

BEFORE THE JUDICIAL HEARING BOARD OF WEST VIRGINIA

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IN THE MATTER OF	
THE HONORABLE MARYCLAIRE AKERS, JUDGE OF THE 8 TH JUDICIAL CIRCUIT	SUPREME COURT NO. 25-483 JIC COMPLAINT NO. 35-2025

ORDER

Upon consideration of the Special Judicial Disciplinary Counsel's Motion in Limine to Exclude Testimony of Roger G. Hanshaw, and the Respondent's Response, the Board rules as follows:

1. The Response to the Motion states that the witness will offer testimony regarding "the importance of judicial testimony to the legislature and the risk of limited access if the Board were to adopt the JDC's expansive interpretation of the Judicial Code."
2. First, as the Respondent concedes, this witness has never invited any judges to appear before any committees.
3. Second, the Respondent is not charged with offering testimony to the Legislature.
4. Third, it is common for judges to appear before the Legislature including, for example, an annual budget presentation by the Supreme Court of Appeals,¹ but those presentations, unlike the present dispute, do not involve a discussion of pending cases.²
5. Finally, the Board notes that the witness has been deposed and a transcript of his testimony can be placed in the record as the Respondent's proffer of his testimony.

¹ <https://www.wvlegislature.gov/legisdocs/2026/committee/minutes/sfin%2001-20.pdf> ("C. Haley Bunn, Chief Justice, was recognized to present the budget for the court. Questions and answers followed.").

² B. McElhinny, Chief Justice *Workman Says WV Supreme Court Has to Restore Public Trust*, MetroNews (April 16, 2018) ("Workman said she could not comment on the existence of any other state or federal investigations looking into spending by justices. 'I'm not at liberty to describe anything like that,' Workman said. Workman made her comments to reporters after concluding separate statements to lawmakers who were examining a legislative audit of the Supreme Court."), https://wvmetronews.com/2018/04/16/chief-justice-workman-says-wv-supreme-court-has-to-restore-public-trust/?utm_source=chatgpt.com

6. R. Evid. 401 provides, “Evidence is relevant if: (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action.”

7. R. Evid. 403 provides, “The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.”

8. Other than arguing the witness’s testimony would be relevant to mitigation, the Respondent does not explain how the witness’s testimony “has any tendency to make a fact more or less probable than it would be without the evidence” or “is of consequence in determining the action.”

9. The idea that judges might theoretically feel constrained to offer legislative testimony is certainly an argument that the Respondent is free to advance, but it does not involve any disputed fact and, moreover, it would constitute a waste of time to present it.

WHEREFORE, the Motion in Limine to Exclude Testimony of Roger G. Hanshaw is GRANTED.

Counsel to the Judicial Hearing Board is hereby directed to file a copy of this ORDER with the Clerk of the Supreme Court of Appeals and to serve a copy on the members of the Judicial Hearing Board and counsel of record upon its entry.

Entered this 9 day of March 2026.

A handwritten signature in blue ink, appearing to read 'M. Lorensen', is written over a horizontal line.

Hon. Michael D. Lorensen, Chairperson
Judicial Hearing Board