FILED
JAN 2 2 2013
A. C. J. C.

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO: ACJC 2012-232

IN THE MATTER OF SURROGATE JAMES CURCIO	AMENDED FORMAL COMPLAINT

Tracie H. Gelbstein, Esq, Disciplinary Counsel, Advisory Committee on Judicial Conduct ("Complainant"), complaining of Surrogate James Curcio ("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 1985.

2. At all times relevant to this matter, Respondent was the Surrogate in Atlantic County, New Jersey, a position he continues to hold.

COUNT I

3. In or around March 2011, Respondent, acting as "Host Committee Chairman" for Chris Brown, the Atlantic County Republican Party nominee for the New Jersey State Assembly, signed a letter inviting supporters of Mr. Brown to a fundraising event at a local restaurant in Egg Harbor Township, New Jersey.

4. In the letter, Respondent claims to speak for "the entire committee" whose names are listed under that of Respondent. At the bottom of the letter, the words, "Paid for by Friends of Chris Brown" are featured.

5. By acting as the "Chairman" of the Host Committee of a partisan political fundraiser and by speaking on that Committee's behalf while also serving as the Atlantic County Surrogate,

Respondent has 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, and 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."

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

COUNT II

7. 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.

8. 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. While in pursuit, he 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. 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.

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

10. 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. It appeared to the officer that the Respondent "was not exhaling [into the mouthpiece] on purpose." He observed that the 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, the Respondent "would hold it with his teeth rather then 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.

11. 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.

12. 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. He 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. He was also 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. The remaining charges were dismissed.

13. 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 and an amended charge of Failure to Exhibit a Driver's License.

14. By driving while intoxicated in violation of N.J.S.A. 39:4-50 for a second time in less than two years, 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.

WHEREFORE, Complainant charges that Respondent, Surrogate James Curcio, has violated the following Canons of the Code of Judicial Conduct:

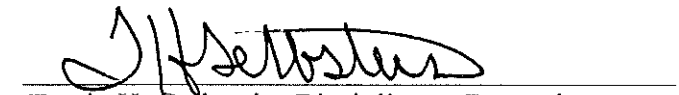
Canon 1, which requires judges to observe high standards of conduct so that the integrity and independence of the judiciary may be preserved;

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 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 Respondent with violating Rule 1:17-1(f) and Canon 6.A.3 of the Code of Conduct for Judiciary Employees.

DATED: January 22, 2013



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