

To: Colorado Commission on Judicial Discipline
From: Ian J MacLaren – Montezuma County Court Judge
Date: May 20, 2025
Re: Complaint No. 25-071

via e-mail: [REDACTED]

To Whom it May Concern,

On April 24, 2025, I received a letter from the Executive Director of Colorado Commission on Judicial Discipline, Anne Mangiardi, requesting a response to a complaint related to my conduct in *People of the State of Colorado v. Harry Burris*, Montezuma County Case No. 2024M446.

Before directly responding to the questions set forth in the Commission's letter, I believe that it is important to provide a brief overview of my legal experience and professional background, as well as a brief history of the case underlying the complaint. I believe that my professional experience is relevant to understanding why I chose to handle the diversion agreement in the *Burris* case in the manner that I did. I believe that the case history is important in that it shows that coverage of the *Burris* case was consistent both before and after I was appointed to the bench.

Beginning with a discussion of my professional background, I would note that I am relatively new to the county court bench. My experience as a County Court Judge began in June of 2024 when I was appointed to the County Court Bench in Dolores County (a part-time position). In November of 2024, I was appointed as the County Court Judge in Montezuma County at which point I began working as a judge on a full-time basis. Prior to my appointment to the bench in Montezuma County, I was employed as an Assistant County Attorney in Montezuma County for approximately 5.5 years and the County Attorney in Montezuma County for approximately 3.5 years. While working as the Assistant County Attorney and County Attorney, my practice was exclusively civil in nature, and over the course of my career, I have limited experience working on criminal cases.

Regarding the history of *People of the State of Colorado v. Burris*, I would note that the case was filed on August 21, 2024 – nearly three months before I took the bench in Montezuma County. The case did not appear in front of me until December 3, 2024, at which time I continued the matter for a plea hearing on January 21, 2025. The Defendant entered a not-guilty plea on January 21, 2025, and the matter was set for trial. On February 6, 2025, the People filed a signed Diversion Agreement with the Court, and I subsequently issued an order setting the case for hearing as described in the Complaint. It should be noted that the local newspaper that serves Montezuma County, *The Journal*, published articles about the case on 09/26/24, 12/10/24, 01/22/25, and 02/06/25 before publishing the article about the hearing that was held on 02/25/25. The hearing on 02/25/25 is partially the subject of the Complaint.

Rulings and Statements on Diversion Agreement

As to whether my rulings following the People's filing the diversion agreement on February 6, 2025, as well as my statements during a hearing on February 25, 2025, violated any of the Rules of Judicial Conduct cited in the Complaint, I believe that they did not.

I. Order setting hearing to stay proceedings pursuant to diversion agreement

As indicated above, *People of the State of Colorado v. Burris* was set for trial at the time that the People filed a signed diversion agreement on February 6, 2025. After reviewing the diversion agreement that was filed, I thoroughly reviewed Section 18-1.3-101 of the Colorado Revised Statutes, which governs pretrial diversion agreements. In doing so, I gave special attention to C.R.S. 18-1.3-101(9)(f), which states that "when a diversion agreement is reached, the court **shall stay further proceedings.**" While the statute is very clear that courts shall stay proceedings when a diversion agreement is reached, the process by which proceedings should be stayed is not defined. I was unable to find any case law weighing in on whether proceedings should be stayed by written order or whether such proceedings could/should be stayed in open court.

After thinking deeply about how best to proceed, I issued an order on February 6, 2025, setting a hearing on the matter. In doing so, my sole prerogative was to ensure transparency in the judicial process. My concern was that if stayed proceedings via written order and did not address the matter in open court, members of the public would not understand how or why the case disappeared. Questions would be asked as to whether the case disappeared prior to the scheduled trial at the discretion of the courts, the District Attorney, or some other mechanism entirely. There was grave risk, from my perspective, that staying proceedings absent a hearing would cast the illusion that things were being done "behind closed doors."

I would like to emphasize that my interest in ensuring transparency in proceedings was by no means limited to the case of *People of the State of Colorado v. Burris*. Rather, ensuring transparency in the court system is something that I've always worked hard to do. When I represented our local county government as the County Attorney, I always encouraged my clients to conduct business in the open as required by Colorado open meetings laws. As a judge, I have been similarly committed to ensuring live streaming is available when appropriate and legally mandated.

Shortly after my appointment to the bench in Dolores County, I altered the long-standing practice of prior judges in the county of dismissing criminal cases based solely on a motion in light of language contained in Rule 48 of the Colorado Rules of Criminal Procedure, which states that "no criminal case pending in any court shall be dismissed...unless upon a motion in open court." See Colo. R. Crim. P. 48(a). While I recognize that the meaning of "in open court" is up for debate, and that many judges interpret such language to allow for dismissal via written filings, my consistent practice since being appointed to the bench has been to set all motions to dismiss for hearing. Parties are offered the opportunity to make a brief record before I issue my ruling regarding dismissal. I would also note that my practice of setting cases for hearing when a

diversion agreement is reached has been consistent across all cases and has not been limited to *People of the State of Colorado v. Burris*.

While an argument can be made that scheduling hearings on matters where a stay of proceedings and/or dismissal is mandated is inefficient and a waste of time, I firmly believe that conducting such proceedings in public promotes transparency. I do not believe that setting hearings when a diversion agreement is reached violates the law in any way (Canon 1.1), abuses the prestige of the judicial office in any way (Cannon 1.3), or any way undermines public confidence in the integrity of the judiciary (Cannon 1.2). To the contrary, I am confident that setting diversion agreements for hearing promotes confidence in the judiciary by allowing citizens who might not be familiar with the court system to better understand why proceedings are being stayed and why cases are being dismissed. I do not believe that the order that I issued on February 6, 2025, violated the Code of Judicial Conduct in any way.

II. Order denying motion to waive the Defendant's appearance

On February 24, 2025, counsel for the Defendant in *People of the State of Colorado v. Burris* filed a Motion requesting that the Defendant be excused from the hearing on the diversion agreement. On that same day, I issued an order denying the Motion and indicated that the Defendant would be required to appear.

Since being appointed to the county court bench, I have consistently denied requests to waive defendants' appearance. The only instances in which I have granted such requests have involved defendants who were housed in in-patient treatment facilities that did not allow for in-person appearances or in situations infraction cases where waiver of a defendant's appearance is statutorily allowed.

My consistent refusal to waive defendants' appearances stems from my belief that all parties to a case should be deeply involved in proceedings from start to finish. In my experience, parties who do not appear at their court hearings have greater difficulty understanding the proceedings against them, tend to be less communicative with their attorneys, tend to be less motivated to pursue treatment when appropriate, and tend to be less helpful formulating strategies in their cases.

Throughout my time practicing as an attorney, I urged my clients to attend all hearings, and I consistently advised against filing motions to waive my clients' appearances. Although I recognize that requiring parties to appear at hearings causes some inconvenience, the benefits of having parties attend proceedings far outweigh the detriments associated with parties missing hearings.

I do not believe that requiring the Defendant's appearance in *People of the State of Colorado v. Burris* violated any portion of the Code of Judicial Conduct and requiring the Defendant's appearance was consistent with rulings that I've made on motions requesting the waiver of a party's appearance.

III. Statements made during hearing to stay proceedings pursuant to diversion agreement

Although the letter that I received from the Commission on Judicial Discipline did not specifically ask me to address statements that I made during the hearing to stay proceedings on February 26, 2025, the letter did reference my statements, and I believe that a brief discussion of those statements is warranted.

Specific statements that I made during the hearing were that I believed that the diversion agreement was inappropriate and that I viewed the diversion agreement as a “slap on the wrist.” I also stated that “if the diversion agreement had been presented to me as a plea agreement, I would absolutely deny it.” I stated that “the community puts incredible trust in educators” and that the “allegations of sexual misconduct (that were allegedly not reported) were significant.” I also stated that legally, I was not in “a position where I [could] deny the diversion agreement.”

I want to emphasize that in making the statements referenced above, I did so for the sole purpose of indicating that even though I was legally obligated to stay proceedings, I was not staying proceedings without trepidation. Leading up the hearing, I put a great deal of thought into the sorts of cases in which diversion agreements had been offered since I took the bench. Such cases included minor traffic offenses and a few non-violent misdemeanors. I also put a great deal of thought into each of the statements that I made.

I absolutely appreciate the importance of the separation of powers and prosecutorial discretion, and I respect that the law clearly allows district attorneys the ability to enter into diversion agreements at their sole discretion. That said, I was not comfortable signing an order staying proceedings until I expressed concerns that I had with the agreement. In my experience, it is not at all unusual for judicial officers to offer opinions on agreements that are brought before them, whether those agreements are settlement agreements, plea agreements, stipulations, or otherwise. All of the statements that I made were factually accurate and none of my statements were made without much thought in advance.

I firmly believe that my statements in no way undermined “public confidence in the independence, integrity, or impartiality of the judiciary,” and I do not believe that my statements created “appearance of impropriety.” Rather, my statements reflected factual statements about a diversion agreement that was difficult for me to sign. I hold no ill will towards the defendant, and I firmly believe that all defendants are innocent until proven guilty. That said, I wanted to be clear that my signature on the order staying proceedings was in no way indicative of my comfort or agreement with the disposition.

Interactions with the Press and Conduct of the Press

As indicated in the letter that I received from the Commission on Judicial Discipline, the press was present at the hearing to stay proceedings pursuant to diversion agreement and subsequently published an article authored by Cameryn Cass regarding the hearing on February 25, 2025.

I. Interactions with the press prior to the hearing

I want to be extremely clear that at no point did I invite Ms. Cass or any other member of the press to any hearing in *People of the State of Colorado v. Burris*, including the hearing on February 25, 2025. At no point did I discuss the facts of the case with any member of the press, including Ms. Cass, and at no point did I discuss any rulings or statements that I made in the course of my duties as the judge assigned to the case.

I want to be clear that I did interact with the press regarding this case. The first interaction came in the early part of February of 2025 after an article detailing the diversion agreement was published in *The Journal* on February 6, 2025. Roughly one week after the article was published (I'm not sure of the exact date), Ms. Cass and I were together socially, and she asked whether there would be more hearings in the case. I responded that I could not discuss the case with her and advised that she check the court docket for information regarding future hearings. I may have mentioned that a hearing would take place in February, but I do not recall for sure. Later in February, Ms. Cass told me that she was having difficulty accessing the court's docket online and asked again about the date of the hearing. I provided her with the date and time of the hearing. At no point did I suggest that she attend or cover the hearing, and at no point did I discuss any facts about the case with her.

In hindsight, I should not have answered Ms. Cass's question regarding the date and time of the hearing. At the time that I provided Ms. Cass with the date and time of the hearing, my thought was that doing so would save time. I knew that the press had been previous at previous hearings in the case and I didn't feel as if providing the date and time of the hearing would cause harm. Given another opportunity, I absolutely would have suggested, as I did when I was asked the first time, that Ms. Cass consult the court docket or contact the court office with any questions.

I can say with utmost confidence that at no point in time was I attempting to garner any sort of favor or any sort of preferential treatment by answering Ms. Cass's question regarding the date and time of the hearing. I was also not trying to generate any press coverage of the hearing. I anticipated that the press would likely cover the hearing given that almost every other hearing in the case had been covered, but quite frankly, I had no interest either way in whether an article was written about the hearing.

II. Photography and audio recording at the hearing

At no point did I speak to any member of the press, including Ms. Cass, regarding whether photography and/or recording could take place at the hearing and at no point did I authorize either photography or recording. I did not see any members of the press, including Ms. Cass, at the hearing (the courtroom was very full), and I was unaware that any pictures were taken during the hearing.

I first learned that a picture of the hearing had been taken one day after the hearing on February 26, 2025. I was in court throughout the morning of February 26, 2025, and when I exited the courtroom around noon, our Court Administrator, Eric Hogue, approached me, told me that an article and picture had been posted on *The Journal's* website, and asked whether I had authorized

photography. I told him that I had not. Mr. Hogue told me that our judicial district has a strict policy regarding photographs in the courtroom (I was aware loosely aware of Colorado laws prohibiting photography in the courtroom, but not aware of our district's specific policy) and that he would send the editor of the newspaper an email regarding the unauthorized photograph and get the matter taken care of. I did not take any other steps regarding the photograph and figured that the issue would be taken care of.

I was absolutely not aware that any recording of proceedings, either audio or video, took place. Quite frankly, the fact that proceedings may have been recorded did not occur to me until I reviewed the letter that I received from the Colorado Commission on Judicial Discipline. I want to be very clear that at no point did I discuss or authorize the recording of proceedings with any member of the press.

III. Nature of my relationship with Cameryn Cass

I met Ms. Cass in August of 2024. She was working as a reporter in charge of covering our local county government. She interviewed me for one or two stories, and she reached out for comment on one or two occasions seeking comment on issues relating to county government.

The two of us became friends and spent a good deal of time together throughout the Fall of 2024 and throughout the Spring of 2025. We share a mutual love of backpacking, camping, and other outdoor activities, and we both enjoy water skiing at our local lake. We've also taken weekend trips on my motorcycle and joined one another for lunch and dinner on numerous occasions.

I would describe our relationship as more than friends but less than being an official couple. We have gone on what I would describe as "dates," and we have spent time together as just friends. It is fair to say that at times we have been romantically involved.

I am confident that nothing about our relationship has influenced my ability to do my job in an unbiased, impartial, and honest way. I have never discussed specific cases with Ms. Cass, I have never provided her with "news tips" regarding stories emanating from the courts, and I have never asked or encouraged Ms. Cass to come to my courtroom to cover stories. Quite frankly, except for answering Ms. Cass's question regarding the date and time of the hearing to stay proceedings pursuant to the diversion agreement, I have discussed my job and the court system with her very little.

I should note that Ms. Cass did write a story in *The Journal* in November of 2024 when I was appointed to the bench in Montezuma County. I did not speak with her regarding the story or do any kind of interview for the story since I felt that doing so would be inappropriate given the nature of our relationship.

Conclusion

In conclusion, I would like to say that I firmly believe that none of my conduct regarding scheduling the hearing to stay proceedings pursuant to the diversion agreement in *People of the State of Colorado v. Burris* violated the Colorado Code of Judicial Conduct. I also do not

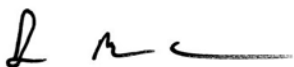
believe that my statements during the hearing violated any portion of the Code. While I admit that my scheduling of the hearing may have been atypical compared to how many courts in Colorado handle diversion agreements, I am confident that none of my rulings or statements were contrary to applicable laws regarding diversion agreements. I admit that my lack of experience with criminal cases and/or diversion agreements may have influenced my handling of the matter to extent. Although I do not believe that increased experience would have led me to handle things differently, I do believe that I may have viewed the diversion agreement differently had I spent my career in criminal court and had I been more familiar with such agreements.

Regarding my interactions with the press and my relationship with Cameryn Cass, I do not believe that my actions violated the Colorado Code of Judicial Conduct. I do not believe that my relationship with Ms. Cass compromised my integrity or my ability to be fair and impartial in any way. I did not know that she took pictures in the courtroom, and I did not realize that she recorded any court proceedings.

I admit that there were better ways to handle Ms. Cass's question regarding the date and time of the hearing to stay proceedings pursuant to the diversion agreement and I fully intend to refrain from answering similar questions from the press in the future.

Please feel free to reach out to me by email at [REDACTED] or by phone at [REDACTED] if you have any questions or if there is any other information that I can provide.

Sincerely,



Ian J MacLaren
County Court Judge – Montezuma County
Twenty Second Judicial District
State of Colorado