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FILED
MAR 27 2007
A. C. J. C.

SUPREME COURT OF NEW JERSEY :
IN THE MATTER OF : ADVISORY COMMITTEE ON JUDICIAL CONDUCT

HENRY G. BROOME, JR. : DOCKET NO. ACJC 2005 - 264

JUDGE OF THE MUNICIPAL COURT : ANSWER

I, Henry G. Broome, Jr., Judge of the Municipal Court, State of New Jersey do hereby submit the following Answers to Complaint Docket ACJC 2005-264 by way of Certification.

COUNT I

1. Denied. I was admitted to practice law in the State of New Jersey in 1967.

2. Admitted.

3. Admitted, although respondent has not reviewed the particulars of the memorandum through the discovery process at this point.

4. Admitted, although respondent has not reviewed the particulars of the memorandum through the discovery process at this point.

5. Admitted, although respondent has not reviewed the particulars of the memorandum through the discovery process at this point.

6. Admitted, although respondent has not reviewed the particulars of the memorandum through the discovery process at this point.

7. Admitted, although respondent has not reviewed the particulars of the memorandum through the discovery process at this point.

8. Admitted, although respondent has not reviewed the particulars of the memorandum through the discovery process at this point.

9. Admitted, although respondent has not reviewed the particulars of the memorandum through the discovery process at this point.

10. Admitted.

11. Admitted.

12. Admitted.

13. Admitted.

14. Admitted.

15. Denied. Respondent maintains that neither Judge Velasco, in his capacity as Presiding Judge for the Municipal Courts of Atlantic/Cape May County nor the Assistant Court Administrator, nor the Acting Administrative Director of the Courts has authority under New Jersey law to direct how he is to impose a sentence that the court believes to

be within its discretion to impose. Respondent maintains that the only bodies which can direct how a discretion can be imposed in the execution of sentence in a case properly brought before the municipal court is either a holding a published decision by the Law Division in the same county, or a published decision by the Appellate Division, or a decision by the New Jersey Supreme Court construing the statute and the penalties that may be imposed under the statute. Respondent maintains that his interpretation of the statute is responsible and no court of Appellate jurisdiction has yet to rule that his interpretation is incorrect. Respondent further maintains that the interpretation given to the statute by Judge Velasco and the Administrative Office of the Courts is in fact incorrect. The specifics of this allegation will be brought out more in respondents brief which is simply a matter of law which we will discuss the legal issues as opposed to the factual issues.

COUNT II

16. No Response.

17. Admitted.

18. Admitted.

19. Admitted.

20. Admitted, although Respondent maintains that his actions were undertaken based upon a good faith, although mistaken belief as to the retro-activity of amendment to the Guideline.

21. Admitted.

22. Admitted.

23. Admitted.

24. Admitted.

25. Denied. In the absence of a showing of moral turpitude, the exercise of sentencing discretion, even if mistaken, does not constitute a violation of the cited canons of Judicial Conduct nor of Rule 2:15-8(a)(6). See generally In Re Mattera, 34 N.J. 259, 168 A.2d 38(1961).

26. Denied.

COUNT III

27. No response.

28. Respondent denies that his participation in these matters on the record constituted plea-bargaining, but was rather an exercise of discretion intended to help the defendants achieve a fair result in their respective cases.

29. Admitted, although this Rule may be relaxed consistent with Rule 1:1-2 and is not required for matters that may be resolved through the Violations Bureau.

30. Admitted.

31. Admitted.

32. Denied. The plea offer was communicated to the Respondent on a slip of paper prepared by the municipal prosecutor, Thomas Smith, Esquire.

33. Admitted.

34. Admitted.

35. Admitted. This action was taken for the express purpose of making sure the defendant understood the ramifications of the plea offer.

36. Admitted.

37. Admitted.

38. Denied. Technically, the State's proposed amendment to N.J.S.A. 39:3-40(h) calls for an unspecified suspension of driving and registration privileges but does not require the imposition of a fine.

39. Denied. The violation of N.J.S.A. 39:3-10 does require a suspension if the defendant has never before been licensed in New Jersey or any other jurisdiction. N.J.S.A. 39:3-10 would require operation of a

motor vehicle by the defendant. The correct amendment should have been to N.J.S.A. 39:3-37.1(b).

40. Admitted. Moreover, Respondent would acknowledge that his advice from the bench was legally incorrect.

41. Admitted.

42. Admitted.

43. Respondent denies that he engaged in plea-bargaining and that his conduct in failing to fully comply with Rule 7:6-2(a)(1) constitutes a violation of the cited Canons of Judicial Conduct or Rule 2:15-8(a)(6).

COUNT IV

44. No response

45. Admitted.

46. Admitted.

47. Admitted.

48. Admitted.

49. Admitted.

50. Admitted.

51. Admitted.

52. Admitted.

53. Admitted.

54. Admitted.

55. Admitted to the extent that the trial transcript does not reveal such advice to the defendant. Respondent would note that he obtained a perfunctory waiver of the right to counsel from the defendant as reflected on Page 3, Line 16 of the transcript. Denied in that the defendant may have been advised of these rights during a previous court event, an issue that Respondent will attempt to establish through certified transcripts. Respondent further denies that his conduct constituted a violation of the cited Canons of Judicial Conduct or Rule 2:15-8(a)(6).

56. Denied.

COUNT V

57. No response.

58. Admitted.

59. Admitted.

60. Admitted.

61. Admitted, although Respondent maintains he has a non-delegable duty to control the operation of his courtroom, part of which is to make sure that the orders and judgments of the court will be enforced.

62. Denied. Respondent's policy violates none of the cited authority and does not a violation of either the cited Canons of Judicial Conduct or Rule 2:15-8(a)(6).

COUNT VI

63. No response.

64. Admitted.

65. Admitted.

66. Admitted.

67. Admitted.

68. Admitted.

69. Denied. Such a failure does not constitute a violation of the cited Canon of Judicial Conduct.

Pursuant to Rule 1:4-4(b), I certify the foregoing statements made by me are true to the best of my knowledge. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

_____

Henry G, Broome, Jr.
Judge of the Municipal Court

68. Admitted.

69. Denied. Such a failure does not constitute a violation of the cited Canon of Judicial Conduct.

Pursuant to Rule 1:4-4(b), I certify the foregoing statements made by me are true to the best of my knowledge. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Henry G, Broome, Jr.
Judge of the Municipal Court