FILED
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A. C. J. C.

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO: ACJC 2009-153

IN THE MATTER OF

ROBERT A. SOLOMON,
JUDGE OF THE MUNICIPAL COURT

FORMAL COMPLAINT

Candace Moody, Disciplinary Counsel, Advisory Committee on Judicial Conduct ("Complainant"), complaining of Municipal Court Judge Robert A. Solomon ("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 1982.

2. At all times relevant to this matter, Respondent served as a part-time judge in the Municipal Court of the Borough of Norwood, a position he continues to hold.

3. On February 10, 2009, Respondent presided over a trial in the matter of State v. Sheila Esposito, Summons No. 0241-C-012089, in the Municipal Court of the Borough of Norwood (the "Esposito Matter").

4. Sheila Esposito, who at the time was a teacher in the Borough of Norwood and the defendant in the Esposito Matter, appeared in the Norwood Municipal Court on February 10, 2009, without an attorney, to answer for Summons No. 0241-C-012089, which concerned a speeding ticket that had been issued to her by the Norwood Police Department.

5. Respondent knew Ms. Esposito because she was his daughter's speech teacher when Respondent's daughter was in elementary school. Respondent's daughter is now in middle school.

6. Immediately prior to the start of court on February 10, 2009, Respondent entered the office of the Municipal Prosecutor, outside the presence of Ms. Esposito, and informed the Prosecutor that Ms. Esposito's case was on the calendar, that she was a teacher in Norwood, and asked if the charge against Ms. Esposito could be reduced from a speeding ticket to an obstruction of traffic offense.

7. A reduction of the charge against Ms. Esposito from speeding to obstruction of traffic would result in a concomitant reduction of the possible number of points that could be assessed against Ms. Esposito's license and a reduction in the amount of the possible fine imposed.

8. The Municipal Prosecutor informed Respondent that she would have to speak with the Norwood police officer (the "police officer") who issued the speeding ticket to Ms. Esposito before she could agree to any such reduction.

9. When approached by the Municipal Prosecutor about Respondent's request to reduce the charge against Ms. Esposito, the police officer refused to agree to the requested reduction. The police officer indicated that he would, however, agree to reduce Ms. Esposito's speeding ticket to an unsafe driving offense, which would likewise reduce the possible number of points that could be assessed against Ms. Esposito's license, but would result in a fine.

10. The Municipal Prosecutor offered Ms. Esposito the reduced charge of unsafe driving, to which Ms. Esposito did not respond.

11. Respondent, having already begun court that evening, took a break from the proceedings and again inquired of the Municipal Prosecutor, off the record and in a private conversation, about the status of the Esposito Matter. The Municipal Prosecutor informed Respondent that the police officer would not agree to reduce the charge against Ms. Esposito as requested by Respondent.

12. Thereafter, Respondent followed the Municipal Prosecutor and the police officer into the Municipal Prosecutor's office where the Municipal Prosecutor indicated to Respondent that "this isn't right." Respondent advised the Municipal Prosecutor that the Esposito Matter would proceed to trial that evening.

13. The Municipal Prosecutor requested an adjournment of the trial to obtain the certifications for the radar unit used by the police officer when stopping Ms. Esposito for speeding, which Respondent denied. Prior to the start of the trial, the Municipal Prosecutor obtained and admitted into evidence a portion of the certifications for the radar unit.

14. The trial of the Esposito Matter occurred that evening, February 10, 2009, during which the police officer and Ms. Esposito testified. The certifications for the radar unit obtained by the Municipal Prosecutor were admitted into evidence.

15. Respondent found both the police officer and Ms. Esposito credible, despite the fact that their versions of the events on the day Ms. Esposito was stopped for speeding differed entirely. Respondent found Ms. Esposito not guilty.

16. By his conduct in entering the office of the Municipal Prosecutor to discuss Ms. Esposito's case, off the record and outside of Ms. Esposito's presence, and by attempting to secure a reduced charge for Ms. Esposito, Respondent used or attempted to use the power and prestige of his judicial office to advance Ms. Esposito's private interests in violation of Canon 2B

of the Code of Judicial Conduct, and engaged in *ex parte* conversations about a pending matter in violation of Canon 3A(6) of the Code of Judicial Conduct.

17. By his conduct as described above, Respondent displayed a bias in favor of Ms. Esposito, which created a conflict of interest for Respondent that required his recusal from the Esposito Matter. Respondent's failure to recuse himself from the Esposito Matter despite a clear conflict of interest violates Canon 3C(1)(a) of the Code of Judicial Conduct and Rule 1:12-1(e) and (f) of the New Jersey Rules of Court.

18. By his conduct as described above, Respondent also violated Canons 1 and 2A of the Code of Judicial Conduct.

WHEREFORE, Complainant charges that Respondent, Norwood Municipal Court Judge Robert A. Solomon, 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 2B, which prohibits judges from lending the prestige of their office to advance the private interests of others;

Canon 3A(6), which prohibits judges from either initiating or considering *ex parte* or other communications concerning a pending or impending proceeding; and

Canon 3C(1)(a), which requires a judge to disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including instances where the judge has a personal bias or prejudice concerning a party.

Complainant also charges that Respondent's conduct in failing to recuse himself from the Esposito Matter in the face of a conflict of interest violated Rule 1:12-1(e) and (f).

DATED: October 8, 2010

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