

FILED

MAY 04 2018

A.C.J.C.

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO: ACJC 2013-281

IN THE MATTER OF

CARLIA M. BRADY
JUDGE OF THE SUPERIOR COURT

FORMAL COMPLAINT

Maureen G. Bauman, Disciplinary Counsel, Advisory Committee on Judicial Conduct (“Complainant”), complaining of Superior Court Judge Carlia M. Brady (“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 1997.
2. At all times relevant to this matter, Respondent served as a judge of the Superior Court of New Jersey assigned to the Civil Division in the Middlesex Vicinage, a position to which she was appointed in April 2013 and continues to hold. Effective June 12, 2013, Respondent was suspended from her judicial office after criminal charges were filed against her for hindering the apprehension of another in violation of N.J.S.A. 2C:29-3. On March 6, 2018, Respondent was reinstated to the bench following the dismissal of the criminal charges.
3. On or about June 9, 2013, Respondent loaned her car to her then boyfriend, Jason Prontnicki (“Mr. Prontnicki”). Respondent started dating Mr. Prontnicki in late 2012 and they began living together in Respondent’s home by March 2013.

4. Mr. Prontnicki told Respondent he loaned her car to his brother in Bayonne. When his brother failed to return the car by 2:00 a.m., Respondent and Prontnicki drove to Bayonne to recover it. On the way to Bayonne, Mr. Prontnicki changed his story and told Respondent that he lent her car to a friend.

5. Respondent and Mr. Prontnicki drove around Hudson County for two hours looking for her car but were unable to locate it.

6. At approximately 6:00 a.m. the next day, Mr. Prontnicki returned to Hudson County to continue the search. Respondent told Mr. Prontnicki that she would report the car stolen if she did not hear from him by 10:00 a.m.

7. On or about June 10, 2013, at approximately 10:00 a.m., Respondent went to the Woodbridge Police Department to report one of her cars was missing. Woodbridge Police Officer Robert Bartko ("Officer Bartko"), Sergeant Walter Bukowski ("Sgt. Bukowski") and Sergeant James Mullarney ("Sgt. Mullarney") interviewed Respondent.

8. Respondent told the officers that on June 9, 2013, Mr. Prontnicki had taken her car and then loaned it to another without her consent. Respondent also told the officers that she and Mr. Prontnicki tried to get the car back throughout the night.

9. Respondent wanted to sign a complaint against the individual that Mr. Prontnicki loaned her car to. Sgt. Mullarney told Respondent that she could only sign a complaint against Mr. Prontnicki, who actually took the car. Respondent declined to do so until she spoke with her family and her attorney.

10. Sgt. Mullarney conducted a data base inquiry on Mr. Prontnicki and learned he had a suspended New Jersey driver's license and two warrants for his arrest, including a second degree robbery charge involving a pharmacy in Old Bridge.

11. The police advised Respondent that Mr. Prontnicki's license was suspended and that he was wanted for a robbery in Old Bridge. Sgt. Mullarney reminded Respondent of "her status as an officer of the Court," and "that it was incumbent upon her to report to the police if and when Jason came back with the car that he was there, in order for us to arrest him."

12. Between 12:36 p.m. and 12:43 p.m. on June 10, 2013, Respondent sent text messages to friends wherein she acknowledged that the police told her Mr. Prontnicki robbed a pharmacy. In one text, Respondent wrote, "I can't have him in my house cos (sic) I wud (sic) now be harboring a criminal. . . I wud (sic) have to report him."

13. On June 10, 2013, between the hours of 1:00 p.m. and 1:30 p.m., Mr. Prontnicki called Respondent's cellphone. Respondent told Mr. Prontnicki that his driver's license was suspended, there was a warrant out for his arrest, and she was required to notify authorities when she knows someone has a warrant and that she must go to the police.

14. Mr. Prontnicki told Respondent that he would drop the car off at her home and leave.

15. Respondent did not notify the police of her communication with Mr. Prontnicki.

16. Mr. Prontnicki returned Respondent's car to her residence on June 10, 2013 at approximately 1:37 p.m. Respondent was home at the time. Respondent and Mr. Prontnicki spoke in her garage for approximately one hour. Respondent offered Mr. Prontnicki money for a cab. After dropping the car off, Mr. Prontnicki walked to his brother's home.

17. Respondent did not immediately notify the police that Mr. Prontnicki was at her house and returned her car.

18. At 2:14 p.m., Respondent sent the following text message to a friend:

. . . Then he said he will turn himself in with when his lawyer is able to come with him and cooperate fully with the cops by giving them everything he knows. He can't stay in my house cos (sic) he has an arrest

warrant right now and I have a duty as a judge to report all crimes and anyone with an arrest warrant. So he is at his brother's house. . . .

19. Three hours after Mr. Prontnicki was at Respondent's house and returned her car, at approximately 4:36 p.m. on June 10, 2013, Respondent called the Woodbridge police and asked to speak with Office Bartko, who was unavailable. Respondent left the following voice mail:

Hi, Officer Bartko, this is Carlia Brady. I submitted, I sat with you to fill out incident report number 1306590/1 with regard to the unlawful taking of my car. Um, I just wanted to report to you that, um, Jason Prontnicki the suspect, um, actually returned it just now. Um, it is in my driveway. I haven't inspected it yet cause it's raining and I didn't bring it into my house because I didn't want it in my house unless I can inspect it. Um, I just wanted to let that be known. Also, to let you know since there's a warrant out for his arrest, he is not with me, but he is in Woodbridge cause he left, um, my property so please give me a call back. I, we need to know whether an amended report needs to be redone, um, or added, whatever I needed to do. Please give me a call back. . . .

20. At approximately 9:35 p.m., Woodbridge Police located Respondent's car in her driveway. Sgt. Bukowski went to the door of Respondent's home to make contact with her, but there was no answer at the door.

21. On June 11, 2013, at approximately 10:00 a.m., Respondent received a call from Mr. Prontnicki that lasted over two hours.

22. Respondent did not notify the police of her communication with Mr. Prontnicki.

23. On that same date, at approximately 1:49 p.m., Mr. Prontnicki again called Respondent and asked what time she would be home so that he could retrieve some clothing. Respondent told him she would be home between 3:00 p.m. and 4:00 p.m.

24. Respondent did not advise the police of Mr. Prontnicki's expected appearance at her home later that day.

25. At approximately 3:31 p.m., Respondent made a second phone call to the Woodbridge police and asked to speak with Officer Bartko, who was unavailable. Respondent left the following voice mail:

Hi, good afternoon, Officer Bartko, this is Carlia Brady. I um, filled out a police report with you two days ago regarding my, um, car that was, I, you know, I was trying to say it was stolen. Um, I don't know if you got my message yesterday, but the car has been returned by Jason Prontnicki. I have it, um, I just wanna, and then the police report and I need to know whether I should come in and amend that and when, um, you're available so I can get an amended report, or if you can call me and let me know when I can pick up an amended report to reflect the car has been returned. Obviously I have my property back, so, um, please give me a call on my cell

26. Respondent did not advise Officer Bartko of Mr. Prontnicki's expected appearance at her home.

27. Prior to Mr. Prontnicki's arrival at Respondent's home, Respondent prepared a bag of clothing for Mr. Prontnicki, a fraction of which was later taken by Mr. Prontnicki.

28. Mr. Prontnicki called Respondent at approximately 4:00 p.m. when he was in front of her residence.

29. Mr. Prontnicki arrived at Respondent's home in a car being driven by his brother. Police stationed outside Respondent's home saw Mr. Prontnicki exit the passenger side of his brother's car. The garage door opened and Respondent was standing in the garage, which is attached to Respondent's home. Mr. Prontnicki went into the garage. Mr. Prontnicki was inside Respondent's

home for approximately one hour. Respondent offered Mr. Prontnicki money for cab fare, which he refused.

30. Respondent did not notify police that Mr. Prontnicki was at her residence or alert them of his presence after he left her residence.

31. Police observed Mr. Prontnicki, who was holding a duffel bag, exit the garage door and get into his brother's car and drive away.

32. Police stopped the car several blocks from Respondent's home and arrested Mr. Prontnicki. A bag with clothing and miscellaneous papers was found inside the vehicle.

33. Immediately after Mr. Prontnicki left Respondent's home, she sent text messages to friends describing his claims that there was no outstanding warrant for robbery; Mr. Prontnicki was only wanted for questioning; police arrested someone else for the crime; and Mr. Prontnicki's driver's license was not suspended.

34. Minutes later, police arrived at Respondent's home. Woodbridge Police Sergeant Brian Murphy ("Sgt. Murphy") and Detective Chris Lyons ("Det. Lyons") explained to Respondent that she failed to notify police when coming into contact with Mr. Prontnicki knowing that he had active warrants. Respondent told the officers that she called the police department twice earlier in the day and left messages for Officer Bartko. The officers advised Respondent she was under arrest and handcuffed her.

35. Respondent then ordered Officer Sean Grogan ("Officer Grogan") to "take these handcuffs off of me" and advised him that she was "vetted," a reference to the judicial appointment process. Respondent continued to state "that this was all unnecessary." Respondent asked to be walked out of her house without handcuffs. When Respondent was told that she had to be in handcuffs, she asked to have the handcuffs placed in front of her. Sgt. Murphy and Officer Grogan explained that

they could not make any exceptions for her because they had policies and procedures they needed to follow.

36. When they arrived at headquarters, Shift Commander, Lieutenant Goodheart, confirmed that there were no calls received by dispatch from Respondent stating that Mr. Prontnicki was at or near her residence. Officer Bartko's voicemail was checked and it revealed that Respondent left a message on June 10, 2013 at approximately 4:36 p.m. and another on June 11, 2013 at approximately 3:31 p.m. There was no mention of Mr. Prontnicki coming to Respondent's residence during either of these calls to Officer Bartko.

37. At no time on June 10 or 11, 2013 did Respondent advise the Woodbridge police of Mr. Prontnicki's presence in her home or of her communications with him on either of those days.

38. Respondent was charged with hindering the apprehension of Mr. Prontnicki, knowing he was a fugitive charged with robbery by "deceiving law enforcement by not immediately notifying law enforcement of Mr. Prontnicki's whereabouts, when she had prior knowledge, and official misconduct in failing to perform a duty . . . inherent in the office of [S]uperior [C]ourt judge, that is to enforce an arrest warrant for Prontnicki by failing to adequately notify the . . . Police Department of . . . Prontnicki['s intended appearance or presence at [defendant's] house."

39. Respondent was indicted on April 29, 2015 for second degree on one count of official misconduct, N.J.S.A. 2C:30-2b (count one) and two counts of third-degree hindering the apprehension or prosecution of Jason Prontnicki, N.J.S.A. 2C.:29-3a (1) and a (2) (counts two and three).

40. On March 4, 2016, the Honorable Julie Marino, J.S.C. granted Respondent's motion to dismiss count one of the indictment charging Respondent with official misconduct and denied the motion as to counts two and three. The judge subsequently denied motions for reconsideration

filed by Respondent and the State of New Jersey. The decision of the trial court was affirmed by the Appellate Division.

41. In the midst of jury selection, Mr. Prontnicki, who was subpoenaed by the state to be a witness at Respondent's trial, stated that he would invoke his Fifth Amendment right against self-incrimination if called upon to testify.

42. On February 14, 2018, the Honorable Robert B. Reed, P.J.S.C. ordered Mr. Prontnicki to testify about his activities and interactions with Respondent on June 10 and 11, 2013, just before her arrest. Judge Reed also entered an order restricting Respondent's cross-examination of Mr. Prontnicki on the subject of the compelled testimony.

43. On February 20, 2018, Mr. Prontnicki filed an emergent leave to appeal the trial court's order compelling him to testify despite his assertion of his privilege against self-incrimination. On that same date, Respondent appealed a provision of Judge Reed's order limiting the scope of her cross-examination of Mr. Prontnicki.

44. On February 28, 2018, the Appellate Division granted Mr. Prontnicki's motion for leave to appeal and summarily reversed the trial court's order and dismissed as moot Respondent's motion for leave to appeal from that aspect of the order limiting her cross-examination.

45. On March 1, 2018, Judge Reed granted the Somerset County Prosecutor's Office Motion to Dismiss the two remaining counts of hindering apprehension against Respondent based on the Appellate Division's emergent ruling that Mr. Prontnicki could not be compelled to testify at Respondent's trial.

46. By failing to contact police after Respondent's communication with Mr. Prontnicki on June 10, 2013 when he called her to inform Respondent that he would be dropping her car off at her residence, Respondent demonstrated an inability to conform her conduct to the high standards of

conduct expected of judges and impugned the integrity of the Judiciary in violation of Canon 1, Rule 1.1 and Canon 2, Rule 2.1 of the Code of Judicial Conduct.

47. By failing to contact police after Mr. Prontnicki returned Respondent's car to her residence on June 10, 2013, Respondent demonstrated an inability to conform her conduct to the high standards of conduct expected of judges and impugned the integrity of the Judiciary in violation of Canon 1, Rule 1.1 and Canon 2, Rule 2.1 of the Code of Judicial Conduct.

48. By her conduct in misrepresenting to Officer Bartko on June 10, 2013 that Mr. Prontnicki returned her car "just now" when, in fact, Mr. Prontnicki was at Respondent's house three hours prior to her phone call to Officer Bartko, Respondent demonstrated an inability to conform her conduct to the high standards of conduct expected of judges and impugned the integrity of the Judiciary and Respondent's conduct adversely reflected on her honesty and fitness to service as a judge in violation of Canon 1, Rule 1.1 and Canon 2, Rule 2.1 of the Code of Judicial Conduct.

49. By her same conduct, Respondent demeaned the judicial office in violation of Canon 5, Rule 5.1 (A), of the Code of Judicial Conduct.

50. By failing to contact police on June 11, 2013 after Respondent received a phone call at approximately 10:00 a.m. from Mr. Prontnicki that lasted over two hours, Respondent demonstrated an inability to conform her conduct to the high standards of conduct expected of judges and impugned the integrity of the Judiciary in violation of Canon 1, Rule 1.1 and Canon 2, Rule 2.1 of the Code of Judicial Conduct.

51. By failing to advise police of her communication with Mr. Prontnicki on June 11, 2013 at approximately 1:49 p.m., Respondent demonstrated an inability to conform her conduct to the high standards of conduct expected of judges and impugned the integrity of the Judiciary in violation of Canon 1, Rule 1.1 and Canon 2, Rule 2.1 of the Code of Judicial Conduct.

52. By failing to advise police of Mr. Pronnicki's expected appearance at her house on June 11, 2012 between the hours of 3:00 p.m. and 4:00 p.m., Respondent demonstrated an inability to conform her conduct to the high standards of conduct expected of judges and impugned the integrity of the Judiciary in violation of Canon 1, Rule 1.1 and Canon 2, Rule 2.1 of the Code of Judicial Conduct.

53. By failing to contact the police on June 10 and 11, 2013 after Mr. Pronnicki communicated with Respondent to tell her that he would be coming to her residence, and thereafter did come to her residence, despite her knowledge of the existence of arrest warrants for Mr. Pronnicki, Respondent demonstrated an inability to conform her conduct to the high standards of conduct expected of judges and impugned the integrity of the Judiciary in violation of Canon 1, Rule 1.1 and Canon 2, Rule 2.1 of the Code of Judicial Conduct.

54. By her conduct in ordering Officer Grogan to remove the handcuffs and stating that she was "vetted," a reference to the judicial appointment process, and that "this was all unnecessary," Respondent attempted to use the power and prestige of her judicial office to advance her private interests in violation of Canon 1, Rule 1.1 and Canon 2, Rule 2.3 (A) of the Code of Judicial Conduct.

WHEREFORE, Complainant charges that Respondent has violated the following Canons of the Code of Judicial Conduct:

Canon 1, Rule 1.1, which requires judges to observe high standards of conduct so that the integrity and independence of the judiciary may be preserved;

Canon 2, Rule 2.1, which requires judges to avoid the impropriety and 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 2, Rule 2.3(A), which requires judges to avoid lending the prestige of their office to advance private interests; and

Canon 5, Rule 5.1(A), which requires judges to conduct their extrajudicial activities in a manner that would not demean the judicial office.

DATED: May 4, 2018



Maureen G. Bauman, Disciplinary Counsel
ADVISORY COMMITTEE ON JUDICIAL CONDUCT
Richard J. Hughes Justice Complex
25 Market Street
4th Floor, North Wing
P.O. Box 037
Trenton, New Jersey 08625
(609) 815-2900 Ext. 54950