

FILED
JAN 26 2015
ACJ.C.

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO: ACJC 2014-127

IN THE MATTER OF

MARIO A. BATELLI
JUDGE OF THE MUNICIPAL COURT

FORMAL COMPLAINT

Tracie H. Gelbstein, Disciplinary Counsel, Advisory Committee on Judicial Conduct ("Complainant"), complaining of Municipal Court Judge Mario A. Batelli ("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 1998.

2. At all times relevant to this matter, Respondent served as a part-time Judge in the Municipal Court of the Borough of Totowa, a position he continues to hold.

Count I

3. Prior to December 3, 2013, Respondent discussed with his brother, Eugene Batelli ("Mr. Batelli"), and sister-in-law, Annalisa Batelli ("Mrs. Batelli"), difficulties that they and Mrs. Batelli's father, Pasquale DePinto ("Mr. DePinto"), were having with a contractor, Anthony Pizza ("Mr. Pizza"), whom Mr. DePinto had hired for home renovations.

4. Respondent advised Mrs. Batelli that she or her father could go to the Wayne Police Department or to the Wayne Municipal Court and file charges against Mr. Pizza.

5. On December 3, 2013 Respondent sent Mrs. Batelli an email listing seven "NJS 2C" charges that her father could file against Mr. Pizza.

6. At the bottom of that email, Respondent indicated the following: "All of the above are for your dad. You can charge NJS 2C:21-5 for the bad check given to Wayne for the permits which you had to pay. Ask the detective to run a CCH which will show other criminal charges including the recent indictment for a \$50K bad check. Good luck!"

7. On December 15, 2013, Mr. Batelli went to the Wayne Township Police Department to file a report regarding the harassing behavior of Mr. Pizza.

8. The Wayne Township Police Department employees advised Mr. Batelli to go to the Wayne Township Municipal Court and have Mr. DePinto file a complaint against Mr. Pizza.

9. On December 16, 2013, Mrs. Batelli and Mr. DePinto appeared at the Violations Window of the Wayne Township Municipal Court seeking to file charges against Mr. Pizza arising from the home renovations dispute.

10. The Wayne Township Court Administrator ("Court Administrator") informed Mrs. Batelli and Mr. DePinto that the underlying issue may be a civil matter, not a criminal matter, because there was a contract involved.

11. Mrs. Batelli replied, "No, my brother-in-law is a Judge and he should know. He gave me the charges my father is to sign."

12. Mrs. Batelli provided the Court Administrator with a copy of Respondent's email to her dated December 3, 2013 with the list of charges to be filed by Mr. DePinto against Mr. Pizza.

13. The Court Administrator provided Mrs. Batelli and Mr. DePinto with a Certification in Support of Probable Cause to complete for issuance of a complaint.

14. When Mrs. Batelli and Mr. DePinto returned to the window, they provided the Court Administrator with the completed Certification, which included six "NJS 2C" charges and

a short narrative regarding the incident. All six of the charges were identical to the charges that Respondent had identified in his email to Mrs. Batelli of December 3, 2103.

15. After reviewing the completed Certification, the Court Administrator advised Mrs. Batelli and Mr. DePinto that if she could not find probable cause, the complaint would be provided to the Wayne Township Municipal Court Judge for a probable cause determination.

16. The Court Administrator directed Mrs. Batelli and Mr. DePinto to have a seat so that she could review the charges and prepare the complaint.

17. While reviewing the matter, the Court Administrator had a few questions concerning the charges and a dollar amount that were not detailed in the Certification, so she proceeded into the public area outside of the court office to speak with Mrs. Batelli and Mr. DePinto.

18. At that time, Mrs. Batelli advised the Court Administrator: "I just contacted my brother-in-law and he said if you cannot find probable cause, ask for a Probable Cause Hearing."

19. The Court Administrator explained that her judge would review the papers, and if he needed additional information or had any questions, she would schedule a Probable Cause Hearing and notify the parties.

20. The Court Administrator also advised Mrs. Batelli and Mr. DePinto that she needed to speak with her Division Manager because she believed it would be "uncomfortable" for her or the Wayne Township municipal court judge to make a probable cause determination due to the involvement of Respondent in the matter, whom the Court Administrator knew to have presided as a substitute judge in Wayne Township on a few occasions.

21. By his conduct in assisting Mrs. Batelli and Mr. DePinto with their court matter against Mr. Pizza, including by providing them with a note to be used in connection with that

matter, Respondent created the risk that his judicial office would be used to advance the private interests of others and permitted Mrs. Batelli to convey the impression that she was in a special position of influence in violation of Canons 1, 2A and 2B of the Code of Judicial Conduct.

Count II

22. Complainant repeats the allegations contained in the foregoing paragraphs as if each were set forth fully and at length herein.

23. A municipal court judge may request a Computerized Criminal History ("CCH") report for official court business on matters pending in that judge's court.

24. CCH reports can only be accessed by law enforcement officials for official use.

25. On December 3, 2013, Respondent directed his deputy court administrator in the Totowa Municipal Court to have a CCH report run by the Totowa Police Department regarding Mr. Pizza.

26. A Totowa Police Dispatcher ran and printed a CCH report regarding Mr. Pizza that was subsequently provided to Respondent.

27. Mr. Pizza had no pending matters in the Totowa Municipal Court.

28. Respondent's December 3, 2013 email to Mrs. Batelli made specific reference to Mr. Pizza's CCH stating: "Ask the detective to run a CCH which will show other criminal charges including the recent indictment for a \$50K bad check."

29. By requesting a CCH report regarding Mr. Pizza, an individual who did not have any matters pending in the Totowa Municipal Court at the time, Respondent used his judicial position to access confidential information for personal reasons unrelated to judicial duties in violation of Canons 1 and 2A of the Code of Judicial Conduct and allowed his judicial conduct

to be influenced by his family relationships in violation of Canon 2B of the Code of Judicial Conduct.

WHEREFORE, Complainant charges that Respondent, Municipal Court Judge Mario A. Batelli, has violated the following Canons of the Code of Judicial Conduct:

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

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; and

Canon 2B, which prohibits a judge from allowing family relationships to influence judicial conduct or judgment and from lending the prestige of the judicial office to advance the private interests of the judge and others.

DATED: January 26, 2015



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