FILED
MAY 16 2013
A. C. J. C.

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO: ACJC 2011-272

IN THE MATTER OF SURROGATE JAMES CURCIO,	STIPULATIONS

Tracie H. Gelbstein, Disciplinary Counsel, Advisory Committee on Judicial Conduct ("Presenter"), and Surrogate James Curcio ("Respondent"), 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 1985.

2. In November 2010, Respondent was elected as Atlantic County Surrogate.

3. On January 1, 2011, Respondent assumed the office of Atlantic County Surrogate, a position he continues to hold.

COUNT ONE

4. In March 2011, Respondent served as the "Host Committee Chairman" in support of the election of Chris Brown, Assembly candidate for the 8th District of the New Jersey State Legislature.

5. In his capacity as "Host Committee Chairman," Respondent drafted and signed a letter inviting supporters of Mr. Brown to a fundraising event at a local restaurant in Egg Harbor Township, New Jersey.

6. In the letter, Respondent indicated he speaks for "the entire committee," the names of which were listed under that of Respondent.

7. At the bottom of the letter, the words, "Paid for by Friends of Chris Brown" were featured.

8. By acting as the "Host Committee Chairman" of a partisan political fundraiser and by speaking on that Committee's behalf while also serving as the Atlantic County Surrogate, Respondent violated Rule 1:17-1(f), which prohibits Surrogates from engaging in partisan political activity except as is permitted under the Code of Conduct for Judiciary Employees.

9. By acting as the "Host Committee Chairman" of a partisan political fundraiser and by speaking on that Committee's behalf while also serving as the Atlantic County Surrogate, Respondent also violated Canon 6.A.3 of the Code of Conduct for Judiciary Employees, which prohibits Surrogates from holding an office or position of leadership in or serving as a spokesperson for a political party, organization or club that supports partisan political activity.

10. By his conduct as described above, Respondent has also violated Canons 1 and 2A of the Code of Judicial Conduct.

11. By way of these Stipulations, Respondent amends his Formal Answer to admit to the allegations set forth in paragraphs 3 through 6 in Count One of the Amended Formal Complaint.

COUNT II

12. At approximately 1:19 a.m. on April 27, 2012, Respondent operated a motor vehicle in Mullica Township and the Town of Hammonton, Atlantic County, while under the influence of alcohol in violation of N.J.S.A. 39:4-50.

13. At the aforementioned time and place, a Mullica Township police officer was on routine patrol on Route 30 in Mullica Township when he observed Respondent's vehicle traveling at a high rate of speed heading in the opposite direction. The officer observed the vehicle make a quick lane change, and, unsure if the driver swerved or was actually making a lane change, the officer pursued the vehicle.

14. While in pursuit, the officer observed Respondent activate his blinker to make a right hand turn, but then accelerate to a high rate of speed continuing to travel on Route 30. As Respondent's vehicle began to pull away, the officer closed the gap by reaching speeds of approximately 75 miles per hour.

15. The officer continued to follow Respondent along Route 30, and observed the vehicle drifting towards the double yellow lines of the center lane. The officer activated his overhead lights, but Respondent continued to drive entering into the Town of Hammonton. The officer observed the vehicle drift over the double yellow lines at which time the officer activated his audible siren, and Respondent ultimately came to a stop.

16. At the time of the motor vehicle stop, the officer observed that Respondent appeared tired, his movements were slow, and his eyes were blood shot and watery. The officer detected an odor of alcohol emanating from the vehicle.

17. Another officer arrived on the scene and administered a series of field sobriety tests. Respondent swayed and staggered when getting out of his car and when attempting the balance tests. An odor of alcohol was also detected on Respondent's breath when he spoke.

18. The officer arrested Respondent at the scene of the traffic stop for driving while intoxicated, and transported him to the Mullica Township police station.

19. At the police station, the arresting officer advised Respondent that he is required to submit breath samples, to which Respondent agreed. The officer instructed Respondent to exhale into the mouthpiece. He then gave Respondent five chances to produce an adequate breath sample to successfully complete the test. Respondent failed to reach minimum breath volume on all five occasions.

20. It appeared to the officer that Respondent "was not exhaling [into the mouthpiece] on purpose." He observed that Respondent "would take a deep breath and exhale before blowing into the mouthpiece." The officer also observed that when Respondent had the mouthpiece in his mouth, he "would hold it with his teeth rather than seal his lips around it" even though he had been advised on each occasion to seal his lips around the mouthpiece. After five attempts, the officer deemed Respondent's actions a refusal.

21. As a result of his conduct, Respondent was charged with Driving While Intoxicated ("DWI") in violation of N.J.S.A. 39:4-50, Refusal to Submit To Chemical Test in violation of N.J.S.A. 39:4-50.2, Failure to Maintain Lane in violation N.J.S.A. 39:4-88B, and Reckless Driving in violation of N.J.S.A. 39:4-96.

22. On September 24, 2012, Respondent appeared before the Honorable Louis J. Belasco, North Wildwood Municipal Court, Cape May, and pled guilty to the charges of DWI and Refusal to Submit to Chemical Test stemming from the April 27, 2012 arrest.

23. Respondent was sentenced as a second offender on the DWI charge to a two-year loss of license, one-year use of ignition interlock device, 30 days of community service at the Intoxicated Driver Resource Center ("IDRC"), and $864 in fines, fees and costs.

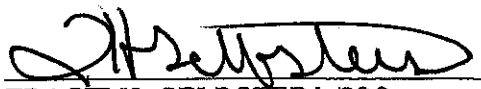
24. Respondent was sentenced as a first offender on the Refusal to Submit to Chemical Test charge to a seven-month loss of license, six-month use of ignition interlock

device, and twelve hours of community service at IDRC, all to run concurrently with the DWI sentence.

25. The remaining charges were dismissed.

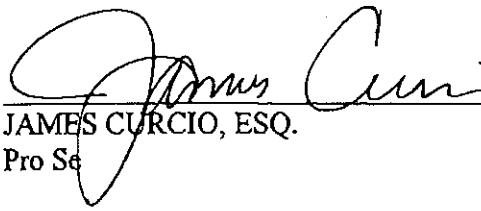
26. Less than two years earlier on November 22, 2010, Respondent was convicted in Sea Isle City Municipal Court of Driving While Intoxicated in violation of N.J.S.A. 39:4-50.

27. By driving while intoxicated in violation of N.J.S.A. 39:4-50 for a second time, Respondent impugned the integrity of the judiciary in violation of Canons 1 and 2A of the Code of Judicial Conduct and demeaned the judicial office in violation of Canon 5A(2) of the Code of Judicial Conduct.



TRACIE H. GELBSTEIN, ESQ.
Advisory Committee on Judicial Conduct

DATED: May 15, 2013



JAMES CURCIO, ESQ.
Pro Se

DATED: May 15, 2013