

FILED
JUN 30 2023
A.C.J.C.

**SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT**

DOCKET NO: ACJC 2023-218

IN THE MATTER OF

**GARY N. WILCOX,
JUDGE OF THE SUPERIOR COURT**

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FORMAL COMPLAINT

Maureen G. Bauman, Disciplinary Counsel, Advisory Committee on Judicial Conduct (“Complainant”), complaining of Superior Court Judge Gary N. Wilcox (“Respondent”), says:

1. Respondent is a member of the Bar of the State of New Jersey, having been admitted to the practice of law in 1989.
2. At all times relevant to this matter, Respondent served as a Judge of the Superior Court of New Jersey, assigned to the Criminal Division in the Bergen Vicinage, a position he continues to hold.
3. Respondent, using the alias “Sal Tortorella,” created an account on TikTok, a social media application that allows users to create short videos set to music or other audio and share those videos on the platform, on which Respondent posted 40 videos between April 11, 2021 and March 4, 2023.

4. TikTok allows users to customize their platform, including their privacy and safety settings. Users can set their accounts to “public,” such that anyone on the TikTok platform can view the user’s profile and videos, or “private,” such that only those users approved as followers by the account holder can see that user’s TikTok content.

5. At all times relevant to this matter, Respondent’s TikTok account was “public,” thereby opening his content to a wider audience, including accounts maintained by people who Respondent may not know.

6. In a still-frame screenshot of Respondent’s profile page, Respondent added the following text: “100 followers! Thanks so much!! 😊😊😊”

7. In 11 of the videos Respondent posted to TikTok, either the content - e.g., including references to violence, sex, and misogyny - location - i.e., in chambers, in the courthouse, and in a bed - or Respondent’s physical appearance - e.g., wearing his judicial robes and/or partially dressed while lying in bed - were inappropriate and brought disrepute to the Judiciary. For example:

a. Respondent recorded several TikTok videos in his chambers, including songs which contained profanity, graphic sexual references to female and male body parts, and/or racist terms.

i. In one such video recorded in chambers, Respondent, wearing a T-shirt with his face close to the camera, lip-syncs the following lyrics from *Jump* by

Rihanna: “If you want it let’s do it. Ride it, my pony. My saddle is waitin’, come and jump on it. If you want it, let’s do it.”

ii. In a second video, Respondent, while in chambers with law books visible behind him and wearing a suit and tie, lip-syncs the following: “All my life, I’ve been waiting for somebody to whoop my ass. I mean business! You think you can run up on me and whip my monkey ass? Come on. Come on!”

iii. In a third video, Respondent, while in his chambers wearing a suit and holding cash, pretends to light a match while lip-syncing the following lyrics from *Sure Thing* by Miguel:

If you be the cash, I’ll be the rubber band. You be the match, I will be a fuse, boom. Painter, baby, you could be the muse. I’m the reporter, baby, you could be the news. ‘Cause you’re the cigarette, and I’m the smoker. We raise a bet, ‘cause you’re the joker.

b. Respondent recorded a TikTok video of himself wearing a “Beavis and Butt-Head” T-shirt while walking through the courthouse with *Get Down* by Nas playing in the background. The song contains explicit lyrics concerning a criminal case and a courtroom shooting as well as derogatory and discriminatory terms, drug and gang references, and the killing of a doctor in a hospital who treated another gang member.

c. Respondent posted two more videos that contained profanity and/or graphic sexual references.

i. In one video, while seated in a car, Respondent, wearing a “Freedom of Speech” T-shirt, lip-syncs the following: “Go ahead baby. You hittin’ them corners too god damn fast. You gotta slow this motha****a down. You understand? I almost spilled my [Cognac] on this 200-dollar suit.”

ii. In another video, Respondent smiles at the camera with the following screen text visible: “When an ex-girlfriend calls you “Santa” because of your new white beard.” The song playing in the background, *Touch It* by Busta Rhymes, contains graphic lyrics. The following lyrics are audible during the video: “For the record, just a second, I’m freakin’ it out. While she tryin’ to touch, see, I was peepin’ it out. She turned around and was tryin’ to put my d**k in her mouth. I let her.”

8. By his conduct in posting these and similar videos to TikTok, Respondent exhibited poor judgment and demonstrated disrespect for the Judiciary and an inability to conform to the high standards of conduct expected of judges. Such conduct undermines public confidence in the Judiciary and violates Canon 1, Rule 1.1, Canon 2, Rule 2.1, and Canon 5, Rule 5.1(A), of the Code of Judicial Conduct.

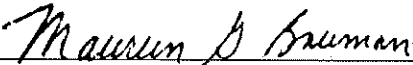
WHEREFORE, Complainant charges that Respondent has violated the following canons of the Code of Judicial Conduct:

Canon 1, Rule 1.1, which requires judges to observe high standards of conduct so that the integrity and independence of the Judiciary may be preserved;

Canon 2, Rule 2.1, which requires judges to avoid impropriety and the appearance of impropriety and to act at all times in a manner that promotes public confidence in the integrity and impartiality of the Judiciary; and

Canon 5, Rule 5.1(A), which requires judges to conduct their extrajudicial activities in a manner that would not cast reasonable doubt on the judge's capacity to act impartially as a judge, demean the judicial office, or interfere with the proper performance of judicial duties.

DATED: June 30, 2023



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