FILED
AUG 05 2009
A. C. J. C.

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO.: ACJC 2009-116

IN THE MATTER OF

GERALD J. COUNCIL,
JUDGE OF THE SUPERIOR COURT

FORMAL COMPLAINT

Candace Moody, Disciplinary Counsel, Advisory Committee on Judicial Conduct ("Complainant"), complaining of Superior Court Judge Gerald J. Council ("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 1983.

2. At all times relevant to this matter, Respondent held the position of Presiding Judge of the Superior Court of New Jersey, Law Division, Criminal Part, assigned to the Mercer Vicinage, a position he continues to hold.

3. On December 29, 2008, Respondent, while serving as the emergent judge for bail hearings in the Mercer County Superior Court, presided over a bail hearing in State v. Celeste Jones, Docket No. 08-4519 (the "Jones Matter"). The defendant, Celeste Jones, appeared in court via video conference from the Mercer County Correctional Center. Assistant Prosecutor William Haumann and Ms. Jones' counsel, Public Defender Christopher Garrenger, were present in court on the Jones Matter.

4. At the outset of the bail hearing, Respondent recognized Celeste Jones as a relative of his and acknowledged, on the record, that his familial relationship with Ms. Jones

created a conflict of interest that required his recusal from the Jones Matter. Ms. Jones likewise acknowledged, on the record, that she knew Respondent.

5. Following Respondent's recusal, Assistant Prosecutor Haumann advised Public Defender Garrenger, on the record and in the presence of Respondent, that the Jones Matter had been downgraded by the Prosecutor's Office to a disorderly persons offense.

6. Respondent, upon learning of the downgrade of the charges against Ms. Jones, and in the face of a clear conflict of interest for which Respondent had recused himself, recalled Ms. Jones to the video conference and raised with Assistant Prosecutor Haumann the potential of releasing Ms. Jones on her own recognizance. Assistant Prosecutor Haumann acknowledged to Respondent that he would request Ms. Jones' release on her own recognizance.

7. Thereafter, Respondent, despite recognizing his need to recuse himself from the Jones Matter, sought and received the consent of Assistant Prosecutor Haumann and Public Defender Garrenger to release Ms. Jones on her own recognizance. Respondent subsequently released Ms. Jones on her own recognizance.

8. Having recused himself from the Jones Matter due to a clear conflict of interest with Ms. Jones, Respondent should not have taken any action on the Jones Matter, but rather should have adjourned the matter for disposition by a different judge on the next available court date.

9. By engaging in a discussion with Assistant Prosecutor Haumann about the release of Ms. Jones and by releasing Ms. Jones on her own recognizance in the face of a clear conflict of interest, Respondent violated Canons 1, 2A, and 3C(1) 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).

WHEREFORE, Complainant charges that, by the conduct set forth above, Respondent, Superior Court Judge Gerald J. Council, 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 3C(1), which requires judges to disqualify themselves from matters in which their impartiality might reasonably be questioned.

Complainant also charges that Respondent has 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).

DATED: August 5, 2009

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