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A. C. J. C.

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT
DOCKET NO: ACJC 2009-063

IN THE MATTER OF DENNIS BAPTISTA, JUDGE OF THE MUNICIPAL COURT	FORMAL COMPLAINT

Candace Moody, Disciplinary Counsel, Advisory Committee on Judicial Conduct ("Complainant"), complaining of Municipal Court Judge Dennis Baptista ("Respondent"), says:

Facts

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 these matters, Respondent served as a part-time judge in the Municipal Court of Phillipsburg, a position he continues to hold.

3. Respondent is the only municipal court judge in the Phillipsburg Municipal Court.

4. C.B., the son of Respondent, is in his senior year at Phillipsburg High School (the "School"). During the 2008/2009 school year, C.B. was a junior at the School.

5. During the 2008/2009 school year, K.H. was a senior at the School and acquainted with C.B.

6. On or around Wednesday, October 29, 2008, while C.B. was a junior at the School and K.H. was a senior at the School, K.H. caused damage to C.B.'s vehicle while it was parked at the School (the "Incident").

7. Respondent was the registered owner of C.B.'s vehicle at the time of the Incident.

8. K.H. was eighteen years of age at the time of the Incident.

9. That same day, October 29, 2008, C.B. filed a report with the Phillipsburg Police Department regarding the Incident.

10. On Friday, October 31, 2008, Respondent went to the Phillipsburg Police Department to ascertain the status of his son's report regarding the Incident and to seek police assistance in contacting K.H.'s parents, who Respondent claimed he did not know how to reach.

11. The home telephone number and address of J.H., the mother of K.H., was listed in the local, public White Pages of the telephone directory and were readily available and accessible in both hard copy and on the internet.

12. Phillipsburg Police Officer Robert Marino assisted Respondent during Respondent's visit to the Phillipsburg Police Station on October 31, 2008. Officer Marino knew Respondent to be the Phillipsburg Municipal Court Judge because he, like other officers in the Phillipsburg Police Department, regularly appears before Respondent in the Phillipsburg Municipal Court as part of his duties as a police officer.

13. In response to Respondent's request for assistance from the Phillipsburg Police in communicating with K.H.'s parents, Officer Marino informed Respondent that he would attempt to contact K.H.'s parents. Immediately thereafter, Officer Marino drove to K.H.'s home, but received no response when he knocked on the door. Officer Marino then attempted to reach K.H.'s parents by telephone without success and left a message on K.H.'s home telephone for K.H.'s parents, in which he identified himself or the police as the caller.

14. On or around the same time, October 31, 2008, Respondent also spoke by telephone with Phillipsburg Police Officer Justin Koeller about the Incident and Respondent's difficulties in contacting K.H.'s parents. Officer Koeller knew Respondent to be the

Phillipsburg Municipal Court Judge because he regularly appears before Respondent in the Phillipsburg Municipal Court as part of his duties as a police officer. When soliciting the assistance of the Phillipsburg Police, Respondent told Officer Koeller that he wanted to be treated like a "normal citizen."

15. On or around Saturday, November 1, 2008, J.H. returned Officer Marino's telephone call and spoke with him about the Incident and Respondent's desire to speak with her. Officer Marino identified Respondent to J.H. as "Judge Baptista," the Phillipsburg Municipal Court Judge. J.H. provided Officer Marino with her home telephone number, which was listed in the local, public telephone directory, and her cellular telephone number so that Respondent could call her. Officer Marino also provided J.H. with Respondent's telephone number.

16. Respondent obtained J.H.'s telephone numbers from the Phillipsburg Police Department and later that same day, November 1, 2008, he called J.H. on her cellular phone to discuss the Incident. During this conversation, Respondent attempted to embarrass J.H. into paying for the damage her son, K.H., had caused to Respondent's son's car. Respondent specifically referred to J.H.'s participation in the Kiwanis organization and stated that if she had spent less time on her involvement with the Kiwanis and more time with her son, perhaps the Incident would not have happened. J.H. indicated to Respondent that he would have to deal directly with her son regarding the Incident. Respondent again accused her of being a bad parent.

17. On November 14, 2008, Respondent filed a civil lawsuit against K.H. and his mother, J.H., in the Superior Court of New Jersey, Warren County, Special Civil Part – Small Claims Division (the "Civil Suit"). In the Civil Suit, Respondent accused K.H. of "intentionally

and maliciously" or "negligently" causing damage to his car, and he accused J.H. of failing to "adequately control, supervise, or otherwise parent" K.H.

18. On November 19, 2008, Respondent completed a Report of Involvement in Litigation (the "Report") and forwarded the Report to then Acting Administrative Director of the Courts, Philip S. Carchman, J.A.D.

19. On December 3, 2008, Chief Justice Stuart Rabner signed an Order transferring the venue of the Civil Suit from Warren County to Middlesex County (the "Order").

20. On December 15, 2008, the Civil Suit proceeded to trial in Warren County.

21. The Warren County Superior Court dismissed Respondent's claim of intentional wrongdoing by K.H., as well as Respondent's claim against J.H. of negligent control or supervision.

22. Prior to the inception of the trial in Warren County, Respondent failed to ascertain the status or disposition of the Report and specifically whether a change of venue was required, which would transfer the Civil Suit out of Warren County.

23. The Warren County Superior Court thereafter received the Order that had been signed on December 3, 2008. The Warren Court vacated its decision and transferred the Civil Suit to the Middlesex County Superior Court.

24. On January 23, 2009, Respondent filed a Motion to Strike the Answer of K.H. and J.H. for Failure to Answer Interrogatories in the Civil Suit.

25. On January 27, 2009, the Civil Suit proceeded to mediation in the Middlesex County Superior Court at which a settlement was reached.

26. J.H. filed a grievance against Respondent with the Advisory Committee on Judicial Conduct regarding Respondent's conduct towards her when the Incident occurred and

during the Civil Suit. In her grievance, J.H. alleged that Respondent berated her and tried to use his position as a municipal court judge to intimidate her and manipulate the situation.

27. On June 25, 2009, Respondent appeared before the Advisory Committee on Judicial Conduct for an Informal Conference. At the Informal Conference, Respondent was asked if J.H. is listed in the phone book to which he replied: "No, they're not in the phone book." Respondent further admitted that he "made some arguments that were designed to embarrass [J.H.]." Respondent also admitted that the only reason he sued J.H. for her adult son's wrongdoing was to obtain "leverage" to settle the case.

Count I

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

29. By his conduct in appearing at the Phillipsburg Police Department to discuss his son's complaint with police officers who regularly appear before Respondent in his capacity as the Phillipsburg Municipal Court Judge, and by Respondent's use of the Phillipsburg Police Department to contact J.H., whose telephone number is listed and available in the White Pages of the telephone directory, Respondent used or allowed the power and prestige of his judicial office to influence a private matter in violation of Canon 2B of the Code of Judicial Conduct.

30. By his conduct as described above, 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 II

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

32. By gratuitously insulting J.H.'s parenting skills during his telephone conversation with her and advancing arguments during the Civil Suit that were admittedly designed to embarrass her, Respondent demonstrated an inability to conform his conduct to the high standards of conduct expected of judges and impugned the integrity of the Judiciary in violation of Canons 1 and 2A of the Code of Judicial Conduct. Further, such conduct is prejudicial to the administration of justice that brings the judicial office into disrepute in violation of Rule 2:15-8(a)(6).

Count III

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

34. By his lack of candor during his Informal Conference before the Advisory Committee on Judicial Conduct about the accessibility of J.H.'s telephone number, and his pre-textual reasons for using local police officers, Respondent impugned the integrity of the Judiciary, demonstrated disrespect for the Judiciary and an inability to conform his conduct to the high standards of conduct expected of judges and exhibited poor judgment. Such conduct undermines public confidence in the integrity of the Judiciary and violates Canons 1 and 2A of the Code of Judicial Conduct. Further, such conduct is 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 Respondent has violated the following Canons of the Code of Judicial Conduct and Court Rules:

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 avoid creating the appearance of impropriety and to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary;

Canon 2B, which requires judges to avoid lending the prestige of their office to advance the private interests of others; and

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

DATED: December 7, 2009

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