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MAY 05 2021

A.C.J.C.

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

DOCKET NO: ACJC 2021-020

IN THE MATTER OF

GUY W. KILLEN,
JUDGE OF THE MUNICIPAL
COURT

FORMAL COMPLAINT

Maureen G. Bauman, Disciplinary Counsel, Advisory Committee on Judicial Conduct (“Complainant”), complaining of Municipal Court Judge Guy W. Killen (“Respondent”), says:

Facts

1. Respondent is a member of the Bar of the State of New Jersey, having been admitted to the practice of law in 1981.
2. At all times relevant to this matter, Respondent served as a part-time judge in the Municipal Courts of the City of Vineland and West Deptford Township.
3. On or about September 16, 2020, Respondent submitted a letter of resignation, effective immediately, to the Mayor and West Deptford Township Committee.
4. On or about October 9, 2020, Respondent submitted a letter to the Mayor and Township Committee in Vineland resigning his position as a municipal court judge. On or about October 27, 2020, Respondent rescinded his resignation and requested a leave of absence, which Vineland granted.
5. Respondent is not currently presiding in any municipal courts.

6. On or about August 22, 2020 at 7:24 PM, Patrolman Steven Flannery (“Ptl. Flannery”) of the West Deptford Police Department was dispatched to a residence in West Deptford for a report of a burglary.

7. Upon his arrival, Ptl. Flannery spoke with K.B.¹ who explained that she has been having ongoing issues with her ex-husband, David Shields, Jr. (“Shields, Jr.”), and earlier in the day he went to her residence to obtain a cell phone he gave their son and a laptop he gave their daughter and an argument ensued because their daughter did not want to turn over the laptop. During this exchange, Shields, Jr. unsuccessfully attempted to prevent K.B. and the children from leaving the property using his vehicle as a barrier.

8. K.B. advised Ptl. Flannery that Shields, Jr. was currently living with his parents in West Deptford. K.B. also stated that Shields, Jr. owned a handgun when they were together and she believed he may now own two handguns.

9. David Shields, Jr. is the son of David Shields, Sr. (“Shields, Sr.”), former Committee Member and Mayor of West Deptford.

10. Shields, Sr. was on the West Deptford Township Committee from 1979 through 2002. He served as mayor from November 1984 until January 3, 1985 and again from January 1989 until January 2002. In his position as mayor, Shields, Sr. voted on Respondent’s initial appointment as the municipal court judge in West Deptford Township in August 1996 and Respondent’s re-appoints in March 1998 and March 2001. Shields, Sr.’s final term as mayor expired on January 2, 2002.

11. K.B. applied for a Temporary Restraining Order (“TRO”) and signed a citizens complaint against Shields Jr. following her interactions with him earlier that day.

¹ The victim involved in the matter will be referred to by her initials to maintain the confidentiality of her identity.

12. At police headquarters, Det. Francis J. Mullin interviewed K.B. and took a recorded statement concerning the earlier incident, which was classified as a domestic violence incident.
13. Ptl. Flannery contacted Respondent on August 22, 2020 at approximately 9:40 p.m. and advised him of the incident between K.B. and Shields, Jr.
14. Respondent recognized the name of the defendant, "David Shields, Jr.," but concluded he did not have a conflict handling the matter since Shields, Sr. was no longer mayor.
15. As per Rule 5:7A, Respondent spoke with K.B. who, when questioned, advised Respondent that she was fearful for her safety and well-being as well as that of the children, which formed the basis for the TRO.
16. Ptl. Flannery conducted a firearms search check in respect of Shields, Jr. which revealed two Glock handguns registered to him and relayed that information to Respondent.
17. Respondent ultimately granted the TRO and authorized the police to search for and seize firearms and other weapons specified in the order and "any other weapons found on location, along with any firearms ID cards and permits to purchase/carry."
18. As per N.J.S.A. 2C:25-21d(1)(b), Respondent authorized a warrant to search the residence where Shields Jr. was staying for the seizure of the two Glock handguns and other weapons found on location.
19. Ptl. Flannery and Sergeant John Craig ("Sgt. Craig") proceeded to Shields Sr.'s residence to serve Shields, Jr. with the TRO and conduct a search of the residence.
20. Ptl. Flannery advised Shields, Jr. that K.B. signed a citizens complaint against him for criminal trespass, was granted a TRO against him, and that he was not permitted to have any contact with K.B. or the children until the matter was heard in family court.

21. During his conversation with Shields, Jr., Ptl. Flannery stated that the judge authorized a warrant to search the residence for the seizure of any weapons and firearms for safekeeping as part of the TRO.

22. Shields, Jr. stated the residence was not his and advised the officers that he was going to call his father. Shields Jr. went inside the home and locked the door, precluding the officer's entry into the home.

23. Shields, Jr. ultimately permitted the officers entry into the residence. Shields, Jr. denied having any weapons or firearms and asked Sgt. Craig to speak with his father, Shields, Sr.

24. Sgt. Craig spoke with Shields, Sr. via telephone and advised why the police were at his residence and what they were authorized to do.

25. Shields, Sr. confirmed that his son had been living at his residence for the past two weeks, that his son had no firearms in the residence, and confirmed that the two handguns his son owned were previously sold. Shields Sr. stated he did have firearms inside his home, including a large safe in his detached garage that contained firearms, however, he did not feel that any of the contents of the safe should be removed because it was secured from his son and anyone else having access to it.

26. Sgt. Craig advised Shields Sr. that they would be conducting a search of the residence for the seizure of any weapons and firearms for safekeeping as part of the TRO.

27. Shields, Sr. placed a call to Respondent on Respondent's personal cellular telephone around midnight.

28. Respondent advised Shields, Sr. the officers were permitted by law to take any weapons, firearms and ammunition found on the premises.

29. Shields, Jr. showed Sgt. Craig the safe in the garage, which was approximately 7 to 8 feet tall. Due to its size and weight, Sgt. Craig determined the safe was immovable. Sgt. Craig requested an Assistant Prosecutor (“AP”) contact him to advise how to proceed with the safe.

30. While waiting for the AP to return his call, Sgt. Craig received a telephone call from Respondent.

31. Respondent advised Sgt. Craig that Shields, Sr. contacted him about the search warrant for weapons, confirmed that the weapons belonged to Shields, Sr., and advised that his garage safe was inaccessible to others.

32. Respondent advised Sgt. Craig that since the safe was inaccessible he was verbally modifying the search warrant and rescinding his order to seize all weapons.

33. Sgt. Craig subsequently received a call back from a Gloucester County AP and explained the situation in respect of the search warrant issued by Respondent and the specifics regarding the firearms safe in Shields Sr.’s garage.

34. The AP advised Sgt. Craig that since Respondent determined the safe did not need to be accessed at that time, he was to continue with the search of the rest of the residence and properly document that the safe was in the garage.

Count I

35. Complainant repeats the allegations contained in the foregoing paragraphs as if each were set forth fully and at length herein.

36. Respondent’s acknowledged personal relationship with David Shields, Sr., by virtue of his former position as Mayor of the Township of West Deptford for 22 years, as well as Shields Sr.’s vote for the appointment of Respondent as a municipal court judge in West Deptford, created a conflict of interest for Respondent that required his recusal from the Shields matter. Respondent’s

failure to recuse in the face of that conflict violated Canon 3, , Rule 3.17(B) of the Code of Judicial Conduct and Rule 1:12-1 (g) of the New Jersey Rules of Court.

37. By his conduct as described above, Respondent created the appearance of a bias in favor of Shields, Sr., in violation of Canon 3, Rule 3.6 (C) of the Code of Judicial Conduct.

38. By his conduct as described above, Respondent also impugned the integrity and impartiality of the Judiciary in violation of Canon 1, Rule 1.1 and Canon 2, Rule 2.1 of the Code of Judicial Conduct.

Count II

39. Complainant repeats the allegations contained in the foregoing paragraphs as if each were set forth fully and at length herein.

40. By his conduct in amending the search warrant to exclude the search and seizure of Shields Sr.'s firearms safe in his garage, Respondent allowed his relationship with Shields Sr. to influence his judicial judgment, in violation of Canon 2, Rule 2.2, of the Code of Judicial Conduct.

41. By this same conduct, Respondent used or attempted to use the power and prestige of his judicial office to advance Shields Sr.'s private interests in violation of Canon 2, Rule 2.3 (A) of the Code of Judicial Conduct.

42. By his conduct as described above, Respondent also impugned the integrity and impartiality of the Judiciary in violation of Canon 1, Rule 1.1 and Canon 2, Rule 2.1 of the Code of Judicial Conduct.

Count III

43. Complainant repeats the allegations contained in the foregoing paragraphs as if each were set forth fully and at length herein.

44. By his conduct in communicating *ex parte* with Shields, Sr., Respondent violated Canon 3, Rule 3.8 of the Code of Judicial Conduct.

45. By his conduct as described above, Respondent also impugned the integrity and impartiality of the Judiciary in violation of Canon 1, Rule 1.1 and Canon 2, Rule 2.1 of the Code of Judicial Conduct.

Count IV

46. Complainant repeats the allegations contained in the foregoing paragraphs as if each were set forth fully and at length herein.

47. To the extent that Respondent sought to amend the Warrant to Search for and to Seize Weapons for Safekeeping issued in conjunction with the TRO, he failed to follow appropriate procedures as set forth on the TRO that Respondent issued and refer the matter to a Superior Court judge, in violation of Canon 1, Rule 1.2 of the Code of Judicial Conduct.

48. By his conduct as described above, Respondent also impugned the integrity and impartiality of the Judiciary in violation of Canon 1, Rule 1.1 and Canon 2, Rule 2.1 of the Code of Judicial Conduct.

[CMI] 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 1, Rule 1.2, which requires judges to respect and comply with the law;

Canon 2, Rule 2.1, which requires judges to promote public confidence in the independence, integrity and impartiality of the Judiciary;

Canon 2, Rule 2.2, which requires judges to decide cases according to the law and facts, and to not permit personal relationships or interests to influence their judicial conduct or judgement;

Canon 2, Rule 2.3 (A), which requires judges to avoid lending the prestige of judicial office to advance the personal or economic interests of the judge or others;


Canon 3, Rule 3.6 (C), which requires judges to be impartial and refrain from manifesting, by words or conduct, bias or prejudice in the performance of their judicial duties;

Canon 3, Rule 3.8, which prohibits a judge from initiating or considering *ex parte* communications concerning a pending or impending proceeding;

Canon 3, Rule 3.17(B), which requires judges to disqualify themselves in proceedings in which their impartiality or the appearance of their impartiality might reasonably be questioned; and

Rule 1:12-1(g), which requires judges to disqualify themselves in proceedings in which there exists any reason that might preclude a fair and unbiased hearing and judgment, or which might reasonably lead counsel or the parties to believe so.

DATED: May 5, 2021



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