SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

IN THE MATTER OF ROSEMARIE R.WILLIAMS, JUDGE OF THE SUPERIOR COURT	DOCKET NO.: ACJC 2006-100 PRESENTMENT

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 Rosemarie R. Williams, Judge of the Superior 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, Superior Court Judge Rosemarie R. Williams, 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 driving while intoxicated in violation of N.J.S.A. 39:4-50, and that she had previously engaged in conduct in violation of the Code of Judicial Conduct and Rule 2:15-8(a)(6) and was subject to disciplinary action.

Respondent filed an Answer admitting the allegations. She waived her right to testify at a formal hearing.

After carefully reviewing the evidence, to which counsel stipulated, the Committee made factual determinations supported by clear and convincing evidence that are the basis for its Findings and Recommendation.

FINDINGS

Respondent is a member of the Bar of the State of New Jersey, having been admitted to the practice of law in 1981. At all times relevant to this matter, she was a Judge of the Superior Court of New Jersey, assigned as Presiding Judge of the General Equity Part of the Chancery Division in the Somerset vicinage.

At approximately 11:20 p.m. on December 13, 2005, Respondent was operating her vehicle on South Branch Road in Hillsborough Township, Somerset County, when Officer Thomas McClain of the Hillsborough Township Police Department observed her driving, conducted a traffic stop, and cited her for failure to keep to the right, in violation of N.J.S.A. 39:4-82. After conducting field sobriety tests, Officer McClain determined that Respondent was driving while intoxicated, in violation of N.J.S.A. 39:4-50.

Officer McClain placed Respondent under arrest and transported her to the Hillsborough Township Police Department, where Respondent underwent Breathalyzer tests. The Breathalyzer tests resulted in blood alcohol readings of .16 percent. Officer McClain then cited Respondent for driving while intoxicated in violation of N.J.S.A. 39:4-50.

On January 30, 2006, Respondent appeared before Superior Court Judge John A. Sweeney, Assignment Judge of the Burlington vicinage, who was sitting as a judge of the Hillsborough Township Municipal Court by order of the Chief Justice.

Respondent entered a plea of guilty to the charge of DWI, and the municipal prosecutor moved to merge and dismiss the charge of failure to keep to the right.

Judge Sweeney found Respondent guilty and imposed the standard penalties: a fine of $300, $6 surcharge, $200 in DWI surcharges, $50 VCCB penalty, and $75 safe neighborhood penalty. Judge Sweeney also suspended Respondent's driving privileges for a period of seven months and directed that she spend 12 hours at the Intoxicated Driver Resource Center.

By driving while intoxicated in violation of N.J.S.A. 39:4-50, Respondent violated Canon 1 of the Code of Judicial Conduct, which requires judges to observe high standards of conduct so that the integrity and the independence of the Judiciary may be preserved, and Canon 2A of the Code of Judicial Conduct, 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. Respondent's conduct also constitutes conduct prejudicial to the administration of justice that brings the judicial office into disrepute, in violation of Rule 2:15-8(a)(6).

In ACJC 97-246, the Advisory Committee on Judicial Conduct sent Respondent a letter of caution because certain remarks she had made to a defendant in a criminal matter detracted from the dignity of the judicial office.

In 2001 the Supreme Court suspended Respondent without pay for a period of three months for her failure to "conform her behavior to the social norms expected of ordinary citizens in our society and certainly not to the heightened standard we expect of judges." In re Williams, 169 N.J. 264, 274.

RECOMMENDATION

Respondent's attorney argued to the Committee that the appropriate discipline in this matter is a public reprimand because that is the sanction that has historically been imposed on judges who drive while intoxicated but who have not previously done so and who do not further aggravate the situation by their attendant conduct.

While it is true that Respondent's improper conduct in the present matter was limited to the act of driving while intoxicated and that it was the first time she had been cited for that violation, the Committee considers both mitigating and aggravating factors when deciding what discipline is appropriate.

The fact that Respondent cooperated fully with the police officers is not a mitigating factor, although a failure to cooperate would constitute an aggravating factor. Every citizen has an obligation of cooperation in such circumstances, and no mitigation arises out of Respondent's conduct subsequent to the traffic stop.

What is a true mitigating factor is Respondent's reputation as a knowledgeable and impartial judge. Respondent offered in evidence testimonials to that effect from colleagues on the bench and from distinguished members of the bar, all of whom attested to her competence and fairness.

An aggravating factor is Respondent's disciplinary history. While her conduct in this matter was not the same kind of conduct for which she had previously been disciplined, the earlier discipline put her on notice that she had to conform her conduct to the accepted norms. The burden was on her to avoid improper conduct -- of every sort -- thereafter. She failed to do so, and that failure requires an enhanced sanction.

Under the circumstances, and taking into account both mitigating and aggravating factors, the Advisory Committee on Judicial Conduct respectfully recommends that Respondent, Superior Court Judge Rosemarie R. Williams, be censured.

Respectfully submitted,

Advisory Committee on Judicial Conduct

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