  
P.O. Box 52525  
Harrisburg, PA 17106-2525  
James.KlemanJr@jcbpa.org

3. Honorable Michael J. Cabry, III  
119 Freedom Valley Circle  
Coatesville, PA 19320  
mikecabry@aol.com

Respectfully submitted,

10/6/21

Date

  
Samuel C. Stretton, Esquire  
Attorney for the Respondent,  
Michael J. Cabry, III  
103 South High Street  
P.O. Box 3231  
West Chester, PA 19381-3231  
(610) 696-4243  
Attorney I.D. No. 18491

COMMONWEALTH OF PENNSYLVANIA



JUDICIAL CONDUCT BOARD

PENNSYLVANIA JUDICIAL CENTER • 601 COMMONWEALTH AVENUE, SUITE 3500 • P.O. Box 62525 • HARRISBURG, PA 17106-0901 • 717-234-7911  
WWW.JCBPA.ORG

October 7, 2021

**Via UPS Overnight Mail**

**Tracking No. 1ZY4X7450196817192**

**And Email: strettonlaw.samstretton@gmail.com; strettonlaw.jen@gmail.com**

Samuel C. Stretton, Esquire

103 South High Street

P.O. Box 3231

West Chester, PA 19381

**Re: *In Re: Michael J. Cabry, III***  
***5 JD 2020***

Dear Attorney Stretton:

Enclosed please find the Response of Judicial Conduct Board to the Petition to Terminate the Stay of Salary and Benefits, was filed with the Court of Judicial Discipline on the date stamped thereon.

If you have any questions, please feel free to contact our office. Thank you.

Very truly yours,

A handwritten signature in cursive script that reads "James P. Kleman, Jr.".

James P. Kleman, Jr.  
Deputy Counsel

JPK/jec

Enclosure (Response to Petition)

Exhibit "B"

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COURT OF JUDICIAL DISCIPLINE  
OF PENNSYLVANIA

**COMMONWEALTH OF PENNSYLVANIA  
COURT OF JUDICIAL DISCIPLINE**

IN RE:

Michael J. Cabry, III  
Magisterial District Judge  
Magisterial District Court 15-3-06  
Chester County

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: 5 JD 2020  
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**RESPONSE OF JUDICIAL CONDUCT BOARD TO PETITION TO TERMINATE  
THE STAY OF SALARY AND BENEFITS**

AND NOW, this 7<sup>th</sup> day of October, 2021, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (Board), by and through undersigned counsel, and files this Response to the Petition to Terminate the Stay of Salary and Benefits filed by Respondent Michael J. Cabry, III, and in support thereof, avers the following:

1. Admitted.
2. Admitted. By way of further answer, Respondent pleaded guilty to the following offenses: (1) theft by unlawful taking, 18 Pa.C.S.A. 3921(a), a misdemeanor of the second degree; (2) reporting by candidate and political committees, 25 P.S. § 3246(a), an ungraded misdemeanor; (3) report must list each expenditure and person, 25 P.S. § 3246(B)(4), an ungraded misdemeanor; and (4) lawful election expenses, 25 P.S. § 3254.1, an ungraded misdemeanor. Respondent was sentenced to one year of probation.
3. This paragraph states a conclusion of law for which no response is required. If a response is deemed to be required, the Board recognizes that the "without pay" component of the interim suspension imposed previously by this Court against Respondent is now of questionable validity due to Respondent's resignation from

commissioned judicial service, which ceased his entitlement to pay for such service. Whatever effect interim suspension may have on annuitant pension payments and fringe benefits to judicial retirees presents a collateral issue regarding this Court's authority to protect the integrity of the judiciary, as, theoretically, Respondent could potentially return to judicial service by way of senior assignment if this Court lifted the suspension entirely, as Respondent appears to request.

4. This paragraph states a conclusion for which no response is required.
5. This paragraph states a conclusion of law for which no response is required. If a response is deemed to be required, the Board recognizes that the "without pay" component of the interim suspension imposed previously by this Court against Respondent is now of questionable validity due to Respondent's resignation from commissioned judicial service, which ceased his entitlement to pay for such service. Whatever effect interim suspension may have on annuitant pension payments and fringe benefits to judicial retirees presents a collateral issue to this Court's authority to protect the integrity of the judiciary, as, theoretically, Respondent could potentially return to judicial service by way of senior assignment if this Court lifted the suspension entirely, as Respondent appears to request.
6. Admitted in part. It is admitted that there is no other case pending before this Court at the present time. The remainder of this averment invites a response that intrudes upon the confidentiality mandate imposed on Board counsel by Article V, § 18(a)(8) of the Pennsylvania Constitution.

7. This paragraph constitutes a prayer for relief for which no response is required. If a response is deemed to be required, the Board notes that, by its terms, the suspension order imposed against Respondent only suspended him from judicial service without pay. This Court's order was silent as to his medical benefits (presumed to be the "benefits" discussed in his petition) provided by the Administrative Office of Pennsylvania Courts (AOPC). By way of further answer, upon information and belief, due to the silence of the interim suspension order on the subject, AOPC continued to provide Respondent with medical benefits throughout the pendency of his suspension, in return for his act of paying the required personal premium contribution. Whatever effect interim suspension may have on annuitant pension payments and fringe benefits to judicial retirees presents a collateral issue to this Court's authority to protect the integrity of the judiciary, as, theoretically, Respondent could potentially return to judicial service by way of senior assignment if this Court lifted the suspension entirely, as Respondent appears to request. Lastly, any effect a final sanction order imposed by this Court (which has not yet occurred in this case) may have on annuitant payments and fringe benefits to a judicial retiree is a collateral consequence of a final sanction order, which is prescribed by Article V, § 16(b) of the Pennsylvania Constitution and certain provisions of the Judicial Code, 42 Pa.C.S.A.



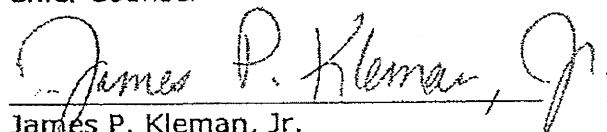
WHEREFORE, it is respectfully requested that this Honorable Court deny Respondent's request to lift the "stay" imposed on "salary and benefits" as specifically requested by Respondent and to grant such other relief as may be deemed appropriate.

Respectfully submitted,

RICHARD W. LONG  
*Chief Counsel*

DATE: October 7, 2021

BY:



James P. Kleman, Jr.  
*Deputy Counsel*

Pa. Supreme Court ID No. 87637  
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:

Michael J. Cabry, III  
Magisterial District Judge  
Magisterial District Court 15-3-06  
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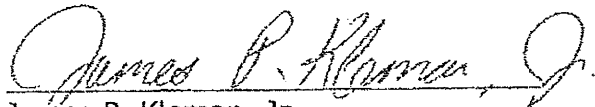
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**VERIFICATION**

I, James P. Kleman, Jr., Deputy Counsel to the Judicial Conduct Board, verify that the facts set forth in the foregoing response are true and correct to the best of my knowledge, information, and belief. I understand that the statements made in this petition are subject to the penalties of 18 Pa.C.S.A. § 4904, regarding unsworn falsification to authorities.

Date: October 7, 2021

By:



James P. Kleman, Jr.  
*Deputy Counsel*  
Pa. Supreme Court ID No. 87637  
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:

Michael J. Cabry, III  
Magisterial District Judge  
Magisterial District Court 15-3-06  
Chester County

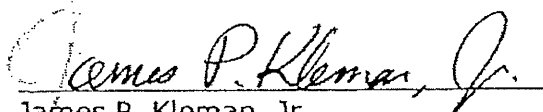
5 JD 2020

**PROOF OF SERVICE**

In compliance with Rule 122 of the Court of Judicial Discipline Rules of Procedure, on October 7, 2021, a copy of the Board's foregoing Response was sent by UPS Overnight and by email to Judge Cabry's counsel, Samuel C. Stretton, Esquire, at the following address:

Samuel C. Stretton, Esquire  
103 South High Street  
P.O. Box 3231  
West Chester, PA 19381-3231  
Email: [strettonlaw.samstretton@gmail.com](mailto:strettonlaw.samstretton@gmail.com)

Respectfully submitted,



James P. Kleman, Jr.

*Deputy Counsel*

Pa. Supreme Court ID No. 87637

Judicial Conduct Board

Pennsylvania Judicial Center

601 Commonwealth Avenue, Suite 3500

P.O. Box 62525

Harrisburg, PA 17106

(717) 234-7911

DATE: October 7, 2021

**COMMONWEALTH OF PENNSYLVANIA  
COURT OF JUDICIAL DISCIPLINE**

IN RE:

Michael J. Cabry, III  
Magisterial District Judge  
Magisterial District Court 15-3-06  
Chester County

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**CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Judicial Conduct Board of Pennsylvania

Signature:



Name:

James P. Kleman, Jr.  
*Deputy Counsel*

Attorney No:

87637