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MAR 1 3 2008
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SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO: ACJC 2007-162

IN THE MATTER OF RICHARD M. SASSO JUDGE OF THE MUNICIPAL COURT	FORMAL COMPLAINT

Candace Moody, Disciplinary Counsel, Advisory Committee on Judicial Conduct ("Complainant"), complaining of Municipal Court Judge Richard M. Sasso ("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 1980.

2. At all times relevant to these matters, Respondent served as a part-time judge in the Municipal Courts of Warren Township, Bridgewater Township, Bound Brook Borough, and Watchung Borough.

3. Effective January 23, 2008, Respondent resigned from his positions as judge of the Municipal Courts of Warren Township, Bridgewater Township, Bound Brook Borough, and Watchung Borough.

COUNT I

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

5. On December 6, 2006, Respondent presided over the evening court session in the Bridgewater Municipal Court while under the influence of drugs and/or alcohol. At the end of the court session that evening, Respondent's wife was called to drive Respondent home.

6. On December 6, 2006, Respondent was scheduled to preside over the evening court session in the Bound Brook Municipal Court, which was to follow the evening court session in the Bridgewater Municipal Court. Due to Respondent's impaired condition, however, the court session in the Bound Brook Municipal Court was canceled.

7. On April 17, 2007, Respondent presided over the court session in the Warren Municipal Court while under the influence of drugs and/or alcohol. Again, due to his impaired condition, Respondent needed to be driven home from court at the end of the court session.

8. Respondent's conduct in taking the bench impaired on December 6, 2006 and April 17, 2007, as referenced in the foregoing paragraphs, impugned the integrity of the judiciary in violation of Canons 1 and 2A of the Code of Judicial Conduct, constituted misconduct in office in violation of Rule 2:15-8(a)(1) of the New Jersey Rules of Court, and was prejudicial to the administration of justice that brings the judicial office into disrepute in violation of Rule 2:15-8(a)(6) of the New Jersey Rules of Court

COUNT II

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

10. On November 29, 2007, at approximately 1:30 a.m., the Bound Brook police were called to Torpedo's Go-Go Bar in Bound Brook, New Jersey regarding a disorderly persons incident involving Respondent. That morning, while a patron at Torpedo's Go-Go Bar,

Respondent refused to provide the bartender with his driver's license, which the bartender was required to examine prior to starting a bar tab. When the bartender refused to start the bar tab without first being provided Respondent's driver's license, Respondent, in a hostile and angry manner, stated to the bartender "Do you know who I am? I'm the Bound Brook judge." Respondent further stated to the bartender that, as the judge, he had left the bar alone for three years. When Respondent was then asked by the manager of the bar to leave, Respondent threatened the manager, stating "Do you know who I am? I can make problems for you." At that point, the manager instructed his staff to call the Bound Brook Police for assistance and was forced to remove Respondent physically from the bar after Respondent refused to leave. While being removed from the bar, Respondent caused damage to the bar by ripping off part of the bar's ledge.

11. After arriving at Torpedo's Go-Go Bar, the responding police officer transported both Respondent and his companion from the bar to the police station to permit them to make arrangements for a ride home due to their level of intoxication. Once at the Bound Brook Police Station, Respondent called Russell Leffert, the Warren Township Police Chief, to give him a ride home.

12. By his conduct in identifying himself to the bartender as the Bound Brook judge, and implying that in his position as the judge he had treated the bar more favorably then other similarly situated entities, and by threatening the manager of the bar, Respondent attempted to use his office as a Bound Brook Municipal Court Judge to influence or advance his private interests and demonstrated a lack of impartiality, thereby impugning the integrity and impartiality of the judiciary in violation of Canons 1 and 2A of the Code of Judicial Conduct and demeaning the judicial office in violation of Canon 5A(2). Respondent's actions also

constituted conduct prejudicial to the administration of justice that brings the judicial office into disrepute in violation of Rule 2:15-8(a)(6).

13. Respondent's disorderly conduct while at Torpedo's Go-Go Bar, which required police intervention as referenced in the foregoing paragraphs, impugned the integrity of the judiciary in violation of Canons 1 and 2A of the Code of Judicial Conduct, demeaned the judicial office in violation of Canon 5A(2), and constituted conduct prejudicial to the administration of justice that brings the judicial office into disrepute in violation of Rule 2:15-8(a)(6).

COUNT III

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

15. Respondent has repeatedly sanctioned attorneys and litigants for appearing minutes late to court pursuant to Rule 1:2-4 of the New Jersey Court Rules. Rule 1:2-4 states as follows:

> If without just excuse or because of failure to give reasonable attention to the matter, **no appearance** is made on behalf of a party on the call of a calendar, on the return of a motion, at a pretrial conference, settlement conference, or any other proceeding scheduled by the court, or on the day of trial, or if an application is made for an adjournment, the court may order any one or more of the following: (a) the payment by the delinquent attorney or party ... of costs, in such amount as the court shall fix, to the Clerk of the Court made payable to 'Treasurer, State of New Jersey,' or to the adverse party; (b) the payment by the delinquent attorney or party ... of the reasonable expenses, including attorney's fees, to the aggrieved party ...; or (d) such other action as it deems appropriate. (emphasis supplied)

16. Rule 1:2-4 does not allow for the imposition of sanctions if a party or the party's attorney is merely late to court, but rather only permits the imposition of costs and expenses against the offending party if he/she fails to appear for court without just excuse.

17. Respondent's repeated misuse of Rule 1:2-4 to sanction attorneys and litigants unfairly for appearing late to court violated Canon 2A of the Code of Judicial Conduct, which requires judges to respect and comply with the law, and Canon 3A(1) of the Code of Judicial Conduct, which requires judges to be faithful to the law and maintain professional competence in it, and constituted conduct prejudicial to the administration of justice that brings the judicial office into disrepute in violation of Rule 2:15-8(a)(6).

COUNT IV

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

19. On July 12, 2007, Respondent presided over the matter of State v. Lisa Brown, in the Watchung Borough Municipal Court, Complaint No. SC2007000859. Ms. Brown was approximately eight minutes late to court and consequently was not present when her case was initially called by the court. When Ms. Brown failed to answer the call of her case, Respondent immediately ordered a bench warrant for her arrest.

20. Subsequent to the call of the court's calendar that morning, Ms. Brown alerted Respondent that she was present. Thereafter, the following colloquy occurred between Ms. Brown and Respondent, during which Respondent became very upset and began loudly yelling at Ms. Brown:

> THE DEFENDANT: I was here at 9:08. I was here - -
>
> THE COURT: Well it doesn't start at 9:08. Court starts at nine. You, just like in school, were always in the front of the line. Why? Your last name

is Brown. I was at the back of the line. You were at the front of the line. But for some reason you think you can come to a court of law anytime you want when it fits in with you.

* * *

THE COURT: So instead of being here – and you don't talk again while I'm talking.

THE DEFENDANT: Okay.

THE COURT: I'll put you in jail so fast your head will spin.

THE DEFENDANT: Okay, but you have it wrong, Your Honor.

THE COURT: I don't have it wrong.

THE DEFENDANT: I don't think I can come here whenever I want.

* * *

THE DEFENDANT: I have a small child that I had to bring to a babysitter.

THE COURT: Get her out of here. Get her out of here. Contempt of Court.

THE DEFENDANT: For what?

THE COURT: Sanction $500. She doesn't leave until she pays the sanction. If she doesn't pay the sanction Somerset County Jail, $35 a day.

21. On August 8, 2007, Respondent presided over the matter of State v. Sostre, in the Bound Brook Municipal Court, Docket No. S-2007-340. The defendant, Ms. Sostre, was represented by Patricia Bombelyn, Esquire, who appeared before Respondent that day.

22. When attorney Bombelyn approached the bench to address the court, Respondent immediately began to interrogate her, in a hostile tone, about attorney Bombelyn's interaction with Respondent's staff:

THE COURT: Are you the attorney today that called and gave my staff a hard time?

MS. BOMBELYN: I wouldn't say I gave them a hard time, Your Honor.

THE COURT: Oh, I would say you gave them a hard time. Let me ask you a -- a question. Did you say to my staff here today that, "You better watch out, you're playing with wildfire?" Yes or --

MS. BOMBELYN: No, I did not.

23. Despite having answered Respondent's question, Respondent continued to press Ms. Bombelyn in an increasingly belligerent manner:

THE COURT: Okay. If you talk over me one more time, I'm going to sanction you $250 for each occasion. Do we have an understanding?

MS. BOMBELYN: Judge –

THE COURT: Do we have an understanding? I have asked you a question, Counsel. Do you understand what I said?

MS. BOMBELYN: Judge, what I'd like to do –

THE COURT: No, you're going to answer my question. See, this world isn't about what you want to do. You're in a court of law.

* * *

THE COURT: No, we're – excuse me. You still – I'm asking you if you understand what I said. I didn't ask –

MS. BOMBELYN: I under –

THE COURT: Excuse me. Here we go. $250. That's the first one. Now we'll go from there. Okay? Do you understand what I said?

* * *

THE COURT: Now, I'll ask you the question. Did you say to my staff today that, "You better watch out, you're playing with fire?"

MS. BOMBELYN: I did not make that statement to your staff, Your Honor. . . .

* * *

> THE COURT: You are going to listen to me. Next $250. You owe 500 so far . . . You have a duty in this case to answer the questions I'm posing to you.

24. Again, despite having answered Respondent's questions, the colloquy between Respondent and attorney Bombelyn on the issue of her communications with Respondent's staff continued and eventually resulted in Respondent holding attorney Bombelyn in contempt for refusing to repeat her answers to Respondent's questions. Respondent further directed attorney Bombelyn to pay the $500 in sanctions within two days or face further contempt charges.

25. Attorney Bombelyn filed an appeal with the Superior Court of New Jersey regarding the $500 in sanctions and the charge of contempt issued against her by Respondent. The Superior Court dismissed the $500 in sanctions and considered the contempt charge dropped by Respondent due to Respondent's failure to issue the necessary Order to Show Cause pursuant to Rule 1:10-2. In reaching its determination on the issue of the sanctions, the Superior Court stated:

> . . . [Judge Sasso] cites no authority for his actions that he took on the 8th, which the Court's required to do. See In Re Militia, 159 N.J. Super 1. While important portions of the court rules which allow for sanctions without finding an attorney in contempt, Ms. Bombelyn's actions do not fall in any of those categories.
>
> . . . It is the judge's behavior that sets the tone for the court and the proceedings. The judges are required to participate in establishing, maintaining, enforcing and should personally observe high standards of conduct so that the integrity and independence of the judiciary may be preserved. . . .

26. On September 24, 2007, Respondent presided over the matter of State v. Mike Roberson, in the Watchung Borough Municipal Court, Complaint No. WP40763.

27. After adjudicating Mr. Roberson's case, Mr. Roberson returned to court moments later seeking a clarification from Respondent regarding the fine imposed on him. At that time, the following colloquy occurred between Mr. Roberson and Respondent, during which Respondent became sarcastic with Mr. Roberson:

> UNIDENTIFIED SPEAKER: I had a misunderstanding on the amount that the fine was.
>
> THE COURT: Yes. You want to just come back for trial next time, Mike? Not a problem.
>
> UNIDENTIFIED SPEAKER: No. I mean, it is what it is, Your Honor. I just wanted a clarification on the amount of the fine.
>
> THE COURT: All right. Well I explained the fines in English at the time I rendered the decision. You have a right to file an appeal of the fines within 20 days with the Superior Court Clerk in Somerville. I went through each of the tickets with you and I told you what the fine would be. Both of those fines are less than what the maximum could be. Municipal Court judges aren't asked to explain their conduct to defendants on the rebound when they leave the Violations Bureau. Have a nice evening.

28. Respondent's remarks to Ms. Brown, attorney Bombelyn, and Mr. Roberson, as set forth above, violated Canon 3A(3) of the Code of Judicial Conduct, which requires judges to be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity.

29. By his remarks to Ms. Brown, attorney Bombelyn and Mr. Roberson, which were stated in a hostile manner, Respondent also violated Canons 1 and 2A of the Code of Judicial Conduct and engaged in conduct prejudicial to the administration of justice that brings the judicial office into disrepute, in violation of Rule 2:15-8(a)(6).

COUNT V

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

31. On May 9, 2006, Respondent presided over the matter of State v. Tina Sears, in the Warren Township Municipal Court, Complaint Nos. 008300 and 089022. At the end of the court proceedings in the Sears matter, Respondent directed his court officer to detain Ms. Sears as she was exiting the courtroom for purportedly cursing at Respondent. Ms. Sears denied cursing at Respondent.

32. Respondent held Ms. Sears in contempt of court and sentenced her to immediate incarceration in the Somerset County Jail for ten days.

33. By holding Ms. Sears in contempt of court and immediately imposing a jail sentence, without issuing the necessary order of contempt and certification, Respondent abused his contempt powers under Rule 1:10-1, which requires a stay of any sentence related to contempt in the presence of the court for five days, and further requires the issuance by the judge of an order of contempt with a certification from the judge that he saw or heard the conduct constituting the contempt and that the contemnor was willfully contumacious.

34. Similarly, Respondent's conduct in the matter of State v. Lisa Brown, as set forth in Count IV above, wherein Respondent sanctioned Ms. Brown $500 for contempt of court, payable immediately under threat of imprisonment, and failed to afford Ms. Brown an immediate opportunity to respond, and failed to issue the necessary order of contempt and certification, constituted an abuse of Respondent's contempt power under Rule 1:10-1.

35. By his conduct in failing to comply with the strict requirements of Rule 1:10-1, Respondent has violated Canon 2A of the Code of Judicial Conduct, which requires judges to respect and comply with the law and constituted conduct prejudicial to the administration of justice that brings the judicial office into disrepute, in violation of Rule 2:15-8(a)(6).

COUNT VI

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

37. When presiding over matters involving high school students, Respondent has discounted the amount of the fines to be imposed upon those students merely because of their status as high school students. Respondent has referred to these discounts, in open court, as the "Warrior Discount," or other applicable high school mascot discounts, referring to the mascot of the high school to which the student appearing before him attends. Respondent conditions his application of these discounts on the student's promise to pay the fine himself/herself, without the financial assistance of a third party.

38. By his conduct in treating more favorably those litigants who appear before him as high school students, merely because they are high school students, Respondent has engaged in discriminatory conduct that impugns the integrity and impartiality of the judiciary in violation of Canons 1 and 2A of the Code of Judicial Conduct. Further, Respondent's conduct, as set forth above, constituted conduct prejudicial to the administration of justice that brings the judicial office into disrepute in violation of Rule 2:15-8(a)(6).

COUNT VII

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

40. Respondent acted as the attorney for the Watchung Chemical Fire Company (a.k.a. the Watchung Volunteer Fire Company), a municipal entity, while also serving as the municipal court judge in Watchung Borough.

41. In his capacity as counsel to the Watchung Chemical Fire Company (the "Fire Company"), Respondent participated in the drafting of the Fire Company's by-laws, answered the questions of the Fire Company regarding their by-laws, and consulted, generally, with the Fire Company regarding various legal issues.

42. Respondent's conduct in serving as counsel to the Watchung Chemical Fire Company, while also serving as the municipal court judge in Watchung Borough, violated Rule 1:15-1(b), which prohibits a municipal court judge from acting as the attorney for the municipality or any agency of the municipality.

43. Respondent's conduct in serving as counsel to the Watchung Chemical Fire Company, while also serving as the municipal court judge in Watchung Borough, also violated Canons 1 and 2A of the Code of Judicial Conduct and constituted misconduct in office in violation of Rule 2:15-8(a)(1).

WHEREFORE, Complainant charges that Respondent, Municipal Court Judge Richard M. Sasso, 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;

Canon 3A(3), which requires judges to be patient, dignified, and courteous to all those with whom they deal in an official capacity;

Canon 5A(2), which requires judges to conduct all of their extra-judicial activities so that they do not demean the judicial office; and

Complainant also charges that Respondent's conduct was in violation of Rule 2:15-8(a)(1) and Rule 2:15-8(a)(6) of the New Jersey Court Rules.

DATED: March 13, 2008

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