

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT
DOCKET NO: ACJC 2017-059

IN THE MATTER OF :
 :
WILFREDO BENITEZ, :
JUDGE OF THE MUNICIPAL COURT :
_____ :

FORMAL COMPLAINT

Maureen G. Bauman, Disciplinary Counsel, Advisory Committee on Judicial Conduct (“Complainant”), complaining of Municipal Court Judge Wilfredo Benitez, (“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 1993.
2. At all times relevant to this matter, Respondent served as a part-time judge in the Municipal Courts of East Orange and Belleville Township, positions he continues to hold.
3. On November 12, 2016, at 2:13 AM, Respondent operated a motor vehicle in the Township of Teaneck, Bergen County, New Jersey.
4. At the aforementioned time and place, while on patrol, New Jersey State Trooper Justin Kearns (“Trooper Kearns”) and New Jersey State Trooper Danny Kim (“Trooper Kim”) observed Respondent’s vehicle parked on the right shoulder on Interstate 80, westbound, at milepost 68.0.
5. Trooper Kim approached Respondent’s vehicle and observed that Respondent was asleep in the front seat of his vehicle.

6. While speaking with Respondent, Trooper Kearns detected the strong odor of alcohol emanating from his breath and observed that Respondent's eyes were bloodshot and watery.

7. Trooper Kearns asked Respondent if he had anything to drink or had taken any drugs before he had driven his vehicle or since he pulled over to which Respondent replied, "Not at all, sir."

8. Trooper Kearns performed several field sobriety tests on Respondent.

9. While performing the tests, Respondent stated, "I mean, what are you trying to do? I mean, (indiscernible) University, I'm a judge."

10. Based on the results of Respondent's field sobriety tests and the odor of alcohol on Respondent's breath, Respondent was placed under arrest for driving while intoxicated.

11. After Respondent was handcuffed, he attempted to walk away. Trooper Kearns told Respondent to stop moving, that he was under arrest. Respondent asked, "For what?" Trooper Kearns again stated for driving while intoxicated, to which Respondent replied, "I can't believe you're doing this. I'm not a fucking drug addict. I'm not a drunk! I can't believe you're doing this."

12. While Trooper Kearns was double locking the handcuffs, Respondent stated, "I'm a fucking judge, I would never do anything to hurt you, man. Come on!" Trooper Kearns explained that he was trying to lock the handcuffs so they did not get tighter and hurt his wrists when Respondent sat down in the car. Respondent replied, "You're wasting your time. You know you are."

13. Respondent asked Trooper Kearns, "You're not going to give me any courtesy? None?" Trooper Kearns asked, "What courtesy?" Respondent replied, "It really hurts, bro."

Trooper Kearns again stated, "That's why we locked it so it wouldn't get tight on you. You were fighting us." Respondent replied, "I was fighting you? Really?"

14. Trooper Kearns stated, "I'm going to read you the Miranda warning. I'm sure you know it." In response, Respondent yelled at Trooper Kearns, "You're wasting your time and you know it. I'll fight you. You know you're being a dick. I will fucking fight you."

15. Troopers Kearns and Kim transported Respondent to the New Jersey State Police Totowa Sub-Station where Respondent voluntarily submitted to two Alcotest inspections for blood alcohol content.

16. Respondent was ultimately issued a summons for driving under the influence of alcohol in violation of N.J.S.A. 39:4-50.

17. On May 11, 2017, a Bergen County Superior Court judge found Respondent not guilty of driving under the influence of alcohol.

18. By his conduct in using profanity towards Troopers Kearns and Kim during the arrest, Respondent impugned the integrity of the Judiciary in violation of Canon 1, Rule 1.1 and Canon 2, Rule 2.1 of the Code of Judicial Conduct.

19. By his conduct of identifying himself as a judge to Trooper Kearns and requesting preferential treatment during the arrest because of his judicial status Respondent attempted to use the power and prestige of his judicial office to advance his private interests in violation of Canon 1, Rule 1.1 and Canon 2, Rule 2.3 (A) of the Code of Judicial Conduct.

20. Respondent when questioned by the Advisory Committee on Judicial Conduct admitted referring to his Judicial office during these events to garner special treatment, i.e. when being handcuffed, patted down and Mirandized, claiming he took "umbrage at being treated like a common criminal."

WHEREFORE, Complainant charges that Respondent has violated the following Canons of the Code of Judicial Conduct:

Canon 1, Rule 1.1, which requires judges to observe high standards of conduct so that the integrity and independence of the judiciary may be preserved;

Canon 2, Rule 2.1 which requires judges to avoid creating the appearance of impropriety and to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary; and

Canon 2, Rule 2.3 (A), which requires judges to avoid lending the prestige of their office to advance private interests.

DATED: January 24, 2018

Maureen G. Bauman

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