SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO.: ACJC 2004-186

FILED

NOV 1 0 2005

A. C. J. C.

IN THE MATTER OF JAMES M. NEWMAN, JUDGE OF THE MUNICIPAL COURT	FORMAL COMPLAINT

Patrick J. Monahan, Jr., Secretary, Advisory Committee on Judicial Conduct ("Complainant"), complaining of Municipal Court Judge James M. Newman ("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 1975. Respondent is also a member of the Bar of the State of New York, having been admitted to the practice of law in New York in 1970.

2. At all times relevant to this matter, Respondent held the position of Judge of the Municipal Court of the Township of Marlboro, Monmouth County, New Jersey, a position he continues to hold. Respondent also currently serves as Judge of the Municipal Court of the Borough of Englishtown, the Borough of Farmingdale, and the Township of Manalapan.

3. A final judgment of divorce was entered on May 9, 2002, for Michael G. Argen and Dawn Sidoti Argen. Thereafter, Respondent began representation of Mrs. Argen in post-judgment divorce matters.

4. On August 6, 2003, upon the advice of Respondent, Dawn Argen filed a complaint with the Marlboro Township Deputy Court Administrator, Susan Thomas, charging her former husband with harassment, and she requested a temporary restraining order. Judge Thomas X. Foley subsequently issued a temporary restraining order against Mr. Argen.

5. A hearing regarding the issuance of a final restraining order was conducted on August 12, 2003, in the Superior Court-Family Division before Judge O'Brien Kilgallen. Judge O'Brien Kilgallen denied Mrs. Argen's motion for a final restraining order and vacated the temporary restraining order. Respondent represented Mrs. Argen and was present during this proceeding.

6. The following day, August 13, 2003, Mr. Argen appeared in the Marlboro Township Municipal Court in response to the harassment complaint Mrs. Argen had filed on August 6, 2003.

7. Respondent presided over the Marlboro Township Municipal Court session on August 13, 2003.

8. When Mr. Argen's case was called, Respondent said, "Good morning, Mr. Argen. I wasn't supposed to be here, so this situation wasn't going to happen. This is not my day. But, I will arraign you, read you your rights. And then the matter will be referred to Judge Foley for disposition."

9. Respondent read the charges and told Mr. Argen that he was entitled to be represented by an attorney. If he could not afford an attorney, one would be appointed for him. Mr. Argen said that he understood the charges and pled not guilty.

10. Respondent said, "The next thing is you will get a notice from the Court as to when to come back. And it will be before Judge Foley so it will be on a Wednesday morning. I don't usually sit for him. He had an emergency, he couldn't be here. So, it will be before him. I have marked on it that I have a conflict."

11. Mr. Argen appeared before Judge Foley on January 28, 2004, in the Marlboro Township Municipal Court. Judge Foley dismissed the harassment complaint.

12. Respondent knew or should have known that his client, Mrs. Argen, was going to file charges against Mr. Argen in the Marlboro Township Municipal Court where Respondent sat as a judge. Respondent knew that if Mrs. Argen filed charges against Mr. Argen, a conflict of interest would result, and Respondent acknowledged this conflict on the record when Mr. Argen appeared before him on August 13, 2003.

13. By presiding over the initial court appearance of Mr. Argen on the very charges that Respondent advised his client to file, Respondent exacerbated an inherent conflict of interest.

14. Respondent should have immediately disqualified himself from presiding over any matters that involved Mr. Argen because of Respondent's representation of Mr. Argen's ex-wife, and in order to avoid the appearance of impropriety, Respondent should have had any matters involving Mr. Argen in the Marlboro Township Municipal Court transferred to another municipal court.

15. By his conduct as described above, Respondent violated Canons 1, 2A, and 3C(1) of the Code of Judicial Conduct and engaged in conduct prejudicial to the administration of justice that brings the judicial office into disrepute, in violation of Rule 2:15-8(a)(6).

WHEREFORE, Complainant charges that, by the conduct set forth above, Respondent, Municipal Court Judge James M. Newman, violated the following Canons of the Code of Judicial Conduct:

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

Canon 2A, which requires judges to respect and comply with the law and to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary; and

Canon 3C(1), which requires judges to disqualify themselves from matters in which their impartiality might reasonably be questioned.

Complainant also charges that Respondent has engaged in conduct prejudicial to the administration of justice that brings the judicial office into disrepute, in violation of *Rule* 2:15-8(a)(6).

DATED: 11/10/05

Patrick J. Monahan, Jr., Counsel
ADVISORY COMMITTEE ON JUDICIAL CONDUCT
Richard J. Hughes Justice Complex
P.O. Box 037
Trenton, NJ 08625-0037
(609) 292-2552