BORRUS, GOLDIN, FOLEY, VIGNUOLO, HYMAN & STAHL
A Professional Corporation
2875 U.S. Highway #1
P.O. Box 7463
North Brunswick, New Jersey 08902
(732) 422-1000
Attorneys for Respondent

FILED
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A. C. J. C.

SUPREME COURT OF
NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

IN THE MATTER OF

LOUIS M.J. DiLEO,
JUDGE OF THE MUNICIPAL COURT

DOCKET NO. ACJC 2011-173

ANSWER

LOUIS M.J. DiLEO, residing at 31 Azalea Trail, Westfield, New Jersey, by way of answer to the complaint herein, says:

1. The Respondent admits the allegations contained in paragraph 1.

2. The Respondent admits the allegations contained in paragraph 2.

3. The Respondent admits the allegations contained in paragraph 3.

4. The Respondent admits the allegations contained in paragraph 4, except to state that the defendants expressly waived their rights to a public defender after being advised by Respondent of their right to use a public defender.

5. The Respondent admits the allegations contained in paragraph 5, except to state that neither of the defendants responded challenging Respondent's statement that they had waived their right to a public defender.

6. The Respondent admits the allegations contained in paragraph 6.

7. The Respondent admits the allegations contained in paragraph 7 and further states that the Respondent was affording the police officer the same questioning opportunity as that afforded to a litigant in the absence of counsel.

8. The Respondent admits that following the officer's testimony, he permitted the defendants an opportunity to present witnesses. The Respondent denies that none of the defendant's witnesses were present in Court that evening. In fact, a co-defendant had been in Court and left. The Respondent admits that the defendants testified in their own defense. However, their testimony was given after they were advised of their right to remain silent and waived their right to remain silent. Finally, Respondent admits that the arresting officer was permitted to cross-examine each of the defendants, the same opportunity afforded to the pro se defendants.

9. The Respondent admits the allegations contained in paragraph 9. The questioning was to obtain answers to questions the Respondent had as to the testimony presented.

10. The Respondent admits the allegations contained in paragraph 10 but states that he misspoke and intended that the sentences be concurrent.

11. The Respondent admits the allegations contained in paragraph 11.

12. The Respondent admits the allegations contained in paragraph 12.

13. The Respondent admits the characterization of Judge Moynihan in his dictum. The Respondent is without sufficient information to form a belief as to its relevance or application to the within complaint or his conduct in the Kirkland matters and was not part of Respondent's decision or ruling.

14. The Respondent admits the characterization of Judge Moynihan, in his dictum. The Respondent is without sufficient information to form a belief as to its relevance or application to

the within complaint or his conduct in the Kirkland matters. Judge Moynihan did not appropriately consider the Kirklands prior express waiver of their right to a public defender.

15. The Respondent admits the characterization of Judge Moynihan, in his dictum. The Respondent is without sufficient information to form a belief as to its relevance or application to the within complaint or his conduct in the Kirkland matters. Judge Moynihan ignored Respondent's role as a fact-finder in seeking to elicit the truth as to the conflicting testimony presented.

16. The Respondent admits the characterization of Judge Moynihan but is without sufficient information to form a belief as to its relevance or application to the within complaint or his conduct in the Kirkland matters. The prosecutor had left the Court for the evening without permission.

17. The Respondent admits the procedural errors noted by Judge Moynihan in connection with the sentencing of the Kirklands in this matter, except that the right to appeal was provided to the Kirklands on several occasions in Respondent's opening remarks on each occasion they appeared in Court.

18. The Respondent denies that he intentionally denied the defendants their constitutional rights to counsel and, instead, relied upon the Court's prior practice and the Kirklands waiver of right to the public defender as noted in the Court's records in this matter. The Respondent admits procedural errors in connection with sentencing of the defendants but denies that he has violated Canons 1, 2A and 3A(1) of the Code of Judicial Conduct.

WHEREFORE, Respondent demands judgment declaring that he has not violated the Canons of Judicial Conduct.

FIRST SEPARATE DEFENSE

The Kirkland matters were considered old complaints on the docket of the Linden Municipal Court and required that they be adjudicated in a reasonably expeditious manner compelling both the State and the defendants to proceed on a trial date.

SECOND SEPARATE DEFENSE

The Kirkland defendants were each individually advised as to their right to counsel and their right to obtain the services of the public defender. Both Kirkland defendants waived their right to obtain the services of the public defender, on the record, in open Court as noted in the transcripts and Court records of the Linden Municipal Court.

THIRD SEPARATE DEFENSE

The Respondent never intentionally disregarded the rights of the defendant in sentencing the defendants in the matters herein.

BORRUS, GOLDIN, FOLEY, VIGNUOLO,
HYMAN & STAHL, P.C.
Attorneys for Respondent

ANTHONY B. VIGNUOLO

Dated: December 1, 2011

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