

**Judicial Conduct Board**  
Commonwealth of Pennsylvania  
Joseph A. Massa, Jr., Chief Counsel  
717-234-7911

## **Press Release**

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**October 11, 2007**

**TO: Media/Press**

**FROM: Judicial Conduct Board/Joseph A. Massa, Jr., Chief Counsel**

**SUBJECT: Filing of Formal Charges  
Daniel S. Davis  
Former Magisterial District Judge In & For  
Magisterial District 20-3-01  
Huntingdon County**

**JUDICIAL CONDUCT BOARD  
INITIATES FORMAL PROCEEDINGS  
CONCERNING FORMER HUNTINGDON COUNTY  
MAGISTERIAL DISTRICT JUDGE DANIEL S. DAVIS**

**HARRISBURG, October 11, 2007** –The Judicial Conduct Board has announced today that it has instituted formal proceedings against former Huntingdon County Magisterial District Judge Daniel S. Davis. A Board Complaint has been filed with the Court of Judicial Discipline in Harrisburg.

The Board Complaint alleges that former Magisterial District Judge Davis failed to diligently discharge his administrative responsibilities.

In accordance with the rules which govern proceedings before the Court of Judicial Discipline, former Magisterial District Judge Davis has an opportunity to respond to the charges, obtain and inspect the evidence which forms the basis of the allegations and the right to a public trial before the Court of Judicial Discipline.

Upon completion of the trial, if the Court determines that one or more of the charges have been proven by clear and convincing evidence, it will schedule a Sanctions Hearing to determine what sanctions should be imposed upon the former magisterial district judge for violating the Rules Governing Standards of Conduct of Magisterial District Judges and the Pennsylvania Constitution. Possible sanctions include reprimand and restriction of future judicial employment. Davis resigned from his judicial office effective August 31, 2007.

**Counsel:** Joseph A. Massa, Jr., Chief Counsel

**Respondent's** George N. Zanic, Esquire  
Bierbach McDowell Zanic

**Contact:** Joseph A. Massa, Jr., Chief Counsel  
Judicial Conduct Board

**Note:** Board Complaint attached.

*(This information may also be found on [www.jcbpa.org](http://www.jcbpa.org))*

## END ##

COMMONWEALTH OF PENNSYLVANIA  
COURT OF JUDICIAL DISCIPLINE

RECEIVED AND FILED  
COURT OF  
JUDICIAL DISCIPLINE  
OF PENNSYLVANIA  
2007 OCT 11 A 10:23

In re:

Daniel S. Davis, :  
Former Magisterial District Judge; :  
Magisterial District 20-3-01; : 2 JD 2007  
Huntingdon County :  
:

NOTICE OF FORMAL CHARGES

**TO: DANIEL S. DAVIS, FORMER MAGISTERIAL DISTRICT JUDGE:**

The Pennsylvania Judicial Conduct Board has determined that there is probable cause to file formal charges against you for conduct proscribed by Article V, § § 17 and 18 of the Constitution of the Commonwealth of Pennsylvania. The Board's counsel will present the case in support of the charges before the Pennsylvania Court of Judicial Discipline.

You have an absolute right to be represented by a lawyer in all proceedings before the Court of Judicial Discipline. Your attorney should file an entry of appearance with the Court of Judicial Discipline within fifteen (15) days of service of this Board Complaint in accordance with C.J.D.R.P. No. 302(B).

You are hereby notified, pursuant to C.J.D.R.P. No. 302(E), that should you elect to file an omnibus motion, that motion should be filed no later than thirty (30) days after the service of this complaint in accordance with C.J.D.R.P. No. 411.

**FORMAL COMPLAINT**

AND NOW, this 11<sup>th</sup> day of October, 2007, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (hereinafter "Board") and files this Board Complaint against Daniel S. Davis (hereinafter "Respondent"), former Magisterial District Judge of Magisterial District 20-3-01, Huntingdon County, Pennsylvania, alleging that the Respondent has violated the Rules Governing Standards of Conduct of Magisterial District Judges, and Article V, § § 17(b) and 18(d)(1) as more specifically delineated herein.

**I. BACKGROUND**

1. This action is taken pursuant to the authority of the Board under Article V, § 18 of the Constitution of the Commonwealth of Pennsylvania which grants authority to the Board to determine whether there is probable cause to file formal charges, and when it concludes that probable cause exists, to file formal charges against a judicial officer for proscribed conduct and to present the case in support of such charges before the Court of Judicial Discipline.

2. From June 10, 1975, until he resigned effective August 31, 2007, the Respondent served continuously as Magisterial District Judge for Magisterial District 20-3-01 in Huntingdon County, the Twentieth Judicial District, Pennsylvania, encompassing the Townships of Barree, Franklin, Jackson, Logan, Morris, Porter, Smithfield, Spruce Creek, Warriors Mark and West; and the Boroughs of Alexandria, Birmingham and Petersburg, Pennsylvania, with an office located in the Porter Township Building, 7561 Bridge Street, Suite 1, P.O. Box 361, Alexandria, Pennsylvania 16611. As a Magisterial District Judge he was, at all times relevant hereto, subject to all the duties and responsibilities imposed on him by the Rules Governing Standards of Conduct of Magisterial District Judges.

The Respondent is charged with violating his judicial duties as set forth in the following paragraphs.

## II. CONDUCT GIVING RISE TO CHARGES

3. The scheduled audit of Respondent's District Court 20-3-01, for 2003, 2004, and 2005, conducted by the Commonwealth of Pennsylvania Department of the Auditor General ("Department"), Bureau of County Audits, uncovered numerous irregularities and discrepancies with the Respondent Court's paperwork and financial matters.

4. The Bureau of County Audits asked the Department's Office of Special Investigation (OSI) to review the administrative practices and activities of the Respondent; his office staff; and the Magisterial District Court's primary constable, David Metzger.

5. The Department's investigative results were shared with the Board. The Board's independent analysis demonstrates that as a general practice, the Respondent:

- (a) failed to discharge his administrative duties, and
- (b) failed to maintain accurate and adequate court records.

6. In some cases involving defendants who failed to pay fines and costs, the Respondent issued commitment orders without holding the required hearing to assess the defendant's financial ability to pay.<sup>1</sup> Rather than holding the requisite hearing, the Respondent based his decision on personal and unsubstantiated knowledge of a defendant's finances.

7. The Respondent operated a community service program that did not comply with the laws governing adjudication alternatives.

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<sup>1</sup> Defendants who are unable to pay their fines and costs can be sentenced to jail both (1) in lieu of payment of fines and costs in traffic cases pursuant to 75 Pa.C.S. § 6504 and (2) as an alternative sentence in non-traffic summary offenses pursuant to 42 Pa.C.S. § 9758(c). Before a defendant in a non-traffic offense can be sentenced to jail under

7.1. Except in cases charging offenses relating to vehicles and game, a magisterial district judge may sentence a person charged with a summary offense to “an appropriate adjudication alternative.” 42 Pa.C.S. § 1520(a).

7.2. In at least eighteen (18) cases, the Respondent ordered individuals with Vehicle Code offenses to community service, even though Vehicle Code offenses are specifically excluded from alternative adjudication programs. 42 Pa.C.S. § 1520.

7.3. The Respondent’s community service program was not authorized by either the Huntingdon County Court Administrator or the President Judge. Huntingdon County has no established policy on community service programs for adults and a limited policy of community service for juveniles. Thus, the Respondent operated his community service program on his own, without the consent or authorization of the appropriate county court and judicial officials.

8. The Respondent failed in discharging his administrative oversight responsibilities by permitting Constable Metzger to operate in a manner contradictory to the law and established procedures.

8.1. Rule 431(B) of the Pennsylvania Rules of Criminal Procedure provides:

**Rule 431. Procedure When Defendant Arrested With Warrant.**

(B) When a warrant of arrest is executed, the police officer shall either:

(1) accept from the defendant a signed guilty plea

and the full amount of the fine and costs if stated on the warrant;

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42 Pa.C.S. §9758(c), the Pennsylvania Rules of Criminal Procedure require a hearing to be held to determine whether the defendant has the financial ability to pay the fines and costs.

(2) accept from the defendant a signed not guilty plea and the full amount of collateral if stated on the warrant;

(3) accept from the defendant in the amount of restitution, fine, and costs due as specified in the warrant if the warrant is for collection of restitution, fine, and costs after a guilty plea or conviction; or

(4) cause the defendant to be taken without unnecessary delay before the proper issuing authority.

8.2. Pennsylvania Rule of Criminal Procedure 454(E)(1) provides:

“If the defendant is without the financial means to pay the amount in a single remittance, *the issuing authority* may provide for installment payments and shall state the date on which each installment is due.” (Emphasis added).

8.3. Rather than bringing all defendants before the Respondent, Metzger would establish a payment plan for some defendants who were unable to pay the entire amount of the warrant.

8.4. Metzger’s payment plans required defendants to make installment payments directly to Metzger.

8.5. Metzger charged service fees each time he collected a payment.

8.6. The Respondent permitted Metzger to establish and collect partial payments from the defendants. This lack of administrative oversight led to serious problems with Metzger’s handling of the money he collected from defendants including:

- forgery (of payment remittances collected by Metzger),
- fines and costs collected, not remitted,
- fines and costs collected, but not remitted timely,

- deducting service fees from defendants' payments,
- depositing defendants' payments into his own business and/or personal bank accounts,
- spending defendants' payments prior to remittance to Respondent's District Court,
- requesting defendants pay with cash or money order payable to Metzger rather than to the Respondent's District Court as required, and
- failure to issue receipts to defendants.

8.7. The Respondent knew that Metzger established payment plans when the defendants were unable to pay for their fines and costs.

8.8. The Respondent knew that Metzger collected fines, costs and restitution from defendants and deposited this money in his business and/or personal bank account. The Respondent did not object to Metzger depositing the defendant's payments into Metzger's business and/or personal bank account.

8.9. The Respondent knew Metzger remitted fines, costs and restitution to the Respondent's District Court with a check from Metzger's business bank account by the name of "State Constables Service".

8.10. The Respondent knew Metzger was, in most instances, deducting his service fees from the money collected from defendants and remitting only the remaining portion of the money to the Respondent's District Court.

8.11. The proper procedure is for a constable to remit the entire amount of money collected from a defendant to the Magisterial District Court along with an invoice for the appropriate constable service fee. The Magisterial District Judge then reviews the constable service fees listed on the service fee invoice and approves the amount to be paid to the constable. Any service fees disallowed are to be refunded to the defendant. Metzger retained his service



fees from the money collected from defendants and also retained the five dollar (\$5) Commonwealth surcharge.

8.12. The five dollar (\$5) Commonwealth surcharge is pursuant to 42 Pa.C.S. § 2949(b), which assesses a surcharge of \$5 per docket number in each criminal case and \$5 per named defendant in each civil case in which a constable or deputy constable performs a service.

8.13. Surcharges collected under 42 Pa.C.S. § 2949(b), if collected by a constable or deputy constable, must be turned over within one week to the issuing authority, which is then required to remit the same to the Department of Revenue for deposit into the Constables' Education and Training Account.

8.14. On September 24, 2007, Honorable Robert B. Stewart III, the District Attorney of Huntingdon County, filed an Amended Information (Huntingdon County Docket No. CP-31-CR-247-2007) against Metzger charging him with:

1. two (2) counts of Forgery (Felony 3), in violation of 18 Pa.C.S. § 4101(a)(1)(2)(3) of the Pennsylvania Crimes Code; and,
2. one (1) count of Theft by Failure to Make Required Disposition of Funds Received (Misdemeanor 1) in violation of 18 Pa.C.S. § 3927(a) of the Pennsylvania Crimes Code.<sup>2</sup> (Attached as Exhibit 1 and incorporated herein by reference.)

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<sup>2</sup> In a press release announcing the filing of the criminal complaint against Metzger, District Attorney Stewart noted:

"I do not believe that either Magisterial District Judge Davis or any other member of his staff ever took any money out of his office other than the salaries that they had earned. This investigation has been difficult for Magisterial District Judge Davis and his staff. They have all cooperated fully with the Auditor General's special investigators."

By virtue of some, or all of the facts alleged in paragraphs one (1) through eight (8) of this Board Complaint, the Respondent is subject to discipline pursuant to Article V, § 18(d)(1) of the Pennsylvania Constitution for the following reason:

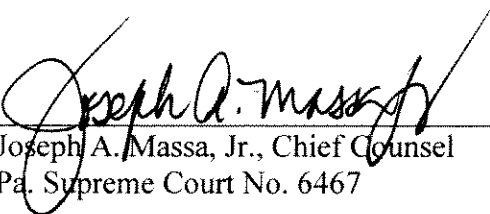
COUNT 1: The Respondent has violated Rule 5 of the Rules Governing Standards of Conduct of Magisterial District Judges, which provides:

A. *Magisterial district judges shall diligently discharge their administrative responsibilities, maintain competence in judicial administration and facilitate the performance of the administrative responsibilities of their staff and of other members of the judiciary and court officials.*

WHEREFORE, Daniel S. Davis, the former Magisterial District Judge named in these charges, is subject to disciplinary action pursuant to the Constitution of the Commonwealth of Pennsylvania, Article V, §§ 17(b) and 18(d)(1).

Respectfully submitted,

Date: October 11, 2007

  
\_\_\_\_\_  
Joseph A. Massa, Jr., Chief Counsel  
Pa. Supreme Court No. 6467

Judicial Conduct Board  
301 Chestnut Street, Suite 403  
Harrisburg, PA 17101  
(717) 234-7911  
Fax: (717) 234-9307

COMMONWEALTH OF PENNSYLVANIA  
COURT OF JUDICIAL DISCIPLINE

**In re:**

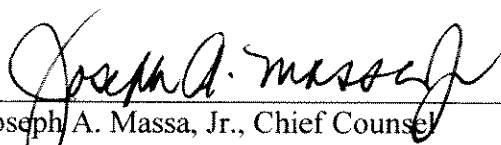
**Daniel S. Davis,** :  
**Former Magisterial District Judge;** :  
**Magisterial District 20-3-01;** :  
**Huntingdon County** : **2 JD 2007**  
:

**VERIFICATION**

I am the Chief Counsel for the Judicial Conduct Board and I am authorized to make this verification and file the foregoing *BOARD COMPLAINT*. I verify that the Judicial Conduct Board found probable cause to file the formal charges contained in the Board Complaint. I understand that the statements herein are made subject to the penalties of 18 Pa. Cons. Stat. Ann. § 4904, relating to unsworn falsification to authorities.

Respectfully submitted,

Date: October 11, 2007

  
\_\_\_\_\_  
Joseph A. Massa, Jr., Chief Counsel  
Pa. Supreme Court No. 6467

Judicial Conduct Board  
301 Chestnut Street, Suite 403  
Harrisburg, PA 17101  
(717) 234-7911  
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**AMENDED**  
**INFORMATION**

IN THE COURT OF COMMON PLEAS OF HUNTINGDON COUNTY, PENNSYLVANIA  
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA	:	NO. CP-31-CR-247-2007
	:	
v.	:	CHARGES: Forgery; Theft by
	:	Failure to Make Required Disposition
DAVID RAY METZGER	:	of Funds

THE DISTRICT ATTORNEY OF HUNTINGDON COUNTY, by this Information, charges that between the dates of December 20, 2001 and November 18, 2006, **DAVID RAY METZGER**, the Defendant above named, in the County of Huntingdon, did:

COUNT 1: ON OR ABOUT MARCH 1, 2006, DEFENDANT DAVID RAY METZGER RECEIVED A BANK MONEY ORDER DRAWN ON OMEGA BANK, AND MONEY ORDER BEARING NUMBER 276499405 AND BEING IN THE AMOUNT OF \$712.44. THIS MONEY ORDER REPRESENTED MONEY OF DAVID BLACK AND WAS TRANSFERRED TO THE DEFENDANT FOR THE PURPOSE OF PAYING FINES AND COSTS ON BEHALF OF BLACK'S SON'S GIRLFRIEND, AMANDA GOSHORN. THE MONEY ORDER WAS MADE PAYABLE TO 20-3-01, BEING THE DISTRICT COURT WHEREIN DANIEL SCOTT DAVIS SITS AS THE MAGISTERIAL DISTRICT JUDGE. WITHOUT ANY LEGAL AUTHORITY WHATSOEVER AND CONTRARY TO THE LEGAL REQUIREMENTS OF 42 PA. C.S., 2950, DEFENDANT ENDORSED OR CAUSED TO BE ENDORSED THE NUMBERS "20-3-01" ON THE REVERSE SIDE OF THE SAID MONEY ORDER AND DID DEPOSIT THE SAME INTO HIS BUSINESS BANK ACCOUNT IN THE RELIANCE BANK, SAID ACCOUNT NUMBER BEING 06-09002597 ON MARCH 3, 2006, AND THUS DID COMMIT THE CRIME OF FORGERY WHICH IS CHARGED HEREIN IN ONE OF THREE WAYS UNDER THE FORGERY STATUTE:

WITH THE INTENT TO DEFRAUD OR INJURE ANYONE OR WITH KNOWLEDGE THAT HE IS FACILITATING A FRAUD OR INJURY TO BE PERPETRATED BY ANYONE, ALTER ANY WRITING OF ANOTHER WITHOUT HIS AUTHORITY, OR

WITH THE INTENT TO DEFRAUD OR INJURE ANYONE OR WITH KNOWLEDGE THAT HE IS FACILITATING A FRAUD OR INJURY TO BE PERPETRATED BY ANYONE, ALTER ANY WRITING OF ANOTHER WITHOUT HIS AUTHORITY, OR

HONORARY CLERK  
HUNTINGDON CO., PA

2007 SEP 24 P 4:07

FILED

BOARD'S  
EXHIBIT  
**1**

WITH THE INTENT TO DEFRAUD OR INJURE ANYONE OR WITH KNOWLEDGE THAT HE IS FACILITATING A FRAUD OR INJURY TO BE PERPETRATED BY ANYONE, UTTER ANY WRITING WHICH HE KNEW TO BE FORGED IN A MANNER SPECIFIED IN PARAGRAPHS (1) AND (2) OF THIS SUBSECTION. FELONY 3

COUNT 2: ON OR ABOUT AN UNKNOWN DATE IN 2006, DEFENDANT DAVID RAY METZGER RECEIVED A WESTERN UNION MONEY ORDER PURCHASED AT A WEIS MARKET, SAID MONEY ORDER BEARING NUMBER 08-358319235 AND BEING IN THE AMOUNT OF \$150.00. THE MONEY ORDER WAS MADE PAYABLE TO MAG. DISTRICT COURT 20-3-01, BEING THE DISTRICT COURT WHEREIN DANIEL SCOTT DAVIS SITS AS THE MAGISTERIAL DISTRICT JUDGE. WITHOUT ANY LEGAL AUTHORITY WHATSOEVER AND CONTRARY TO THE LEGAL REQUIREMENTS OF 42 PA. C.S., 2950, DEFENDANT STRUCK OUT OR CAUSED TO BE STRUCK A LINE THROUGH THE WORDS, "MAG. DISTRICT # 20-3-01" SUBSTITUTED OR CAUSE TO BE SUBSTITUTED THEREFOR THE WORDS "STATE CONSTABLE SERVICES", WHICH IS THE TRADE NAME UNDER WHICH DEFENDANT METZGER DOES BUSINESS AND DID DEPOSIT THE SAME INTO HIS PERSONAL BANK ACCOUNT IN THE RELIANCE BANK, SAID ACCOUNT NUMBER BEING 06-09002589 ON JUNE 20, 2006. AT THE TIME HE MADE THE DEPOSIT WHICH INCLUDED THE SAID MONEY ORDER, THE BALANCE IN HIS PERSONAL BANK ACCOUNT WAS \$20.42, AND THUS DID COMMIT THE CRIME OF FORGERY WHICH IS CHARGED HEREIN IN ONE OF THREE WAYS UNDER THE FELONY STATUTE:

WITH THE INTENT TO DEFRAUD OR INJURE ANYONE OR WITH KNOWLEDGE THAT HE IS FACILITATING A FRAUD OR INJURY TO BE PERPETRATED BY ANYONE, ALTER ANY WRITING OF ANOTHER WITHOUT HIS AUTHORITY, OR

WITH THE INTENT TO DEFRAUD OR INJURE ANYONE OR WITH KNOWLEDGE THAT HE IS FACILITATING A FRAUD OR INJURY TO BE PERPETRATED BY ANYONE, ALTER ANY WRITING OF ANOTHER WITHOUT HIS AUTHORITY, OR

WITH THE INTENT TO DEFRAUD OR INJURE ANYONE OR WITH KNOWLEDGE THAT HE IS FACILITATING A FRAUD OR INJURY TO BE PERPETRATED BY ANYONE, UTTER ANY WRITING WHICH HE KNEW TO BE FORGED IN A MANNER SPECIFIED IN PARAGRAPHS (1) AND (2) OF THIS SUBSECTION, OR

COUNT 3: BEING A PERSON WHO OBTAINED PROPERTY UPON AGREEMENT, OR SUBJECT TO A KNOWN LEGAL OBLIGATION, TO MAKE SPECIFIED PAYMENTS OR OTHER DISPOSITION, WHETHER FROM SUCH PROPERTY OR ITS PROCEEDS OR FROM HIS OWN PROPERTY TO BE RESERVED IN EQUIVALENT AMOUNT, INTENTIONALLY DEAL WITH THE PROPERTY

OBTAINED AS HIS OWN AND FAIL TO MAKE THE REQUIRED PAYMENT  
OR DISPOSITION. FELONY 3

all of which is against the Act of Assembly and the peace and dignity of the Commonwealth of Pennsylvania.

Citation and Statute:

- 18 Pa. C.S., §4101(a)(1)(2)(3)
- 18 Pa. C.S., §4101(a)(1)(2)(3)
- 18 Pa. C.S., §3927(a)

  
 \_\_\_\_\_  
 Attorney for the Commonwealth

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2007, I, \_\_\_\_\_

hereby enter a plea of \_\_\_\_\_ to \_\_\_\_\_

\_\_\_\_\_

GRADE OF CRIME: \_\_\_\_\_

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Attorney for Defendant

**COMMONWEALTH OF PENNSYLVANIA**  
**COURT OF JUDICIAL DISCIPLINE**

**In re:**

**Daniel S. Davis,** :  
**Former Magisterial District Judge;** :  
**Magisterial District 20-3-01;** :  
**Huntingdon County** : **2 JD 2007**  
:

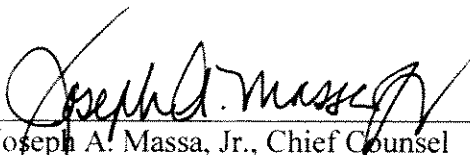
**PROOF OF SERVICE**

In compliance with Rule 122(D) of the Court of Judicial Discipline Rules of Procedure, on October 11, 2007, a copy of this *BOARD COMPLAINT* was sent by Certified Mail to counsel for the Respondent:

George N. Zanic, Esquire  
Bierbach McDowell Zanic  
Attorneys at law  
113 Fourth Street  
Huntingdon, PA 16652-1417  
(814) 643-3555  
Fax: (814) 643-1173  
Certified Mail No. 7161 7145 5373 0040 8064  
Return Receipt Requested

Respectfully submitted,

Date: October 11, 2007

  
\_\_\_\_\_  
Joseph A. Massa, Jr., Chief Counsel  
Pa. Supreme Court No. 6467

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