

SUPREME COURT OF NEW JERSEY  
ADVISORY COMMITTEE ON  
JUDICIAL CONDUCT

DOCKET NO: ACJC 2006-242

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IN THE MATTER OF  
DENNIS L. MCGILL  
JUDGE OF THE MUNICIPAL COURT

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**PRESENTMENT**

The Advisory Committee on Judicial Conduct, pursuant to Rule 2:15-15(a), presents to the Supreme Court its Findings that the charges set forth in a Formal Complaint against Dennis L. McGill, Judge of the Municipal Court, have been proven by clear and convincing evidence and its Recommendation that, in light of the significant extenuating circumstances present in this matter, the Respondent be privately reprimanded.

On December 11, 2006, the Advisory Committee on Judicial Conduct issued a Formal Complaint against the Respondent, which alleged that his conduct in throwing a bowl of soup at a patient appearing before him during the patient's involuntary commitment hearing violated Canons 1, 2A and 3A of the Code of Judicial Conduct as well as Rule 2:15-8(a)(6) of the New Jersey Court Rules. The Respondent filed an Answer on January 30, 2007 in which he admitted certain of the factual allegations of the Formal Complaint and denied others. He also offered facts in mitigation.

The Committee convened a formal hearing on May 3, 2007. Respondent appeared, apologized for his conduct and offered testimony in his defense. Exhibits were offered by both parties and accepted into evidence. 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 1965. At all times relevant to these matters, Respondent served as Presiding Judge of the Municipal Court for the Hudson vicinage.

On July 18, 2006, Respondent presided over an involuntary commitment hearing In the Matter of P.A. (the "Hearing") at the Jersey City Medical Center during which Mr. A. appeared *pro se*. The Hearing took place in a combination recreation and meeting room, which featured an eight foot circular sectional table with a four foot opening in the middle of it. The Respondent and Mr. A. were seated at opposite ends of the table and were separated by the opening in the middle. Tr. 11, 19-24. Several court and hospital personnel, including two security guards, were also present in the room. As the Respondent testified, he was told, prior to the Hearing's commencement, that Mr. A. "was going to be a problem" during the course of the Hearing. Tr. 11, 2-6.

After hearing from all concerned parties, Respondent orally ordered Mr. A's continued commitment in the Jersey City Medical Center and, if necessary, Mr. A's transfer to Meadowview Psychiatric Hospital. Subsequently, Mr. A. responded: "And go . . . [expletive] . . . your mother." In response to Mr. A's outburst, Respondent instructed Mr. A. to leave the hearing room. Mr. A. did not leave the hearing room voluntarily but rather continued to swear at Respondent. Respondent requested that the officers present in the hearing room remove Mr. A. According to the Respondent, at some point during this exchange, Mr. A. stood up. Tr. 10, 4. Mr. A. attempted to spit on the Respondent but, due to the physical distance between the two,

was unsuccessful. In reaction to Mr. A's spitting attempt, Respondent threw a cup of soup at him. The soup struck Mr. A. in the chest and hair and soiled his clothing. The soup also struck nearby court and hospital employees. The Respondent immediately apologized for his actions and admitted to the others in the room that he had "lost it." He later sent several letters of apology to the court and hospital employees who had witnessed the incident. See Exhibit P-4.

In his Answer to the Complaint, the Respondent indicates that his action in throwing the soup was "undertaken only to repel a perceived physical assault" and was "instantaneous and unthinking." Answer, §3. Although he admits that his action in throwing the soup was physical, he denies that it was violent. Id. He testified during the hearing that there was no justification for his conduct, and that he "misinterpreted" the patient and "reacted too quickly." Tr. 10, 3. Although the Respondent apologized for his action in throwing the soup, he took the position in his Answer and during his testimony that his conduct merely "created the appearance of being inappropriate and unprofessional" and was "not a violation of the Rules or Canon cited." Answer, §3; Tr. 9, 2-3.

The Committee finds that the act of throwing the container of soup at an individual appearing before him in a court proceeding was a clear violation of Canons 1, 2A and 3A of the Code of Judicial Conduct as well as Rule 2:15-8(a)(6). Canon 1 requires judges to maintain high standards of conduct, while Canon 2A requires judges to conduct themselves in a manner that promotes public confidence in the integrity and impartiality of the Judiciary. Canon 3A requires judges to maintain order and decorum in judicial proceedings and to be patient, dignified and courteous to all those who they deal with in an official capacity. Rule 2:15-8(a)(6) prohibits conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

In this case, Mr. A. was an unstable mental patient confined in a hospital who was undergoing an involuntary commitment hearing presided over by the Respondent. Respondent was aware, prior to the Hearing's commencement, that the patient was "mentally challenged." Tr. 8, 21-23. Although the Respondent was clearly provoked by Mr. A's own conduct, the Respondent is a representative of the courts and is held to the higher standards prescribed in the Code of Judicial Conduct. The Committee finds that the Respondent acted unprofessionally and unreasonably in throwing the soup at Mr. A., an act that not only physically impacted Mr. A. but others in the room as well. His act did not raise a mere "appearance of" impropriety, as asserted by the Respondent, but was, in fact, improper. Such conduct necessarily diminishes public confidence in the Judiciary as a whole and detracts from the dignity and decorum of the proceeding over which Respondent presided.

Despite the foregoing findings, the Committee notes the significant extenuating circumstances present in this case. First, involuntary commitment proceedings, such as the one at issue here, are typically very emotional and highly-charged proceedings. Mr. A's conduct and words, specifically, his spitting and vulgar language both directed at the Respondent, pointedly exemplify this fact. The Committee finds it likely that the composure and demeanor of many judges would be tested under circumstances similar to those experienced by the Respondent. Second, Respondent has a career steeped in public service that is exemplary and heretofore unblemished. He has served without similar incident as a municipal judge for the Hudson County vicinage since 1996. Finally, the Committee notes and gives weight to Respondent's various expressions of remorse both at the time of and subsequent to the incident in question. With these expressions, the Respondent acknowledged the lack of justification for his actions and admitted his embarrassment caused by his conduct. The Committee views as credible

Respondent's testimony that his action was an impulsive and reflexive reaction to the provocative and distasteful conduct of Mr. A.

## **II. RECOMMENDATION**

In light of the above findings and discussion, the Committee recommends the imposition of private discipline against Respondent. Although the act of throwing the container of soup was clearly improper and would, by itself, likely warrant the imposition of public discipline, the Committee finds that the full Record in this matter demonstrates the presence of strong mitigating circumstances, which make private discipline the more appropriate penalty. The Committee views Respondent's conduct as an aberration and gives weight to his expressions of regret.

Respectfully submitted,

**Advisory Committee on Judicial Conduct**

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

Dated: June 29, 2007