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A. C. J. C.

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO: ACJC 2008-180
ACJC 2008-256

IN THE MATTER OF

JAMES N. CITTA
JUDGE OF THE SUPERIOR COURT

FORMAL COMPLAINT

Candace Moody, Disciplinary Counsel, Advisory Committee on Judicial Conduct ("Complainant"), complaining of Superior Court Judge James N. Citta ("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 1977.

2. At all times relevant to this matter, Respondent served as a judge in the Superior Court of New Jersey, assigned to the Criminal Division in the Ocean Vicinage, a position he continues to hold.

3. On April 13, 2006, Respondent presided over the matter of State v. Alex Ramirez in the Superior Court of New Jersey, Criminal Division, Ocean Vicinage, Indictment No. 04-06-1127. Defendant, Alex Ramirez, appeared in court that day for a sentencing hearing related to his violation of parole.

4. After accepting the defendant's guilty plea, Respondent heard from the defendant's attorney regarding the defendant's reasons for violating the terms of his parole. One of the reasons given by the defendant, through a Spanish-speaking interpreter, for violating the

terms of his parole was the defendant's inability to speak and understand English and his parole officer's inability to speak and understand Spanish, to which Respondent replied:

> THE COURT: Now, so let me understand this. Not only do we have to let him come into the country illegally and stay here, not only do we have to provide him with public assistance, not only do we have to provide him with free health care, not only do we have to provide him with a free attorney when he gets in trouble, now he wants a bilingual probation officer, because otherwise it's inconvenient for him.

5. When the defendant's counsel attempted to clarify with Respondent that it was not a matter of the defendant's convenience, but rather his inability to understand English that caused the defendant's failure to follow the terms of his parole, Respondent replied:

> THE COURT: But he's been here for five years.
>
> MR. VITO: Six years, your Honor, yes.
>
> . . . .
>
> THE COURT: And so in six years, he hasn't learned enough English to report to the probation department?

6. Respondent also afforded the prosecutor an opportunity to address the court and advised the prosecutor, in a sarcastic manner, that she could speak in Spanish since the court had the benefit of a bilingual prosecutor and a bilingual probation officer, as well as an interpreter.

7. After hearing from the prosecutor and engaging in a brief colloquy with the defendant, Respondent engaged in a gratuitous diatribe about immigration and his opinion of illegal aliens, which included the following remarks:

> THE COURT: Well, I think it's a miracle you haven't been sent back to Mexico as a result of being placed on probation and being charged with these crimes in the first place.

. . . .

> If it was up to me, I'd take you just as you're dressed and bound right now and have you escorted back to Mexico forthwith and forget the prison term, but it's not.
>
> All I can do is send you to prison and hope that the Department of Immigration and Naturalization will scoop you up when you're released and send you back to Mexico.

8. On November 22, 2002, Respondent presided over the sentencing hearing in State v. Peeples in the Superior Court of New Jersey, Criminal Division, Ocean Vicinage, Indictment No. 02-05-0607. Prior thereto, on October 7, 2002, Respondent presided over a plea hearing in the Peeples matter during which the defendant, Earl Peeples, pled guilty to the charge of attempted murder.

9. Prior to imposing a sentence on the defendant, Respondent permitted the defendant an opportunity to make a statement to the court about the crime, after which the victim and the victim's family were permitted to address the court on the impact of the defendant's crime on the victim and her family.

10. When hearing from the mother of the victim, Marie Blake, Respondent engaged in the following colloquy with Ms. Blake:

> MS. MARIE BLAKE: Yes, Your Honor. Marie Blake. I am Susan Blake's mother. You have my impact statement, but I have something else. If I had known, I would've brought two articles today, Judge, for you to see speaking to Mr. Peeples' veracity. After having heard some of the things I've heard from him, as I say, I wish I had brought these articles for you to see because I'm going to ask you now to just accept my word. On 9/11 –
>
> THE COURT: As opposed to Mr. Peeples' word?
>
> MS. MARIE BLAKE: Yes.
>
> THE COURT: I don't think you have any problem with that, ma'am.

11. After hearing from the defendant, the victim, the victim's family, defense counsel and the prosecutor, and before sentencing the defendant, Respondent addressed the defendant directly, calling him a "pathological liar" and stating that he "wouldn't know the difference between truth and a lie if it hit . . . [him] . . . in the face."

12. Respondent continued to berate the defendant at length, stating:

> THE COURT: You look up domestic violence in the dictionary, your picture should be next to it. The only difference between you and O.J. Simpson is he had more money and he got off for some reason in a land of fruits and nuts. And the only difference between Susan Blake and Nicole Brown Simpson is that she got lucky and somebody was able to get her some medical assistance before she bled to death on her living room floor.

13. Respondent's remarks to defendant, Alex Ramirez, his counsel and the prosecutor in the matter of State v. Alex Ramirez, as cited in paragraphs 4 through 7 above, evidence a bias against illegal immigrants in violation of Canon 3A(4), were disrespectful and insulting in violation of Canons 3A(2) and 3A(3) of the Code of Judicial Conduct, intemperate in violation of Rule 2:15-8(a)(4), and prejudicial to the administration of justice that brings the judicial office into disrepute in violation of Rule 2:15-8(a)(6).

14. Respondent's remarks to Ms. Marie Blake and the defendant, Earl Peeples, in State v. Peeples, as cited in paragraphs 10 through 12 above, evidence a bias against Mr. Peeples in violation of Canon 3A(4), were undignified and discourteous in violation of Canons 3A(2) and 3A(3) of the Code of Judicial Conduct, intemperate in violation of Rule 2:15-8(a)(4), and prejudicial to the administration of justice that brings the judicial office into disrepute in violation of Rule 2:15-8(a)(6).

15. By his remarks to Mr. Ramirez, Ms. Marie Blake and Mr. Peeples, Respondent also violated Canons 1 and 2A of the Code of Judicial Conduct in that he did not maintain high standards of conduct and did not act in a manner that promotes public confidence in the integrity and impartiality of the Judiciary.

WHEREFORE, Complainant charges that Respondent, Superior Court Judge James N. Citta, 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;

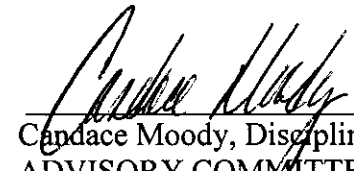
Canon 3A(2), which requires judges to maintain order and decorum in judicial proceedings;

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

Canon 3A(4), which requires a judge to be impartial and not discriminate because of race, color, religion, age, sex, sexual orientation, national origin, language, marital status, socioeconomic status, or disability; and

Complainant also charges that Respondent's remarks were intemperate and prejudicial to the administration of justice thereby bringing the judicial office into disrepute in violation of Rule 2:15-8(a)(4) and Rule 2:15-8(a)(6) of the New Jersey Rules of Court.

DATED: April 1, 2009



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