

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO.: ACJC 2004-266

IN THE MATTER OF	:	
	:	
JOHN PARAGANO,	:	PRESENTMENT
	:	
FORMER JUDGE OF THE	:	
MUNICIPAL COURT	:	

The Advisory Committee on Judicial Conduct, pursuant to Rule 2:15-15(a), presents to the Supreme Court its Findings that charges set forth in a Formal Complaint against John Paragano, former Judge of the Municipal Court, have been proven by clear and convincing evidence and its Recommendation that the Respondent be censured.

The Advisory Committee on Judicial Conduct issued a Formal Complaint alleging that Respondent engaged in conduct in violation of Canons 1 and 2A of the Code of Judicial Conduct and in violation of Rule 2:15-8(a)(6) by his conduct toward his fiancée (Count I) and by driving while intoxicated (Count II). After filing an Answer, Respondent withdrew it and, through counsel, admitted all of the allegations of the Formal Complaint and offered items in mitigation.

The Committee convened a formal hearing. Respondent appeared, represented by counsel, and apologized for his conduct. After carefully reviewing the evidence, the Committee made factual determinations, supported by clear and convincing evidence, which form the basis for its Findings and Recommendation.

I. FINDINGS

Respondent is a member of the Bar of the State of New Jersey, having been admitted to the practice of law in 1990. At all times relevant to this matter, Respondent held the position of Judge of the Municipal Court of Union Township, Union County. Respondent resigned from that position on November 18, 2004. He no longer holds judicial office.

A. As to Count I

At about 12:30 a.m. on Saturday, July 24, 2004, the Union Township Police Department received an emergency 911 call. When a dispatcher answered the call, the caller hung up immediately. The dispatcher traced the caller's phone number to 655 Duquesne Terrace and subsequently spoke to a woman who answered the phone. 655 Duquesne Terrace was the address of Respondent's residence and the woman to whom the dispatcher spoke was Diane Prior, who was Respondent's fiancée at the time and who is now his wife.

Ms. Prior told the dispatcher that Respondent was very upset, was drinking too much, and was breaking up the house. She said that she was frightened. She also said that Respondent was drunk and had grabbed her in a headlock, thrown her on the floor, twisted her neck and started breaking up the house. She further said that Respondent was screaming at her and her daughter. The dispatcher replied that she would send someone over.

Officers Nuzzo and Brochu of the Union Township Police Department were dispatched to Respondent's residence. When they arrived, they spoke to Ms. Prior, who admitted them to the house. Respondent had left before the officers arrived.

The officers entered the basement and observed smashed glassware, tables turned upside down, and various other items smashed and strewn about. They noticed a significant amount of blood on the basement carpet, blood drops on the basement stairs, blood splatter on the doorway

leading into the kitchen, and blood drops on the floor leading to the front door, on the door jam, and on the front screen door. The blood was that of Respondent.

Ms. Prior told the officers that she and Respondent had gone out to dinner and had consumed wine with their meals. On arriving home, they began to argue about personal matters. Respondent continued drinking to the point that he became uncontrollable, and Ms. Prior and her daughter were shaken and scared.

Respondent went upstairs to the bedroom and appeared to be sleeping. As Ms. Prior got into bed, Respondent placed his legs around her neck and began to squeeze very tightly as if attempting to choke her. He lifted her and threw her across the room onto the floor. She landed on her right side and experienced pain to her right breast and upper right side of her rib cage, but she refused medical attention.

An officer took pictures of the scene, and Ms. Prior and her daughter were escorted to the police station to give a statement. At the police station, Ms. Prior declined the opportunity to give a statement, and she subsequently refused to cooperate with this Committee. She told the police that she did not want to jeopardize Respondent's position, and she said that Respondent had not really hurt her.

Respondent was later charged with simple assault, in violation of N.J.S.A. 2C:12-1a (1), and criminal mischief, in violation of N.J.S.A. 2C:17-3a.

B. As to Count II

After Ms. Prior called 911, but before the police officers arrived at his residence, Respondent got into his motor vehicle and drove away. While operating his vehicle, Respondent was under the influence of intoxicating liquors, in violation of N.J.S.A. 39:4-50.

At approximately 12:35 a.m. on July 24, 2004, police were dispatched to the area of 880 Salem Road in response to a report of a motor vehicle accident with injury. Upon arriving at the

scene, Officer Brescia observed a man whom he recognized as Respondent standing next to a green Range Rover, which was later identified as Respondent's motor vehicle.

Officer Brescia observed that Respondent's eyes were glazed over, his face was flushed, and he was having difficulty standing. Respondent was bleeding from his right hand and his chest was covered in blood.

Officer Brescia further observed that Respondent's motor vehicle had sustained severe front-end damage and that the other vehicle, a Toyota Rav 4, had sustained severe rear-end damage. A bystander informed the officer that the Rav 4 belonged to her and that it had been parked when the accident occurred.

Respondent was taken to the emergency room for treatment. In the ambulance, Officer Telposky noticed a strong odor of alcohol coming from Respondent's breath. He saw that Respondent's eyes were glazed and bloodshot. Upon arrival at the hospital, Officer Teleposky placed Respondent under arrest pursuant to N.J.S.A. 39:4-50, for driving while intoxicated. A blood sample was taken at about 2:45 a.m., and it was subsequently determined that Respondent's blood alcohol content was 0.165%.

Respondent was also charged with careless driving, in violation of N.J.S.A 39:4-97.

On November 16, 2004, Respondent appeared before Superior Court Judge Salem Vincent Ahto in response to the aforementioned charges.

In accordance with a plea agreement, Respondent pled guilty to driving while under the influence of alcohol. The prosecutor recommended dismissal of the remaining charges of simple assault, criminal mischief, and careless driving, and those charges were dismissed.

Judge Ahto imposed a fine of \$300, court costs of \$30, an assessment of \$75 to the Safe Neighborhood Services Fund, a \$200 surcharge to the Drug Enforcement Demand Reduction Fund, a \$200 DWI surcharge, and a \$50 assessment to the Victim of Crime Compensation

Board. Judge Ahto suspended Respondent's license for a period of seven months and ordered him to complete 12 hours at the Intoxicated Drivers Resource Center.

Respondent's conduct toward the woman who has since become his wife sounds in domestic violence. Although this is the first matter the Committee has had involving such conduct by a judge, it is well-settled that acts of domestic violence by attorneys constitute an ethics violation that requires public discipline. In re Jacoby, 188 N.J. 384 (2006) (censure for attorney who pled guilty to assault for pushing his wife into a wall, dislocating her shoulder); In re Margrabia, 150 N.J. 198 (1997) (three-month suspension for attorney found guilty of assault for striking his wife and his child).

It is also well-settled that a New Jersey judge who drives while intoxicated thereby violates the Code of Judicial Conduct and merits public discipline, at a minimum a public reprimand and a greater sanction when, as here, there were aggravating circumstances. In re Connor, 124 N.J. 18 (1991) (censure for DWI and fleeing the scene of an accident); In re Williams, 188 N.J. 476 (2006) (censure for DWI by judge who had previously been disciplined).

The Committee finds that by his conduct as described in Counts I and II, Respondent violated Canon 1 of the Code of Judicial Conduct, which requires judges to observe high standards of conduct so that the integrity and independence of the judiciary may be preserved, and 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. The Committee also finds that Respondent's conduct constitutes conduct prejudicial to the administration of justice that brings the judicial office into disrepute, in violation of Rule 2:15-8(a)(6).

II. RECOMMENDATION

Respondent is genuinely contrite and has demonstrated his sincerity by admitting to all the allegations against him in order to avoid his wife's being subpoenaed to testify against her will in this matter. Nevertheless, his violations are extremely serious and must result in public discipline.

The conduct covered by Count I is particularly serious in that it involves acts of domestic violence. Over the past decades, our society has made great efforts to address the pernicious problem of domestic violence, including the enactment of statutes providing a mechanism for victims to obtain restraining orders against their abusers, in addition to filing criminal complaints. The starting point for that procedure is ordinarily in the municipal courts, where a municipal court judge determines on the spot if a temporary restraining order should be issued and subsequently adjudicates any criminal charges the victim files.

When a municipal court judge engages in acts of domestic violence, it can have a chilling effect on victims, who may infer, inaccurately but understandably, that it would be futile to seek a temporary restraining order from a municipal court judge because their situation would not be reviewed fairly and impartially. That undermines the long-standing effort to eradicate domestic violence.

The Court has long recognized that it is particularly unacceptable for members of the Bar to commit acts of domestic violence. Accordingly, the Court announced many years ago that acts of domestic violence could not be tolerated and that the disciplinary sanction to be imposed on attorneys who are guilty of such acts would thenceforth be greater than a reprimand and would ordinarily be a suspension from the practice of law. In re Magid, 139 N.J. 449 (1995); In re Principato, 139 N.J. 456 (1995).

It is inconsequential that the assault charges against Respondent were dropped. By his own admission, he behaved in an egregious and violent manner toward his then-fiancée. The decision not to prosecute him for that conduct does not absolve him.

As for the conduct covered by Count II, it went well beyond the act of driving while intoxicated, as serious as that is in itself. Respondent chose to drive in spite of his severely inebriated condition after his now-wife called 911 to report his violent conduct. He then drove his vehicle into the rear end of a parked car. Those are clearly aggravating circumstances requiring discipline greater than a public reprimand. In re Connor, supra.

Respondent's heretofore unblemished record, his genuine contrition, and his willingness to accept full responsibility for his actions serve as mitigating factors. They are outweighed, however, by the particularly egregious nature of his acts of domestic violence and the circumstances of his driving while intoxicated.

If Respondent were still sitting as a judge, the Committee would consider a very severe sanction, perhaps even removal, to be appropriate. Because he no longer holds judicial office, the Committee respectfully recommends that Respondent, former Municipal Court Judge John Paragano, be censured.

Respectfully submitted,

ADVISORY COMMITTEE ON JUDICIAL CONDUCT

DATED: 1/10/07

By: /s/ Alan B. Handler
Alan B. Handler, Chair