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A. C. J. C.

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NOS:ACJC 2004-022, 2004-098, 2004-268

IN THE MATTER OF DAVID A. SALTMAN JUDGE OF THE MUNICIPAL COURT	FORMAL COMPLAINT

Patrick J. Monahan, Jr., Counsel, Advisory Committee on Judicial Conduct ("Complainant"), complaining of Municipal Court Judge David A. Saltman ("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 1972.

2. At all times relevant to these matters, Respondent served as judge of the Municipal Courts of Pennington and West Windsor, Mercer County.

COUNT I

1. On September 20, 2002, Nadia and Ilya Ben entered into contingent fee agreements with Respondent whereby he agreed to represent them in connection with a motor vehicle accident that had occurred in the township of West Windsor on August 24, 2002.

2. On October 29, 2002, Daniel Cessaro, who was the other driver in the automobile accident in which Nadia and Ilya Ben had been involved on August 24, 2002, appeared before Respondent in the West Windsor Municipal Court and entered a plea of guilty to an amended charge of unsafe operation of a motor vehicle in violation of N.J.S.A. 39:4-97.2. Respondent accepted the plea and imposed the maximum fine of $150, plus $30 costs.

3. The violation for which Daniel Cessaro appeared in the West Windsor Municipal Court on October 29, 2002, arose out of the automobile accident in which he was involved with Nadia and Ilya Ben on August 24, 2002, in West Windsor Township.

4. On June 9, 2004, Respondent met with Nadia and Ilya Ben concerning the aforementioned automobile accident and informed them that he did not intend to pursue their case.

5. By letter dated June 14, 2004, Respondent informed Ilya Ben that he did not think that Mr. Ben met the threshold qualifications for a viable lawsuit.

6. By letter of June 14, 2004, Respondent asked Nadia Ben to get in touch with a certain attorney for final evaluation of her case and its viability. He asked Ms. Ben to inform that attorney that it was Respondent who referred her to him.

7. By letter of June 28, 2004, Respondent informed Nadia Ben that he had received a letter from the other attorney and that he did not think that Ms. Ben had a case "that hurdles the threshold requirements of the state of New Jersey."

8. By agreeing to represent Nadia and Ilya Ben in a civil action arising out of a matter in which a complaint had been filed in the court where he sat as judge, Respondent violated a longstanding proscription against such representation (Municipal Court Manual, at X-1 to X-2) and violated Canons 1 and 2A 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).

9. By presiding over the case of Daniel Cessaro on October 29, 2002 concerning a violation that occurred in the same automobile accident with regard to which he had contracted on September 20 to represent Nadia and Ilya Ben, Respondent engaged in a conflict of interest in

violation of Canon 3C of the Code of Judicial Conduct and in conduct prejudicial to the administration of justice that brings the judicial office into disrepute, in violation of Rule 2:15-8(a)(6).

10. By engaging in the aforementioned conflict of interest, Respondent also violated Canons 1 and 2A of the Code of Judicial Conduct.

COUNT II

1. Complainant repeats the allegations contained in Count I of this complaint as if it was set forth fully and at length herein.

2. In ACJC 2002-004, the Committee admonished Respondent for violating both Rule 1:15-1(b), which bars a municipal court judge from representing the municipality in which the judge sits or any agency or officer thereof, and the rule of In re Blackman, 124 N.J. 547 (1991), by representing an officer of the West Windsor Police Department while Respondent was serving as Municipal Court Judge of the Township of West Windsor.

3. Respondent's conduct in ACJC 2002-004 and his conduct as outlined in Count IV of this complaint constitute a pattern of disregard for the ethics obligations of part-time judges who also engage in the practice of law.

4. Respondent's conduct, as set forth in Count IV and in this count of the complaint, violates Canons 1 and 2A of the Code of Judicial Conduct and constitutes conduct prejudicial to the administration of justice that brings the judicial office into disrepute, in violation of Rule 2:15-8(a)(6).

COUNT III

1. On February 20, 2003, Respondent presided over the matter of State v. Warren in the Pennington Municipal Court. The named defendant in that matter was Laura Warren, who

had been charged with violating a municipal ordinance by leaving her automobile parked on the street after snow had fallen and had accumulated to a depth of more than two inches.

2. Stewart Warren, the named defendant's husband, appeared in her place and informed Respondent that it was he and not his wife, the registered owner, who had parked the car on the street.

3. Respondent replied that it was Mrs. Warren who had been cited and that she was the one who had failed to appear. He added: "I think it's like $1,000 for not showing up and five days in jail?" When Mr. Warren agreed that the fine for that was $1,000, Respondent said: "She just didn't show up. All right. We can use the money."

4. When Mr. Warren said, "Okay," Respondent replied: "All right. You got the money on you?" Mr. Warren replied that he would have to write a check, but Respondent said: "We don't take checks here."

5. After taking other matters, Respondent said to an unidentified individual: "Sarge, what do you think about some guy letting his wife go to jail?" Shortly thereafter, the tape recorder was turned off.

6. When taping resumed, Respondent called the Warren matter and amended the complaint to name Stewart Warren as the defendant. After a discussion of the ordinance, Respondent said to Stewart Warren:

> Okay. Now, let me make this real plain for you so we don't have any problems. The young lady at the window is much cheaper and much nicer than the Judge is. I would anticipate it's probably a simple ordinance. It, basically, says, if there's snow on the ground you can't be on - - parked on the street. If you're there, you're it. There's - - after that there's really no justification, you know, I was only there for a short time, I didn't mean to be there. Those things don't work, and the prices are higher here, just that's my nature. Are you sure you want to do this?

Mr. Warren said that he wanted to proceed, and Respondent then heard testimony from the police officer who had issued the summons.

7. After extensive colloquy about the relevant ordinance and after Mr. Warren's testimony, Respondent found Mr. Warren guilty. He then asked both the municipal prosecutor and Mr. Warren for their suggestions concerning sentencing. When Mr. Warren replied that he had been told by the court clerk that the fine was $32, Respondent said: "Well, I told you she's cheap. Not easy, but cheap. I gave you an option." Respondent then imposed the fine of $50, plus $30 court costs.

8. Respondent's remarks to and about Stewart Warren, as cited above, were sarcastic, gratuitous, and discourteous, in violation of Canon 3A(3) of the Code of Judicial Conduct, and constitute conduct prejudicial to the administration of justice that brings the judicial office into disrepute, in violation of Rule 2:15-8(a)(6).

9. By his remarks, Respondent also violated Canons 1 and 2A of the Code of Judicial Conduct in that he did not maintain high standards of conduct and did not act in a manner that promotes public confidence in the integrity and impartiality of the Judiciary.

COUNT IV

1. Complainant repeats the allegations contained in Count III of this complaint as if it were set forth fully and at length herein.

2. On December 18, 2003, Respondent presided over the matter of State v. McCormick in the Pennington Municipal Court. The named defendant, Elizabeth McCormick, was charged with a parking violation.

3. When the case was called, the named defendant's son, Kevin McCormick, appeared and informed Respondent that although the car was registered in his mother's name, it

was he who had committed the violation. Respondent then amended the complaint to name Kevin McCormick as the defendant.

4. Mr. McCormick then said that he was pleading guilty but he wished first to know what the total fines would be. Respondent replied: " Well, you just made a deal with the prosecutor for 40 and 30," and when Mr. McCormick said he did not know what that meant, Respondent replied: "Forty dollars American, $30 American."

5. When Mr. McCormick protested that the original fine was less than that, Respondent asked him why he had not paid the fine at the window. Respondent then asked him: "Did you want to plead guilty in here or did you want the cheaper price at the window?" Before Mr. McCormick could answer, Respondent told him to have a seat and that he would speak to him at the end of the session. Although Mr. McCormick then said he would pay at the window, Respondent repeatedly directed him to have a seat.

6. After unrelated matters were taken, Respondent asked Mr. McCormick: "Mr. McCormick, did you want to see me or did you want to see the kind lady at the window?"

7. When Mr. McCormick said he would see the lady at the window if that were the easiest way to resolve the matter, Respondent said: "Oh my god. Oh my god. Oh my god. You've got two choices, son. You can see the kindly lady at the window, very sweet lady, or you can see the judge. Which one did you want to do?"

8. Mr. McCormick said that he would see the woman at the window.

9. Respondent's remarks to Mr. McCormick were sarcastic and discourteous, in violation of Canon 3A(3) of the Code of Judicial Conduct, and constituted conduct prejudicial to the administration of justice that brings the judicial office into disrepute, in violation of Rule 2:15-8(a)(6).

10. By his remarks, Respondent also violated Canons 1 and 2A of the Code of Judicial Conduct in that he did not maintain high standards of conduct and did not act in a manner that promotes public confidence in the integrity and impartiality of the Judiciary.

COUNT V

1. Complainant repeats the allegations contained in Counts III and IV of this complaint as if each were set forth fully and at length herein.

2. In ACJC 2000-102 and 2000-136, the Committee admonished Respondent for his demeanor in several matters over which he had presided, with specific reference to a series of discourteous and improper remarks.

3. In the Committee's letter of admonition to Respondent concerning ACJC 2000-102 and 2000-136, the Committee observed that his remarks "were highly improper and gratuitous and showed a pattern of conduct that needs correction."

4. Respondent's demeanor as described in Counts III and IV of this complaint, together with his conduct in ACJC 2000-102 an 2000-136, demonstrates that he continues to engage in a pattern of improper conduct in violation of Canons 1, 2A, and 3A(3) of the Code of Judicial Conduct and continues to engage 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 Respondent, Municipal Court Judge David A. Saltman, has 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;

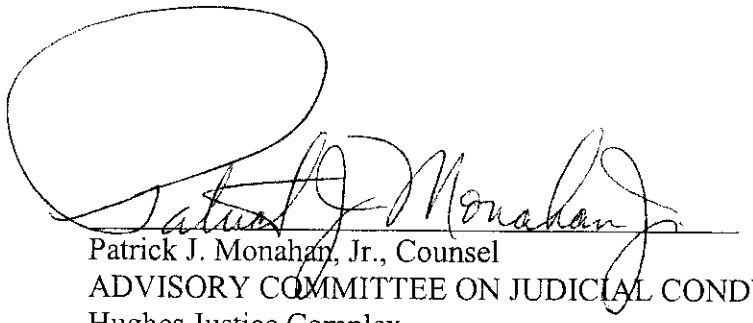
Canon 2A, which requires judges to respect and comply with the law and to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary;

Canon 3A(3), which requires judges to be patient, dignified, and courteous to all those with whom they deal in an official capacity; and

Canon 3C(1), which requires judges to disqualify themselves in proceedings 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: 2/3/05



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