

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT
DOCKET NO: ACJC 2007-097

IN THE MATTER OF

ROBERTO RIVERA-SOTO
JUSTICE OF THE SUPREME COURT

FORMAL COMPLAINT

Candace Moody, Disciplinary Counsel, Advisory Committee on Judicial Conduct (“Complainant”), complaining of Supreme Court Justice Roberto Rivera-Soto (“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 1984.
2. At all times relevant to these matters, Respondent served as an Associate Justice of the Supreme Court of New Jersey.
3. C.R., son of Respondent, is a sophomore at Haddonfield Township High School (the “School”) and a member of the varsity football team.
4. C.L. is a senior at the School and the captain of the varsity football team.
5. In or around September 2006, the School investigated one or more incidents involving C.R. and C.L., in which C.R. alleged that C.L. harassed and/or struck him. Although C.L. received a warning from the School regarding his behavior toward C.R., the School determined that further discipline was not warranted.
6. On or around September 21, 2006, Respondent engaged in several telephone conversations with the School’s Vice Principal, Robert Paul (the “Vice Principal”),

and the Varsity Football Coach, Frank DeLano (the “Coach”), regarding the incidents between C.L. and C.R.

7. During a telephone conversation between Respondent and the Coach, Respondent indicated his displeasure with the School’s handling of the alleged incidents and warned he would personally handle any future incidents between his son and C.L. Respondent further told the Coach that in Respondent’s “field,” he is called upon to make “critical assessments” based upon “who has more to lose.”

8. On September 28, 2006, C.R. participated with C.L. in a weekly touch football game held during football practice. During the practice game, C.R. and C.L.’s heads collided (the “head-butting incident”), which resulted in an injury to C.R.’s mouth that C.R. claimed was intentional.

9. The Vice Principal led an investigation of the head-butting incident, which determined that the incident was an accident. Respondent spoke to the Vice Principal several times regarding the head-butting incident and the previous incidents between C.L. and C.R.

10. During at least one of the conversations between Respondent and the Vice Principal, Respondent expressed his dissatisfaction with the manner in which the Vice Principal was handling the investigation. He further indicated that if action was not taken, he would involve the State Police and would file a complaint in which the Vice Principal and the School’s varsity football coaches would be named personally.

11. On the evening of September 28, 2006, Respondent called the Chief of the Haddonfield Police Department, Richard Tsonis, on the Chief’s cell phone. During Respondent’s telephone call with the Police Chief, he told the Chief that his son had been

assaulted during football practice at the School, and that no one at the School was doing anything about it. Respondent expressed interest in pressing charges against C.L.

12. Later in the evening on September 28, 2006, Detective Sergeant Gary Pearce of the Haddonfield Township Police Department arrived at Respondent's home. Upon the Detective Sergeant's arrival, Respondent identified himself to the Detective Sergeant by name and handed the Detective Sergeant his business card, which contained his judicial office. During their conversation, Respondent told the Detective Sergeant that his son had been intentionally head-butted by C.L. at football practice, and that he wanted to sign a complaint against C.L. Respondent further informed the Detective Sergeant that he wanted C.L. arrested that evening and charged with aggravated assault pursuant to N.J.S.A. 2C:12-1(b)(5). Respondent later went to the Haddonfield Township Police Station and signed a criminal complaint for assault against C.L.

13. On the morning of September 29, 2006, Respondent telephoned the Superintendent of the Haddonfield Township School District, Dr. Joseph O' Brien (the "Superintendent"), to inquire what the School was doing about the dispute between C.L. and C.R. During a subsequent telephone conversation with the Superintendent regarding the School's investigation of the head-butting incident, Respondent referred or alluded to his judicial office.

14. On September 29, 2006, Respondent telephoned Judge Francis J. Orlando, Jr., Assignment Judge of Camden County Superior Court (the "Assignment Judge"), to advise the Assignment Judge that he had signed a criminal complaint and to request that the matter be treated no differently than any other matter filed in the Superior Court.

15. On September 29, 2006, Respondent telephoned Camden County Acting Prosecutor James P. Lynch (the “Prosecutor”) to apprise him of the filing of the criminal complaint and to request that the matter be treated no differently than any other matter in the Prosecutor’s Office. During his telephone conversation with the Prosecutor, Respondent inquired into the procedures employed by the Prosecutor’s Office when handling criminal complaints against juveniles. He further asked the Prosecutor to make certain that his complaint received attention.

16. On November 27, 2006, Respondent and C.R. appeared at the Camden County Courthouse to attend the hearing that had been scheduled regarding Respondent’s complaint against C.L. Respondent had not received notice from the Court that the hearing had been postponed at the request of the L. Family. After waiting a period a time, Respondent questioned Elizabeth Ruiz, an employee of the Camden County Superior Court, about the delay in his case being called. Ms. Ruiz informed the Respondent about the hearing’s postponement. Respondent asked Ms. Ruiz if she knew who he was and handed her his business card.

17. Subsequent to his interaction with Ms. Ruiz, Respondent called the Assignment Judge at his chambers about the lack of notice regarding the hearing’s postponement. Later that same day, Respondent again called the Assignment Judge to advise him that C.L. had attended school that day despite the L. Family’s professed unavailability to attend the hearing.

18. The Assignment Judge indicated that Respondent could communicate with the Presiding Judge of the Superior Court, Family Division in Camden County. Respondent wrote a letter to Judge Charles M. Rand, the Presiding Judge, to complain about the postponement of the hearing and his failure to receive notice of the postponement. In

Respondent's letter to Judge Rand, Respondent accuses the L. Family of fabricating their excuse for the postponement and making a "patently false request" that intentionally misled the court. Respondent further states as follows in the letter: "I trust that, at a minimum, this matter is re-scheduled promptly and that, at the re-scheduled hearing, both C.L. and his father are called to task in respect of the bona fides of their request for a postponement. I am certain that, in the exercise of your obligations, both of these matters will be addressed in a satisfactory manner."

19. Respondent, his son, C.L. and the L. Family subsequently appeared at the Courthouse on December 15, 2006, the date on which the hearing was rescheduled by the Court. Numerous students, some with their parents, and school administrators, teachers and coaches also appeared, pursuant to subpoenas issued by the court, at the Courthouse. On that date, Hearing Officer Rick Alston considered the matter. The parties engaged in a prolonged exchange, which resulted in a resolution consented to by both parties and placed on the record. The parties agreed that if no further interactions occurred between C.L. and C.R. from the date of the hearing until June 19, 2007, the matter would be dismissed by the court, with prejudice, upon ten days written notice by counsel for the L. Family. If there were any intervening interactions between C.L. and C.R. during this time period, however, the matter would be revived and proceed as if no interruption had occurred. In addition, the School agreed to take all reasonable steps to prevent future verbal and physical interactions between C.R. and C.L. during the same time period.

20. By his course of conduct and these several events, generally, as set forth above, including Respondent's use of his business card and his telephone calls and communications with persons in authority and/or employees at the Camden County Courthouse, the Prosecutor's Office, the Haddonfield Police Department and the School, as well as his

references or allusions to his judicial position and status, Respondent used or allowed the power and prestige of his office as an Associate Justice of the Supreme Court to influence or advance the private interests of his family and his son.

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: May 11, 2007

/s/ Candace Moody
Candace Moody
Disciplinary Counsel
ADVISORY COMMITTEE ON JUDICIAL CONDUCT