

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

STIPULATIONS

Tracie H. Gelbstein, Disciplinary Counsel, Advisory Committee on Judicial Conduct ("Presenter"), and Municipal Court Judge Mario A. Batelli ("Respondent"), through counsel, Carl Mazzie, Esq., hereby enter into the following stipulations:

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, County of Passaic, a position he has held since January 2011.
3. From January 1, 2008 to December 31, 2010, Respondent served as the municipal prosecutor for the Borough of Totowa.
4. To date, Respondent has not been the subject of judicial discipline.

Count I

5. Respondent's brother, Eugene Batelli ("Mr. Batelli") was married to Annalisa Batelli ("Mrs. Batelli").

6. Mr. Batelli resided with Mrs. Batelli and Mrs. Batelli's father, Pasquale DePinto ("Mr. DePinto"), in a single family home in the Township of Wayne, County of Passaic, New Jersey.

7. In January 2013, Mr. DePinto agreed to retain the services of a general contractor, Anthony Pizza ("Mr. Pizza"), to perform home renovations to the Wayne residence ("Wayne Home Improvement project").

8. The relationship between Respondent's family and Mr. Pizza deteriorated over the course of several months in 2013.

9. During that time period, Respondent had extensive discussions with his brother, sister-in-law and Mr. DePinto concerning the difficulties that his family was having with Mr. Pizza completing the work for which Mr. Pizza had been paid.

10. Around Thanksgiving of 2013, Mrs. Batelli told Respondent that she and her father wanted to file criminal charges against Mr. Pizza.

11. Respondent had represented Mr. and Mrs. Batelli in various legal actions over the course of several years including a civil action stemming from the Wayne Home Improvement project.

12. Respondent, as her brother-in-law and the family attorney, advised Mrs. Batelli that she and her father could go to the Wayne Police Department or to the Wayne Municipal Court and file criminal charges against Mr. Pizza.

13. Respondent further advised Mrs. Batelli that when you are at Wayne Municipal Court, "what you do is go to the court administrator and she can make a finding of probable cause. Because I covered for that court before, she may not feel comfortable doing that so you can ask the judge, you can ask her that you want to see a judge for a probable cause hearing."

14. Respondent explained to Mrs. Batelli that he and the attorneys from his law firm could not appear in Wayne Municipal Court or any municipal court in Passaic County to represent them because he was a judge in Totowa.

15. A few days later on Tuesday, December 3, 2013 at 8:30 a.m., Respondent drafted and sent to Mrs. Batelli an email from his law firm account listing seven "NJS 2C" charges that he believed Mrs. Batelli and her father had grounds to file against Mr. Pizza based on the culmination of various conversations he had had with his family over the previous eleven months as well as a review of various documents including copies of bounced checks.

16. At the bottom of his December 3 email to Mrs. Batelli, Respondent typed the following message: "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!"

17. On Monday, December 16, 2013, Mrs. Batelli and Mr. DePinto appeared at the Violations Window of the Wayne Township Municipal Court seeking to file criminal charges against Mr. Pizza arising from the Wayne Home Improvement project.

18. The Wayne Court Administrator, Lori Ellicott ("Ms. Ellicott") met with Mrs. Batelli and her father to discuss filing a criminal complaint against Mr. Pizza arising from the Wayne Home Improvement project.

19. Ms. Ellicott provided Mrs. Batelli with a Complaint Information Form and Certification in Support of Probable Cause ("Certification") for them to complete to assist in the preparation of a summons and complaint against Mr. Pizza.

20. Mrs. Batelli and Mr. DePinto completed the Complaint Information Form and Certification at the Wayne Municipal Court.

21. With the exception of the "NJS 2C:21-5(c)(2) bad check, 3rd degree" charge, Mrs. Batelli and Mr. DePinto listed in the Certification the "NJS 2C" charges that Respondent had provided to Mrs. Batelli on December 3 as the charges they wanted to file against Mr. Pizza.

22. Mrs. Batelli handed the completed Complaint Information Form and Certification back to Ms. Ellicott for her to prepare a complaint.

23. Ms. Ellicott reviewed the Complaint Information Form and Certification at which time she raised the issue with Mrs. Batelli of whether the matter was civil in nature, and not criminal, given that a contract was involved in their dispute with Mr. Pizza.

24. Mrs. Batelli handed Ms. Ellicott a hard copy of Respondent's email that listed the seven "NJS 2C" charges for her father to file against Mr. Pizza.

25. Ms. Ellicott reviewed the Complaint Information Form, the Certification and Respondent's printed email, and prepared Complaint-Summons S-2013-001528 that charged Mr. Pizza with four of the seven "NJS 2C" charges that Respondent had provided to Mrs. Batelli.

26. Ms. Ellicott spoke to the Wayne Municipal Court judge about the matter of Complaint-Summons S-2013-001528 and the familial relationship between Mrs. Batelli and Respondent who had served as a substitute judge in Wayne Municipal Court on a few occasions since his judicial appointment in January 2011.

27. On December 19, 2013, the Passaic Vicinage Assignment Judge transferred Complaint-Summons S-2013-001528 to the Bergen Vicinage for a probable cause determination and any subsequent hearings due to the complainant's relationship with one of the Passaic municipal court judges.

28. Respondent's law partner appeared in Bergen County Superior Court on behalf of Mr. DePinto in the matter of Complaint-Summons S-2013-001528 after the matter was transferred from the Passaic Vicinage to the Bergen Vicinage.

Count II

29. The New Jersey State Police Bureau of Identification ("SBP") functions as the central repository for the receiving, verifying, coding, processing, and dissemination of all criminal history record information ("CHRI").

30. CHRI encompasses all criminal history information including a Computerized Criminal History ("CCH") which is a detailed criminal history record of persons involved in the criminal justice system by way of a criminal arrest and official fingerprint record.

31. The SBI manages and controls CHRI on a computerized network known as the New Jersey Criminal Justice Information System ("NJCJIS") which allows for the input, update and dissemination of the most accurate and timely criminal history record information available to criminal justice agencies.

32. The NJCJIS and criminal history record information contained on the NJCJIS is confidential and intended for use by authorized criminal justice agencies for the administration of criminal justice or for criminal justice purposes.

33. "Criminal justice agency" is defined to include "the courts of the State of New Jersey."

34. "Administration of criminal justice" or "criminal justice purpose" is defined to mean:

- 1) The detection, apprehension, detention, pretrial and post-trial release, prosecution, adjudication, correctional supervision or rehabilitation of accused persons or criminal offenders;

- 2) The hiring of persons for employment by criminal justice agencies or the granting of access to a criminal justice facility; or
- 3) Criminal identification activities, including accessing of the New Jersey Criminal Justice Information System . . . by criminal justice agencies for the purposes set forth in paragraph 1 and 2 of this definition.

35. New Jersey's local law enforcement agencies are permitted by way of an agreement with the SBI to directly access NJCJIS terminals and all criminal history record information maintained on the NJCJIS.

36. In order to provide a viable communications system that supports the needs of the State's criminal justice communities without compromise to individual constitutional rights, the SBI developed a Security Policy regarding criminal justice agencies' access to, and dissemination of, criminal history record information maintained on the NJCJIS terminals in accordance with existing NJCJIS and National Crime Information Center policies, procedures and regulations.

37. All personnel of criminal justice agencies authorized to request and receive material via the NJCJIS had to be certified in the Information Technology Security Awareness Training whereby the training participant acknowledged in writing an awareness of the security requirements for transmission, processing, dissemination, and storage of criminal history record information maintained on the NJCJIS.

38. The Totowa Police Department maintained an SBI approved NJCJIS terminal at its police headquarters.

39. Dispatcher Carl Baker, a police dispatcher for the Totowa Police Department, was certified to access and disseminate CCHs obtained from the NJCJIS terminals to those criminal

justice agencies authorized to receive CCHs for the purpose of the administration of criminal justice.

40. Respondent, as Totowa's municipal court judge, was authorized to request and review CCHs concerning persons involved in matters pending in Totowa Municipal Court when that inquiry was for the administration of criminal justice.

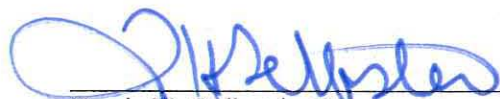
41. On Tuesday, December 3, 2013, Respondent requested a CCH on Mr. Pizza.

42. On that same day at 6:48 p.m., Dispatcher Baker accessed the NJCJIS to inquire about the criminal history of Anthony Pizza. Officer Baker learned from his inquiry that Mr. Pizza had a criminal history, and at 6:49 p.m., disseminated a CCH regarding Mr. Pizza for the "Court."

43. Respondent reviewed Mr. Pizza's CCH and then destroyed the document.


44. Mr. Pizza had no pending matters in the Totowa Municipal Court at the time Respondent requested and reviewed the CCH on Mr. Pizza.

45. On or around March 27, 2014, Respondent received for the first time the Criminal Justice Information Services Security Policy, participated in the Security Awareness Training, and signed the Acknowledgment Form certifying the completion of the SBI's Security Awareness Training as per the FBI security policy.



Tracie H. Gelbstein, Esq.
Presenter

DATED: November 10, 2015



Carl Mazzei, Esq.
Counsel for Respondent

DATED: November 10, 2015