

Press Release

February 22, 2013

TO: Media/Press

FROM: Judicial Conduct Board

**SUBJECT: Kelly S. Ballentine
Magisterial District Judge
Magisterial District 02-2-01
Lancaster County
7 JD 2013**

Harrisburg. The Judicial Conduct Board today filed formal charges by Board Complaint in the Court of Judicial Discipline against Magisterial District Judge Kelly S. Ballentine.

In accordance with the rules which govern proceedings before the Court of Judicial Discipline, Judge Ballentine 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 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 judge for violating the Rules Governing Standards of Conduct of Magisterial District Judges and the Pennsylvania Constitution. Possible sanctions include reprimand, suspension, or removal from office.

Counsel

Board: Elizabeth A. Flaherty, Esquire

Respondent: Heidi Fisher Eakin, Esquire

Contact

Robert A. Graci, Chief Counsel

Board Complaint is attached.

For more information about the Judicial Conduct Board, please visit our website at www.jcbpa.org.

END

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

RECEIVED AND FILED
COURT OF
JUDICIAL DISCIPLINE
OF PENNSYLVANIA

2013 FEB 22 A 11: 58

IN RE:

Kelly S. Ballentine :
Magisterial District Judge :
Magisterial District 02-2-01 : 7 JD 13
Lancaster County :

IMPORTANT NOTICE

TO: KELLY S. BALLENTINE:

You are hereby notified that the Pennsylvania Judicial Conduct Board has determined there is probable cause to file formal charges against you for conduct proscribed by Article V, § 17(b) and § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania and the Rules Governing Standards of Conduct of Magisterial District Judges. 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. 110.

You are hereby notified, pursuant to C.J.D.R.P. No. 302(B), 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.

You are further hereby notified that within thirty (30) days after the service of this Complaint, if no omnibus motion is filed, or within twenty (20) days after the dismissal of all or part of the omnibus motion, you may file an Answer admitting or denying the allegations contained in this Complaint in accordance with C.J.D.R.P. No. 413. Failure to file an Answer shall be deemed a denial of all factual allegations in the Complaint.

AND NOW, this 22nd day of February 2013, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (hereinafter "Board") and files this Board Complaint against the Honorable Kelly S. Ballentine (hereinafter "Judge Ballentine"), Magisterial District Judge for Magisterial District 02-2-01 of the Second Judicial District, Lancaster County, Pennsylvania, alleging that the Judge Ballentine has violated the Rules Governing Standards of Conduct of Magisterial District Judges and Article V, § 17(b) and § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania, as more specifically delineated herein.

1. Pursuant to Article V, § 18 of the Constitution of the Commonwealth of Pennsylvania, the Board is granted authority 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 justice, judge or justice of the peace for proscribed conduct and to present the case in support of such charges before the Court of Judicial Discipline.

2. Since January 2, 2006, Judge Ballentine has continuously served as the duly-elected Magisterial District Judge for Magisterial District 02-2-01 of the Second Judicial District, Lancaster County, Pennsylvania, encompassing the City of Lancaster – Wards 3 and 7.
3. On February 13, 2012, by Police Criminal Complaint filed at Commonwealth v. Kelly S. Ballentine, CR-0000021-12, the Pennsylvania Office of Attorney General charged Judge Ballentine with the following offenses:
 - Conflict of Interest (F) (3 counts), 65 Pa.C.S.A. § 1103.
 - Tampering with Public Records or Information (F3) (3 counts), 18 Pa.C.S.A. § 4911(a)(1).
 - Tampering with Public Records or Information (F3) (3 counts), 18 Pa. C.S.A. § 4911(a)(3).
 - Obstructing Administration of Law or Other Governmental Function (M2) (3 counts), 18 Pa.C.S.A. § 5101.

See **Exhibit "A"** – *Police Criminal Complaint*.

4. On February 13, 2012, the Board filed a Petition for Relief requesting interim suspension with pay. By Per Curiam Order dated February 22, 2012, the Court of Judicial Discipline directed that Judge Ballentine be suspended with pay from all of her judicial duties as magisterial district judge at *In re Ballentine*, 1 JD 12. It further directed that Judge Ballentine's entitlement to any medical benefits would not be affected.
5. On February 1, 2013, pursuant to a plea agreement, Judge Ballentine appeared with counsel, Royce L. Morris, Esq., before the Honorable Charles B. Smith, Senior Judge of the Chester County Court of Common Pleas, and entered a plea of guilty to three counts of an amended charge of Tampering with Public Records or Information, 18 Pa. C.S.A. § 4911(a)(3), a misdemeanor of the second degree (Counts 4, 5 and 6 of the Criminal Complaint). As part of the plea agreement, the Commonwealth agreed to dismiss or nol pros the remaining charges (Counts 1, 2, 3, 7, 8 and 9) at the time of sentencing. The criminal sentencing proceeding is scheduled for March 18, 2013 in the Court of Common Pleas of Lancaster County.
6. During the guilty plea hearing, Judge Ballentine admitted committing three misdemeanor offenses of Tampering with Public

Records or Information through her conduct as follows: 1. On December 29, 2010, she entered the magisterial district justice computer system and dismissed two traffic citations issued to her on November 1, 2010. Judge Ballentine wrote the date, the word "dismissed" and her initials on each citation (Counts 4 and 5 of the Criminal Complaint); 2. On January 27, 2011, Judge Ballentine entered the magisterial district justice computer system and dismissed a third traffic citation issued to her on November 8, 2010 (Count 6 of the Criminal Complaint). (Guilty Plea Hr'g Tr. 8:4 – 10:21, Feb. 1, 2013.) The Guilty Plea transcript is attached as **Exhibit "B"** and the factual assertions of the guilty plea proceeding are incorporated herein by reference.

By virtue of some or all of the facts collectively alleged in paragraphs 1 through 6 of this Board Complaint, the Respondent is subject to discipline pursuant to Article V, § 18(d)(1) of the Pennsylvania Constitution for the following reasons:

Count 1: The Respondent has violated Rule 2A of the Rules Governing Standards of Conduct of Magisterial District Judges, which provides, in part, that

"Magisterial district judges shall respect and comply with the law and shall conduct

themselves at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."

Count 2: The Respondent has violated Rule 13A of the Rules Governing Standards of Conduct of Magisterial District Judges, which provides, in part, that

"Magisterial district judges and all employees assigned to or appointed by magisterial district judges shall not engage, directly or indirectly, in any activity or act incompatible with the expeditious, proper and impartial discharge of their duties, including, but not limited to, (1) in any activity prohibited by law. . ."

Count 3: The Respondent has violated Article V, § 18(d)(1) of the Pennsylvania Constitution by engaging in conduct which brings the judicial office into disrepute.

Count 4: The Respondent has violated Article V, § 18(d)(1) of the Pennsylvania Constitution by engaging in conduct which prejudices the proper administration of justice.

Count 5: The Respondent has violated Article V, § 17(b) by virtue of violating Rule 2A and 13A, rules prescribed by the Supreme Court governing magisterial district judges.

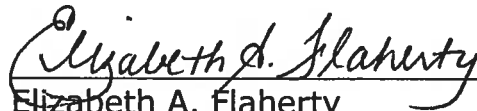
WHEREFORE, Kelly S. Ballentine, the Magisterial District Judge named in these charges, is subject to disciplinary action pursuant to the Constitution of the Commonwealth of Pennsylvania, Article V, § 18(d)(1).

Respectfully submitted,

ROBERT A. GRACI
Chief Counsel

DATE: February 22, 2013

BY:



Elizabeth A. Flaherty
Assistant Counsel

Pa. Supreme Court ID No. 205575

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:

Kelly S. Ballentine :
Magisterial District Judge :
Magisterial District 02-2-01 : 7 JD 13
Lancaster County :

VERIFICATION

I, Elizabeth A. Flaherty, Assistant Counsel to the Judicial Conduct Board, 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,

ROBERT A. GRACI
Chief Counsel

DATE: February 22, 2013

BY:



Elizabeth A. Flaherty
Assistant Counsel

Pa. Supreme Court ID No. 205575

Judicial Conduct Board
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 3500
P.O. Box 62525
Harrisburg, PA 17106
(717) 234-7911

COMMONWEALTH OF PENNSYLVANIA COUNTY OF LANCASTER



POLICE CRIMINAL COMPLAINT COMMONWEALTH OF PENNSYLVANIA VS.

Magisterial District Number: 02-3-03 MDJ: Hon. WILLIAM E. BENNER JR. Address: 324 BEAVER VALLEY PIKE WILLOW STREET, PA 17584 Telephone: (717)464-4141

DEFENDANT:

KELLY

(NAME and ADDRESS):

First Name Middle Name Last Name Gen. S. BALLENTINE 557 NORTH STREET, LANCASTER, PA 17602

NCIC Extradition Code Type: 1-Felony Full, 2-Felony Ltd., 3-Felony Surrounding States, 4-Felony No Ext., 5-Felony Pend., A-Misdemeanor Full, B-Misdemeanor Limited, C-Misdemeanor Surrounding States, D-Misdemeanor No Extradition, E-Misdemeanor Pending, Distance: _____

DEFENDANT IDENTIFICATION INFORMATION: Docket Number CR-21-12, Date Filed 2/13/12, OYN/Live Scan Number 7147080-3, Complaint/Incident Number 36-637, BID, Request Lab Services? YES NO, GENDER Male Female, DOB 08/11/1968, POB, First Name, Middle Name, Last Name, Add'l DOB, Co-Defendant(s), AKA, RACE, ETHNICITY, HAIR COLOR, EYE COLOR

Driver's License: State PA, License Number 21617836, Expires 08/12/2012, DNA YES NO, DNA Location, FBI Number, Fingerprint Classification: 5 6, Defendant Fingerprinted YES NO, Fingerprint Classification: 5 6

DEFENDANT VEHICLE INFORMATION: Plate #, State, Hazmat, Registration Sticker (MMYY), Comm'l Veh. Ind., School Veh., Oth. NCIC Veh. Code, Reg. same as Def., VIN, Year, Make, Model, Style, Color

Office of the attorney for the Commonwealth [X] Approved [] Disapproved because:

(The attorney for the Commonwealth may require that the complaint, arrest warrant affidavit, or both be approved by the attorney for the Commonwealth prior to filing. See Pa.R.Crim.P. 607).

SDAG JONELLE H. ESHBACH (Name of the attorney for the Commonwealth)

(Signature of the attorney for the Commonwealth)

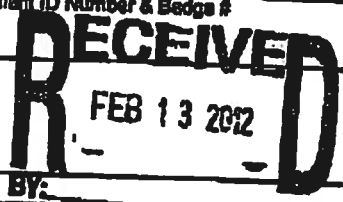
(Date)

I, MICHAEL A. CARLSON (Name of the Affiant)

#456 (PSP/MPD/ETC - Assigned Affiant ID Number & Badge #) PA0222400 (Police Agency ORI Number)

of BNI, PA OFFICE OF ATTORNEY GENERAL (Identify Department or Agency Represented and Political Subdivision) do hereby state: (check appropriate box)

- 1. [X] I accuse the above named defendant who lives at the address set forth above [] I accuse the defendant whose name is unknown to me but who is described as



[] I accuse the defendant whose name and popular designation or nickname are unknown to me and whom I have therefore designated as John Doe or Jane Doe with violating the penal laws of the Commonwealth of Pennsylvania at [301] LANCASTER CITY (Submission Code) (Police Political Subdivision)

In LANCASTER County [36] on or about DECEMBER 2010 TO JANUARY 2011 (County Code)



POLICE CRIMINAL COMPLAINT

Docket Number: CR-21-12	Date Filed: 2/13/12	OTN/LiveScan Number T 147088-3	Complaint/Incident Number 36-637
Offendant Name:	First: Kelly	Middle: S.	Last: BALLENTINE

The acts committed by the accused are described below with each Act of Assembly or statute allegedly violated, if appropriate. When there is more than one offense, each offense should be numbered chronologically. (Set forth a brief summary of the facts sufficient to advise the defendant of the nature of the offense(s) charged. A citation to the statute(s) allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section(s) and subsection(s) of the statute(s) or ordinance(s) allegedly violated. The age of the victim at the time of the offense may be included if known. In addition, social security numbers and financial information (e.g. PINs) should not be listed. If the identity of an account must be established, list only the last four digits. 204 PA.Code §§ 213.1 - 213.7.)

<input checked="" type="checkbox"/> Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903
--	---	--	--

Lead?	<input checked="" type="checkbox"/> 1	1103	(A)	65 PA C.S.A	3	F3	NCIC Offense Code	UCR/NIBRS Code
-------	---------------------------------------	------	-----	-------------	---	----	-------------------	----------------

Paraphrase of Data (if applicable)	Accident Number	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
------------------------------------	-----------------	--------------------------------------	------------------------------------

Statute Description (include the name of statute or ordinance): Conflict of Interest

Acts of the accused associated with this Offense: On or about December 2010 to January 2011, Defendant, a public official or public employee, did engage in conduct that constitutes a conflict of interest, to wit; while serving as a Magisterial District Justice in the City of Lancaster dismissed three summary traffic citations issued to her thereby defrauding the City of Lancaster of \$268.50, and obtaining private pecuniary, personal and/or employment benefit.

<input type="checkbox"/> Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903
---	---	--	--

Lead?	<input type="checkbox"/> 2	4911	(A)(1)	18 PA.C.S.A	3	F3	NCIC Offense Code	UCR/NIBRS Code
-------	----------------------------	------	--------	-------------	---	----	-------------------	----------------

Paraphrase of Data (if applicable)	Accident Number	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
------------------------------------	-----------------	--------------------------------------	------------------------------------

Statute Description (include the name of statute or ordinance): Tampering with public records or information

Acts of the accused associated with this Offense: The Defendant, with the intent to defraud, did knowingly make false entry in, or false alteration of, any record, document or thing belonging to, or received or kept by, the government for information or record, or required by law to be kept by others for information of the government and/or did make, present or use any record, document or thing knowing it to be false, and with intent that it be taken as a genuine part of information or records referred to in paragraph (1) of this subsection; and/or did intentionally and unlawfully destroy, conceal, remove or otherwise impair the verity or availability of any such record, document or thing belonging to, received by or kept by the government for information or record or required by law to be kept by others for information of the government. to wit: the Defendant, a Magisterial District Justice in the City of Lancaster, dismissed three summary traffic citations issued to her using the state-maintained Magisterial District Justice System, thereby defrauding

<input type="checkbox"/> Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903
---	---	--	--

Lead?	<input type="checkbox"/> 3	4911	(A)(3)	18 PA.C.S.A	3	F-3	NCIC Offense Code	UCR/NIBRS Code
-------	----------------------------	------	--------	-------------	---	-----	-------------------	----------------

Paraphrase of Data (if applicable)	Accident Number	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
------------------------------------	-----------------	--------------------------------------	------------------------------------

Statute Description (include the name of statute or ordinance): Tampering with public records or information

Acts of the accused associated with this Offense: The Defendant, with the intent to defraud, did knowingly make false entry in, or false alteration of, any record, document or thing belonging to, or received or kept by, the government for information or record, or required by law to be kept by others for information of the government and/or did make, present or use any record, document or thing knowing it to be false, and with intent that it be taken as a genuine part of information or records referred to in paragraph (1) of this subsection; and/or did intentionally and unlawfully destroy, conceal, remove or otherwise impair the verity or availability of any such record, document or thing belonging to, received by or kept by the government for information or record or required by law to be kept by others for information of the government. to wit: the Defendant, a Magisterial District Justice in the City of Lancaster, dismissed three summary traffic citations issued to her using the state-maintained Magisterial District Justice System, thereby defrauding



POLICE CRIMINAL COMPLAINT

Docket Number: CR-21-12	Date Filed: 2/13/12	OTN/LiveScan Number T 147080-3	Complaint/Incident Number 36-637
Defendant Name BALLENTINE	First: BALLENTINE	Middle: KELLY	Last: S.

The acts committed by the accused are described below with each Act of Assembly or statute allegedly violated, if appropriate. When there is more than one offense, each offense should be numbered chronologically. (Set forth a brief summary of the facts sufficient to advise the defendant of the nature of the offense(s) charged. A citation to the statute(s) allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section(s) and subsection(s) of the statute(s) or ordinance(s) allegedly violated. The age of the victim at the time of the offense may be included if known. In addition, social security numbers and financial information (e.g. PINs) should not be listed. If the identity of an account must be established, list only the last four digits. 204 PA.Code §§ 213.1 - 213.7.)

Includes Offense:	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903
-------------------	--	---	---

Lead?	Offense	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code
<input type="checkbox"/>	4	5101		18 PA.C.S.A	3	M-2		

Paraphrase Data (if applicable)	Accident Number	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
---------------------------------	-----------------	--------------------------------------	------------------------------------

Statute Description (Include the name of statute or ordinance): Obstructing administration of law or other governmental function

Acts of the accused associated with this Offense: The Defendant intentionally obstructed, impaired or perverted the administration of law or other governmental function by force, violence, physical interference or obstacle, breach of official duty, or other unlawful act. To Wit: the Defendant, a Magisterial District Justice in the City of Lancaster, improperly dismissed three summary traffic citations issued to her by the City of Lancaster.

Includes Offense:	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903
-------------------	--	---	---

Lead?	Offense	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code
<input type="checkbox"/>								

Paraphrase Data (if applicable)	Accident Number	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
---------------------------------	-----------------	--------------------------------------	------------------------------------

Statute Description (Include the name of statute or ordinance):

Acts of the accused associated with this Offense:

Includes Offense:	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903
-------------------	--	---	---

Lead?	Offense	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code
<input type="checkbox"/>								

Paraphrase Data (if applicable)	Accident Number	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
---------------------------------	-----------------	--------------------------------------	------------------------------------

Statute Description (Include the name of statute or ordinance):

Acts of the accused associated with this Offense:



POLICE CRIMINAL COMPLAINT OFFENSE CONTINUATION PAGE

Docket Number: <i>CR-21-12</i>	Date Filed: <i>2/13/12</i>	OTN/LiveScan Number <i>T 147050-3</i>	Complaint/Incident Number <i>36-637</i>
Defendant Name:	First: <i>KELLY</i>	Middle: <i>S.</i>	Last: <i>BALLENTINE</i>

OFFENSE DESCRIPTION CONTINUATION

Offense #2: the City of Lancaster of \$268.50 and committing the offense of Tampering with public records or information.



**POLICE CRIMINAL COMPLAINT
OFFENSE CONTINUATION PAGE**

Docket Number: CR-21-12	Date Filed: 2/13/12	OTN/LiveScan Number 7-1470-80-3	Complaint/Incident Number 36-637
Defendant Name:	First: KELLY	Middle: S.	Last: BALLENTINE

OFFENSE DESCRIPTION CONTINUATION

Offense #3: the City of Lancaster of \$268.50 and committing the offense of Tampering with public records or information.



POLICE CRIMINAL COMPLAINT

Docket Number: CR-21-12	Date Filed: 2/13/12	OTN/LiveScan Number: T 147080-3	Complaint/Incident Number: 36-637
Defendant Name:	First: KELLY	Middle: S.	Last: BALLENTINE

2. I ask that a warrant of arrest or a summons be issued and that the defendant be required to answer the charges I have made.

3. I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 Pa.C.S. § 4904) relating to unsworn falsification to authorities.

4. This complaint consists of the preceding page(s) numbered 1 through 6.

The acts committed by the accused, as listed and hereafter, were against the peace and dignity of the Commonwealth of Pennsylvania and were contrary to the Act(s) of the Assembly, or in violation of the statutes cited. (Before a warrant of arrest can be issued, an affidavit of probable cause must be completed, sworn to before the issuing authority, and attached.)

_____ 2/13/12 _____
 (Date) (Signature of Affiant)

AND NOW, on this date February 13, 2012 I certify that the complaint has been properly completed and verified.

An affidavit of probable cause must be completed before a warrant can be issued.

02-3-03 _____
 (Magisterial District Court Number) (Issuing Authority)



Your Affiant, Michael A. Carlson, is a Narcotics Agent with the Bureau of Narcotics Investigations, Pennsylvania Office of Attorney General, and as such is vested with the powers of a law enforcement officer in the Commonwealth of Pennsylvania, and being duly sworn to law, deposes and says:

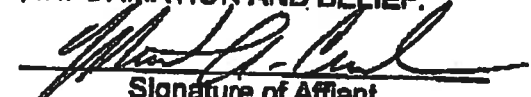
1. This investigation was initiated by Richard A. Sheetz, Jr., Executive Deputy Attorney General, Criminal Law Division, predicated on information received from the Honorable Craig W. Stedman, Lancaster County District Attorney. District Attorney Stedman's referral was due to a conflict of interest related to allegations that Lancaster County District Magistrate Kelly Ballentine dismissed three summary traffic citations against herself which were issued by a Lancaster City police officer.
2. On September 1, 2011, I reviewed the case information sent to the OAG Criminal Law Division by the Lancaster County District Attorney's Office. This information contained the investigative reports of Lancaster County Detective Dean Miller who was the investigating officer for the allegations regarding Kelly Ballentine.
3. On September 19, 2011, I spoke with Detective Miller. He verified that all the information contained in his investigative reports was true and accurate to the best of his knowledge.
4. The Honorable Lancaster County President Judge Joseph C. Madenspacher contacted the Lancaster County District Attorney in May 2011. Judge Madenspacher met with District Attorney Stedman and Chief County Detective Landis. Judge Madenspacher advised them that he had received some information from Lancaster County Deputy Court Administrator Thomas Weaver regarding Kelly Ballentine. Judge Madenspacher told District Attorney Stedman and Chief Landis that Weaver informed him that Weaver was told that Lancaster County Magisterial District Justice Kelly Ballentine had dismissed citations issued to her by the City of Lancaster. Chief Landis assigned Detective Miller to investigate the allegations in late May 2011.

5. Detective Miller's investigation found the following:

- **Three summary traffic citations were issued to Kelly Ballentine in November 2010. Two were issued on November 1, 2010; one for an expired registration and one for a parking violation. The third citation was issued on November 8, 2010 for a parking violation. All three citations were issued by Officer Thomas Gjurich of the Lancaster City Police Department.**
- **Officer Gjurich wrote the three citations on a BMW sedan bearing PA license plate ELK3959. This vehicle is registered to Kelly Ballentine. All three violations were in front of Kelly Ballentine's home on North Street in the City of Lancaster.**
- **The system used to track citations and summonses in Pennsylvania is the Magisterial District Judicial System (MDJS) which is administered by the Administrative Office of Pennsylvania Courts (AOPC).**
- **The three summary traffic violations occurred within Kelly Ballentine's magisterial district and therefore were handled by Kelly Ballentine's office personnel. When Kelly Ballentine failed to pay the fines and costs associated with the three summary traffic violations within 30 days from the date of each violation, the appropriate summons process was initiated and the necessary data was entered into the MDJS. Summonses for the two violations from November 1, 2010 were mailed to Kelly Ballentine from her office. A summons for the third violation on November 8, 2010, although entered into the MDJS, was never printed out by anyone in Kelly Ballentine's office and therefore never mailed to Kelly Ballentine.**
- **Detective Miller determined that Kelly Ballentine never paid the \$268.50 she owed for the three citations and that Kelly Ballentine dismissed those citations based on the following information: (1) Officer Gjurich did not**

receive the money; (2) the Lancaster City Treasurer did not receive the money; (3) the MDJS showed that the money was not paid; (4) the MDJS showed that Kelly Ballentine accessed and dismissed the three summonses which had been entered in the MDJS; (5) it was determined that on the two summonses from December 29, 2010, that it was Kelly Ballentine's handwriting dismissing them which stated, "Dismissed 12/29/10 KB".

I, Michael A. Carlson, BEING DULY SWORN ACCORDING TO LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THIS AFFIDAVITT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.


Signature of Affiant

Sworn to me and subscribed before me this 13th day of February, 2012
2/13/12 Date William S. B., Magisterial District Judge
My Commission expires first Monday of January, 2018



IN THE COURT OF COMMON PLEAS
LANCASTER COUNTY, PENNSYLVANIA
CRIMINAL

-----	:	
COMMONWEALTH OF PENNSYLVANIA	:	
vs.	:	No. 2045 - 2012
KELLY S. BALLENTINE	:	
-----	:	

Guilty Plea

Before: HONORABLE CHARLES B. SMITH, SENIOR JUDGE

Date : Friday, February 1, 2013

Place : Courtroom No. 2
50 North Duke Street
Lancaster, Pennsylvania

APPEARANCES:

ANTHONY W. FORRAY, ESQUIRE
Senior Deputy Attorney General
Office of Attorney General
Criminal Prosecution Section
16th Floor - Strawberry Square
Harrisburg, PA 17120
For - The Commonwealth

ROYCE L. MORRIS, ESQUIRE
Goldberg Katzman
4250 Crums Mill Road
P.O. Box 6991
Harrisburg, PA 17112
For - The Defendant

Attachment B

P R O C E E D I N G S
(2:30 p.m.)

1
2
3 MR. FORRAY: Your Honor, this is the case
4 docketed at 2045 of 2012. It is the Commonwealth of
5 Pennsylvania versus Kelly Ballentine. Ms. Ballentine
6 is present in court with her attorney, Royce Morris.

7 Your Honor, the Commonwealth and defense
8 have reached a plea agreement for the Court's
9 consideration, where the Commonwealth would be amending
10 Counts 4, 5, and 6 of the Information. That would be
11 tampering with public records or information, from a
12 felony of the third degree to a misdemeanor of the
13 second degree, by striking out the intent to defraud in
14 those three different charges.

15 My understanding is the defendant is
16 prepared to plead guilty to those charges today. I
17 believe the defense is going to ask that sentencing be
18 deferred to a later date.

19 Additionally, Your Honor, the Commonwealth
20 would be prepared at sentencing to nol pros Counts 1,
21 2, and 3, as well as 7, 8, and 9.

22 Your Honor, if I could briefly, on the
23 record, just indicate from the Commonwealth's
24 perspective the motivation for this particular plea
25 agreement.

1 Your Honor, by way of background, I was not
2 the original prosecutor on this case. I was reassigned
3 the matter in September of 2012, after the defendant
4 had been charged.

5 Your Honor, upon receiving the case,
6 reviewing the case, as well as obtaining some
7 supplemental materials from Mr. Morris and doing my own
8 investigation, if you would, I learned that the
9 defendant had been, in the last couple of years, cited
10 a number of different times for traffic violations.

11 I would indicate by what I'm saying on the
12 record, I don't want any misunderstanding, we're not
13 excusing the defendant's actions in this case at all.
14 She clearly did wrong.

15 However, the evidence would indicate that
16 on a number of other occasions she paid her parking
17 tickets. In fact, at the time that she had dismissed
18 two of them in this case, she paid other tickets the
19 day before, as well as a day or two after.

20 Additionally, Your Honor, the Commonwealth
21 has reviewed medical records which show that Ms.
22 Ballentine had doctors' appointments either within a
23 day or so of being cited on the first two occasions.
24 The third time she was cited, she was at the Urgent
25 Care Center that very day.

1 The Commonwealth believes that the
2 equitable thing in this case is to accept the plea to
3 Counts 4, 5, and 6. We believe that justice would be
4 done in this case.

5 THE COURT: All right. Makes sense to me.
6 I can't fault you there.

7 And our reasons for deferring the
8 sentencing, as I understand it, and frankly I
9 appreciate the opportunity to delay it because the
10 greatest penalty that can be exacted in this case would
11 be from a disciplinary review board, which would
12 probably attempt to recoup almost a year's worth of
13 salary from her or perhaps remove her from the bench
14 entirely.

15 Until I know what they are going to do, I
16 might be inclined to be very modest in what I would do.
17 On the other hand, if they are not doing very much, I
18 might do higher fines and things like that, since I
19 don't think things have been taken care of.

20 Since they have the real authority in this
21 case, I would rather see them act first before I impose
22 a sentence and make it too harsh or too lenient, for
23 that matter, because I want to see what they do first.

24 I think, with that in mind, I guess you
25 don't have any sense of how those things move along.

1 It's already been up there for a year almost since they
2 suspended her.

3 MR. FORRAY: Right, Your Honor.

4 THE COURT: That was in February of last
5 year, I think the suspension went down.

6 MR. FORRAY: From my limited contact with
7 the attorney for the Judicial Conduct Board, obviously
8 they are following the goings on in court.

9 THE COURT: Sure.

10 MR. FORRAY: And I don't know what they
11 will do, obviously, once they become aware of the plea
12 in this case. So I don't know how quickly, frankly,
13 they will or won't move.

14 THE COURT: All right. In any event, I
15 have seen a plea agreement that has been signed and
16 filled out there by you. Have you had adequate time to
17 discuss this with counsel in terms of what we're doing
18 right now, as well as what lies ahead?

19 THE DEFENDANT: Absolutely.

20 THE COURT: All right. And with that in
21 mind and mindful of your position and education, I
22 won't go through some of the normal colloquy that I
23 would otherwise do, especially since we will be coming
24 back to this at another time.

25 what we do now is an agreement with both

1 sides, and we're going to wait and see what happens
2 elsewhere first.

3 MR. FORRAY: Your Honor, do you want me at
4 all to go through the specifics of either Counts 4, 5,
5 6?

6 THE COURT: Actually, yes, you should. And
7 we're saying 1, 2, 3, and 7, 8, 9 are gone?

8 MR. FORRAY: At the time of sentencing, we
9 would ask they be nol prossed.

10 For the record, Your Honor, I would be
11 asking that Counts 4, 5, and 6 be amended from a felony
12 of the third degree to a misdemeanor of the second by
13 striking the allegation of intent to defraud.

14 MR. MORRIS: And I would concur with that.

15 THE COURT: All right. Actually, it might
16 make sense, even though we are deferring things, if
17 \$268.50 --

18 MR. FORRAY: According to the information,
19 it was \$89.50.

20 THE COURT: Times three would be \$268.50.

21 MR. MORRIS: We could pay the restitution
22 in advance and leave the Court to determine the costs.

23 THE COURT: That's what I think would help
24 you, too, in terms of moving along after this. Get
25 that out of the way.

1 MR. MORRIS: We will pay that restitution
2 forthwith.

3 MR. FORRAY: Miss Ballentine, for the
4 record, I'm just going to ask you a couple of
5 questions.

6 For the record, could you please state your
7 name.

8 THE DEFENDANT: Kelly Ballentine.

9 MR. FORRAY: And Ms. Ballentine, besides
10 being a magisterial district judge, you, in fact, are
11 an attorney; is that correct?

12 THE DEFENDANT: Correct.

13 MR. FORRAY: So you have both a college and
14 a law degree?

15 THE DEFENDANT: Yes.

16 MR. FORRAY: I'm going to ask you just a
17 couple questions in the next couple of minutes. If you
18 have any questions at any point, please stop me. I'd
19 be happy to explain them on the record.

20 THE DEFENDANT: Sure.

21 MR. FORRAY: You have completed a colloquy
22 form. I think the judge has already asked you. Again,
23 for the record, you don't have any questions regarding
24 the colloquy form that you filled out?

25 THE DEFENDANT: I do not.

1 MR. FORRAY: And would I be correct that on
2 the last page, that is your signature on the last page?

3 THE DEFENDANT: It is.

4 MR. FORRAY: Is it your intention to plead
5 guilty to Counts 4, 5, and 6, as amended?

6 THE DEFENDANT: Yes.

7 MR. FORRAY: I will read it once. I'm not
8 going to read the entire section, because I think some
9 of it doesn't apply, at least as part of the
10 information, but the charge is tampering with public
11 records or information, which is amended and would be a
12 misdemeanor of the second degree, which would carry
13 with it a potential of -- each of them would carry
14 potentials up to two years in jail and/or a \$5,000
15 fine.

16 It is alleged that you -- and these
17 occurred on two different days. The first, Counts 4
18 and 5, would have occurred on December 29, 2010.
19 Count 6 would have been January 27, 2011.

20 By way of background, you had received
21 citations prior to those dates; is that correct?

22 THE DEFENDANT: Yes.

23 MR. FORRAY: And would I be correct that on
24 those two dates, as indicated, you went into the
25 magisterial district justice computer system and, in

1 fact, dismissed those tickets that you received?

2 THE DEFENDANT: Yes.

3 MR. FORRAY: In fact, on two of them, the
4 citations that you had originally received on
5 November 1, 2010, you had written dismissed on them,
6 dated them, and put your initials. For the record, I'm
7 showing you that at this point.

8 THE DEFENDANT: And that is correct.

9 MR. FORRAY: The charge of, again,
10 tampering with public records or information indicates
11 that, with the intent to defraud, you did knowingly
12 make false entry or false alteration of any record,
13 document, or thing belonging to or received by or kept
14 by the government for information or record.

15 Essentially, again, the allegation, as it
16 relates to Counts 4 and 5, that on December 29th, 2010,
17 you went into the system and dismissed the citations
18 you had received on November 1st of 2010.

19 Count 6 relates to on January 27, 2011, you
20 went into the computer system and dismissed the
21 citation you had received on November 8th of 2010.

22 Do you understand the charges on Counts 4,
23 5, and 6?

24 MR. MORRIS: She understands the charges,
25 but at that colloquy you just introduced the intent to

1 defraud, which has been removed.

2 MR. FORRAY: I'm sorry, and I do apologize.
3 That was my mistake. Not with the intent to fraud, but
4 do you acknowledge that you, in fact, did what the
5 Commonwealth alleges?

6 THE DEFENDANT: Yes. As long as the intent
7 to defraud has been modified and removed from the
8 complaint, I do understand.

9 MR. FORRAY: Right. And I would indicate
10 for the record, so hopefully we're both on the same
11 page, part of the motivation of the Commonwealth in
12 this case is you entered the computer system, in fact,
13 under your own initials, your own sign-in.

14 You, in fact, dismissed and wrote dismissed
15 on the citations you had received on November 1st,
16 again, signing your own name, not signing anybody
17 else's name.

18 So based on what I have indicated, striking
19 the intent to defraud, how do you plead to those
20 charges?

21 THE DEFENDANT: Guilty.

22 THE COURT: All right. What else might we
23 do today?

24 MR. MORRIS: Your Honor, we will just await
25 a scheduling date from you for sentencing.

1 THE COURT: I will wait to hear from,
2 frankly, one of you as to what happened.

3 MR. MORRIS: I will submit a sentencing
4 memorandum in any event. Tony and I will collaborate
5 on when it will be best to come before you.

6 THE COURT: AS I say, I can't get over the
7 irony of dealing with a case like this the day
8 following ten judges being indicted in Philadelphia for
9 ticket fixing. That all has to do with ward leaders
10 and politics. This is just you, not that that's
11 anything other than -- every kind of breakdown in the
12 system is a big deal, regardless, and certainly that's
13 why we're here.

14 All right. We will come back and see you
15 in a month or so. I hope it's sooner, but we'll see.

16 MR. FORRAY: Your Honor, there will be no
17 pre-sentence report; is that correct?

18 THE COURT: I don't know that I need one.
19 I mean, I'm talking about somebody who has, you know,
20 run the educational gamut and did other things before
21 you became a judge, which you will put in your memo.

22 MR. FORRAY: The Commonwealth will have
23 sentencing guidelines for Your Honor at sentencing.

24 THE COURT: All right.

25 MR. MORRIS: Thank you, sir.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. FORRAY: Your Honor, we would ask that the colloquy form be made part of the record in this case.


THE COURT: Indeed.
(The hearing adjourned at 2:52 p.m.)

REPORTER'S CERTIFICATE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I hereby certify that I was present upon the hearing of the above-entitled matter and there reported stenographically the proceedings had and the testimony produced; and I further certify that the foregoing is a true and correct transcript of my said stenographic notes.

In testimony whereof, I have hereunto subscribed my hand this 6th day of February, 2013.


Cathy S. Mertz, CM
Official Court Reporter

AND NOW, _____, _____, this transcript is approved and ordered to be filed.

Joseph C. Madenspacher, President Judge
for
Charles B. Smith, Senior Judge

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

Kelly S. Ballentine :
Magisterial District Judge :
Magisterial District 02-2-01 : 7 JD 13
Lancaster County :

PROOF OF SERVICE

In compliance with Rule 122(D) of the Court of Judicial Discipline Rules of Procedure, on or about February 22, 2013, a copy of this *BOARD COMPLAINT* was sent by Certified Mail to Judge Ballentine's counsel, Heidi Eakin, Esquire, who agreed to accept service on behalf of her client, Judge Ballentine:

Heidi Fisher Eakin, Esquire
Costopolous, Foster and Fields
P.O. Box 222
Lemoyne, PA 17043-0222

Certified Mail No. 7161 7145 5373 0150 0521
Return Receipt Requested

Respectfully submitted,
ROBERT A. GRACI
Chief Counsel

DATE: February 22, 2013

BY:


Elizabeth A. Flaherty

Assistant Counsel

Pa. Supreme Court ID No. 205575
Judicial Conduct Board
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 3500
P.O. Box 62525
Harrisburg, PA 17106
(717) 234-7911