FILED
MAR 26 2010
A. C. J. C.

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT
DOCKET NO: ACJC 2008-324

IN THE MATTER OF

LYNN S. MULLER, FORMER
JUDGE OF THE MUNICIPAL COURT

FORMAL COMPLAINT

Candace Moody, Disciplinary Counsel, Advisory Committee on Judicial Conduct ("Complainant"), complaining of former Municipal Court Judge Lynn S. Muller ("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 1992.

2. At all times relevant to this matter, Respondent served as a judge in the Municipal Court of the Borough of Bergenfield, a position she no longer holds.

3. On May 17, 2008, Sergeant Warren H. Monroe, an investigator with the State of New Jersey's Office of the Attorney General, Division of Criminal Justice, went to Respondent's home to serve Respondent's husband with a Grand Jury subpoena. Sergeant Monroe was dressed in a suit and tie.

4. Sergeant Monroe and Respondent's husband were familiar with each other having previously interacted approximately two years earlier in a matter involving the Office of Government Integrity.

5. When Sergeant Monroe arrived at Respondent's home, both Respondent and her husband were in their upstairs bedroom.

6. Sergeant Monroe knocked on the front door of Respondent's home and was met by Respondent's mother-in-law who answered the door. Sergeant Monroe asked for Respondent's husband and was told by Respondent's mother-in-law that Respondent's husband was upstairs with Respondent in their bedroom. Respondent's mother-in-law indicated to Sergeant Monroe that she was physically unable to climb the stairs to get Respondent's husband. Sergeant Monroe then walked up the stairs of Respondent's home and called out for Respondent's husband by name. Thereafter, Sergeant Monroe proceeded back down the stairs to the main floor of the home to wait for Respondent's husband, who subsequently exited the bedroom and confronted Sergeant Monroe downstairs.

7. While Respondent's husband was confronting Sergeant Monroe downstairs, Respondent remained in the upstairs bedroom placing a 9-1-1 call, which was received by the Bergen County Police Department 9-1-1 Dispatch Center and then transferred to the Bergenfield Police Department, to report the presence of what she believed to be an unknown man in her home.

8. After serving Respondent's husband with the subpoena, Respondent's husband asked to see Sergeant Monroe's identification, which Sergeant Monroe produced. Respondent's husband recognized Sergeant Monroe after reading his name on his State issued identification card.

9. Thereafter, Respondent's husband told Sergeant Monroe to leave their home immediately. Respondent and her husband then told Sergeant Monroe to wait for the police who were responding to Respondent's 9-1-1 call.

10. Sergeant Monroe exited Respondent's home and went to his car, which was parked in Respondent's driveway.

11. Shortly thereafter, Sergeant Monroe left Respondent's home in his car and was subsequently stopped a short distance away by Bergenfield Police Officers Thomas Miller and William Duran. Sergeant John Maggi, also of the Bergenfield Police Department, arrived on the scene of the motor vehicle stop shortly after Officers Miller and Duran had stopped Sergeant Monroe's car.

12. Sergeant Monroe produced his State issued identification card and badge to Officer Miller and advised Officer Miller that he was at Respondent's home to serve a subpoena on Respondent's husband. Sergeant Monroe told Officer Miller that nothing unusual occurred during his service of the subpoena. Upon learning this information, Officers Miller and Duran permitted Sergeant Monroe to leave the area.

13. Meanwhile, Bergenfield Police Officers Kenneth Savage and Richard Ramos went to Respondent's home in response to Respondent's 9-1-1 call.

14. Respondent and her husband told Officer Savage that Sergeant Monroe entered their home uninvited and knocked on their upstairs bedroom door where they were sleeping. Respondent's husband stated to Officer Savage that once Sergeant Monroe handed him the subpoena he told Sergeant Monroe to leave the house. Respondent's husband also informed Officer Savage that he knew Sergeant Monroe from his prior dealings with him.

15. Officer Savage interviewed Respondent's mother-in-law, who lives with Respondent and her husband. Respondent's mother-in-law was present when Sergeant Monroe came to the house. Respondent's mother-in-law told Officer Savage the following: (a) she answered the front door and spoke with Sergeant Monroe who identified himself as an officer of the New Jersey Attorney General's Office and requested to speak with Respondent's husband; (b) she tried calling up to Respondent and Respondent's husband from the base of the staircase

leading to the second floor but was unable to elicit a response; (c) she told Sergeant Monroe that she could not climb the stairs, at which point Sergeant Monroe offered to climb the stairs for her; (d) Sergeant Monroe proceeded past her and climbed the stairs to the second floor.

16. After leaving Officers Miller and Duran with Sergeant Monroe at the motor vehicle stop, Sergeant Maggi went to Respondent's home to speak with Respondent and her husband about the 9-1-1 call. Officers Savage and Ramos were present at Respondent's home when Sergeant Maggi arrived.

17. Sergeant Maggi advised Respondent and her husband of Sergeant Monroe's account of the events surrounding his service of a subpoena on Respondent's husband that day, which differed from the version of events that Respondent and her husband had offered to the police.

18. Respondent became upset and began to yell at Sergeant Maggi in front of Officers Savage and Ramos. She told Sergeant Maggi that she wanted Sergeant Monroe arrested and brought in for questioning. Sergeant Maggi refused to arrest Sergeant Monroe or bring him in for questioning. Respondent then accused Sergeant Maggi of not knowing how to do his job and stated that she could not believe that the Bergenfield Police Department would not protect their own judge. She accused Sergeant Maggi of providing less protection to her than that afforded to the average citizen. Respondent continued to yell at Sergeant Maggi, claiming that the matter had been mishandled and that the Bergenfield Police Department did not take her security seriously. Respondent expressed amazement that nothing bad had previously happened to her or her court staff, implying that the Bergenfield Police Department's court security was inadequate. She compared the court security provided by the Bergenfield Police Department for the Bergenfield Municipal Court, which she believed to be very lax, with the court security provided

for the Teaneck Municipal Court by the police force in Teaneck, which she believed to be much more stringent.

19. Respondent was fully aware that the incident with Sergeant Monroe involved a matter of a private nature relating only to her husband and did not in any way relate directly or indirectly to Respondent's status, position or duties as a municipal court judge.

20. By her conduct in invoking her judicial office in a purely private matter to criticize and chastise the Bergenfield Police Department and its police officers, with whom she interacted in her capacity as a Bergenfield Municipal Court Judge, about the manner in which the police department responded to her 9-1-1 call, Respondent used or allowed the power and prestige of her judicial office to influence a private matter in violation of Canon 2B of the Code of Judicial Conduct.

21. By her conduct in yelling at Sergeant Maggi in the presence of his subordinate officers, as set forth above, and in making accusations against Sergeant Maggi and the Bergenfield Police Department with whom she interacted in her capacity as a municipal court judge in Bergenfield, Respondent 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).

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: March 26, 2010

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