SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO.: ACJC 2023-317

IN THE MATTER OF ROBERT M. LEPORE JUDGE OF THE MUNICIPAL COURT	:	**PRESENTMENT**

The Advisory Committee on Judicial Conduct (the "Committee") hereby presents to the Supreme Court its Findings and Recommendation in this matter, in accordance with Rule 2:15-15(a) of the New Jersey Court Rules. The Committee's findings and the evidence of record demonstrate that the charges set forth in the Formal Complaint filed against Robert M. LePore ("Respondent"), a part-time judge of the municipal court, concerning his public expressions of support for and affiliations with law enforcement, local professionals, businesses, and political figures on social media, have been proven by clear and convincing evidence. The Committee finds that such conduct violates Canon 1, Rule 1.1, Canon 2, Rules 2.1 and 2.3(A) and (B), Canon 3, Rule 3.17(B), Canon 5, Rules 5.1(A) and (B)(1) and (2), and Canon 7, Rule 7(A)(2), of the Code of Judicial Conduct.

Accordingly, a majority of the Committee recommends that Respondent be suspended from the performance of his judicial duties, without pay, for a period of two months, and prior to his return to the bench, Respondent be required to complete a minimum of four hours of in-person continuing professional development courses, approved by the Supreme Court, concerning systemic, actual, and implicit bias.

I. PROCEDURAL HISTORY

This matter was initiated with the filing of a grievance by a litigant who complained about the content of Respondent's personal Facebook page on which appeared posts and reposts expressing support for law enforcement, partisan political viewpoints, and individual politicians. The litigant maintained that such content evinced Respondent's bias on behalf of law enforcement, or minimally created the appearance of such a bias, and espoused partisan political viewpoints in direct conflict with Respondent's ethical obligations as a jurist to remain neutral and independent. See J-9.

The Committee, on October 26, 2023, following an investigation into these allegations, filed a Formal Complaint against Respondent charging him with conduct in contravention of Canon 1, Rule 1.1, Canon 2, Rules 2.1 and 2.3(A) and (B), Canon 3, Rule 3.17(B), Canon 5, Rules 5.1(A) and (B)(1) and (2), and Canon 7, Rule 7(A)(2), of the Code of Judicial Conduct. Respondent, on November 6, 2023, filed a

verified Answer to the Complaint in which he admitted the factual allegations, as pled, and the attendant violations of the cited canons of the Code of Judicial Conduct.

The Committee convened a Formal Hearing on December 18, 2024, at which Respondent appeared, with counsel, and offered testimony in mitigation of the stipulated ethics violations. See T17-6 to T30-10,[1] The parties filed Stipulations and offered joint exhibits, all of which were admitted into evidence. See J-1 thru J-10. Respondent and Presenter, with leave of the Committee, filed post-hearing briefs on January 6 and 17, 2025, respectively, which the Committee considered.

After carefully reviewing the record, the Committee makes the following findings, supported by clear and convincing evidence, which form the basis for its recommendation.

II. FINDINGS

A.

Respondent is a member of the Bar of the State of New Jersey, having been admitted to the practice of law in 1984. See J-10 (Stipulations) at ¶2. At all times relevant to this matter, Respondent served as a part-time judge in the Point Pleasant Beach Municipal Court, a position to which he was first appointed on January 1, 2016, for a one-year term, reappointed on August 1, 2020, and continues to hold. Id.

[1] "T" refers to the transcript of the Formal Hearing held on December 18, 2024.

at ¶3. During this same period, Respondent also operated his law office in Brick Township. Ibid.

The facts germane to this ethics matter and Respondent's attendant ethical breaches, as alleged in the Formal Complaint, are undisputed and the subject of a Stipulation. See J-10. To wit, Respondent admits, and the evidence demonstrates, clearly and convincingly, that during his judicial tenure, Respondent maintained a personal, publicly available Facebook account containing posts, reposts, "likes," and "friends" list affiliations with law enforcement, including imagery associated with "Blue Lives Matter" and similar social movements, partisan political groups, local law firms, and numerous local businesses. Id. at ¶¶4-10; see also J-2; J-3; J-4. For example:

- July 2020, Respondent, posted to his Facebook page approval for a private business's efforts to "honor" Law Enforcement Appreciation Day with various initiatives. Id. at ¶5; see also J-2.[2]

- Respondent, using the "like" or "follow" option available to Facebook users, expressed support for groups affiliated with law enforcement, individual police officers, and members of the prosecutor's office, which simultaneously appeared on Respondent's "Likes" page and/or "Follows" list on his Facebook account. Id. at ¶6; see also J-4; J-7.

[2] Exhibit J-2 indicates that the referenced post was dated January 8, 2020. For purposes of this proceeding, we accept the parties' Stipulation as to the referenced July 2020 date.

- The Facebook accounts linked with the entities listed below appeared on Respondent's "Likes" and "Follows" page:

    - American Police Beat
    - Brick Police Athletic League ("PAL")
    - Brick Township PBA Local #230
    - Law Officer
    - Point Pleasant Police Department
    - Police1
    - Ocean County Police Academy
    - New Jersey State Police
    - Survive the Streets: A Page for Cops

Ibid.; see also J-4; J-7.

- Respondent's "Likes" page also included the group "NJ Bail Reform – Why New Jersey is LESS SAFE at the Taxpayers Expense," which espouses views that contravene the Judiciary's Criminal Justice Reform initiative launched on January 1, 2017, and for which Respondent is charged with implementing as a municipal court judge. Id. at ¶7; see also J-4.

- As of July 5, 2023, Respondent's "friends" list, followers, and following activity included affiliations with partisan political groups. Id. at ¶8; see also J-3.

- As of September 2023, Respondent "liked" a Facebook page for candidates running for the New Jersey Senate and Assembly. As a

result, a campaign advertisement for the candidates appeared on Respondent's Facebook "Likes" page above the wording, "Holzapfel for Senate McGuckin & Catalano for Assembly." Id. at ¶9; see also J-8.

- Respondent's "friends" list and followers, as well as those followed by Respondent, as reflected on his Facebook page, included several Ocean County law firms, a paralegal at a law office, realtors, a mortgage company, insurance companies, and numerous local private businesses. Id. at ¶10; see also J-3; J-6; J-7.

Respondent admits failing to remove this material from his Facebook account when advised by the Committee of these ethical improprieties, despite having verified to the Committee on August 28, 2023 that he had done so. Id. at ¶11; see also J-5; J-6; J-7; J-8; J-9.

Respondent, likewise, concedes to receiving mandatory training on his return to the bench in August 2020. T29-5-18. This training includes an ethics component focused on New Jersey's Code of Judicial Conduct, which addresses, in part, bias, conflicts of interest, the prohibition on a judge's involvement in politics, and the applicability of the Code to a judge's online activity. Effective January 31, 2011, the Judiciary also implemented the *Policy for the Use of Social Media by Judiciary Employees*, wherein judges are reminded of their obligation to adhere to the Code of Judicial Conduct when participating in social media, including the prohibition

against any online political activity. See J-1, *Policy on the Use of Social Media for Judiciary Employees,* at p. 2 of 3.[3] This policy was in effect during the relevant period at issue.[4]

As to the attendant ethical violations, Respondent admits violating each of the canons of the Code of Judicial Conduct as charged in the Formal Complaint. Specifically, Respondent stipulates as follows:

- The affiliations with law enforcement, as contained on Respondent's personal Facebook account, constituted an expression of bias for law enforcement, or minimally engendered the appearance of a bias that cast reasonable doubt on Respondent's ability to act impartially as a judge, in violation of Canon 5, Rules 5.1(A) and (B)(1) and (2) of the Code of Judicial Conduct. By this same conduct, Respondent created and engaged in a conflict of interest when presiding over matters

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[3] *Policy on the Use of Social Media for Judiciary Employees* provides, in relevant part, as follows:

> Judges may have special considerations about the appropriate use of social media, including Facebook, and must adhere to the Code of Judicial Conduct when participating in social media.
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> Judges and Judiciary employees are prohibited from online political activity commensurate with the codes of conduct . . ..
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> [J-1]

[4] The Supreme Court, on October 28, 2024, promulgated a social media policy specifically for judges -- the *Judiciary Policy on Judges' Use of Social Media* – effective immediately. This policy post-dated the events at issue and is inapplicable to the instant matter.

involving police officers, in violation of Canon 3, Rule 3.17(B) of the Code. See J-10 at ¶12.

- The affiliations with partisan political groups, as contained on Respondent's personal Facebook account, violated Canon 7, Rule 7(A)(2), of the Code. Id. at ¶13.

- Respondent's "likes" of private businesses, including law firms and individual business professionals, may reasonably be construed as a judicial endorsement of those entities and individuals' business practices, thereby impermissibly lending the prestige of the judicial office for others' personal or economic benefit, in violation of Canon 2, Rule 2.3 (A), of the Code. Id. at ¶14.

- Respondent, by creating and maintaining Facebook "friendships" with attorneys and private businesses, conveyed the impression that these persons or organizations were in a position to influence Respondent and cast reasonable doubt on Respondent's capacity to act impartially, in violation of Canon 2, Rule 2.3 (B), and Canon 5, Rule 5.1(A) and Rule 5.1(B)(1) and (2) of the Code. Id. at ¶15.

- Respondent's misconduct and subsequent misrepresentation to the Committee concerning his removal of this material from his Facebook account violates Canon 1, Rule 1.1, requiring judges to observe high standards of conduct to preserve the integrity and independence of the Judiciary, and Canon 2, Rule 2.1, requiring judges to avoid impropriety and the appearance of impropriety and to act in a manner that promotes

public confidence in the integrity and impartiality of the Judiciary. Id. at ¶16.

B.

Respondent, while stipulating to the charged misconduct and attendant ethical breaches, as recounted above, testified before the Committee in mitigation of the anticipated disciplinary sanction, which Respondent argues should be a censure. T17-6-15; T18-9 to T29-18; T34-20 to T35-4; Rb2-5.[5] Specifically, Respondent testified in mitigation of his admitted failure to remove the inappropriate content from his Facebook account when advised by the Committee on August 9, 2023 of its impropriety, and his subsequent misrepresentation to the Committee that he had done so. Ibid.

Presenter argues that Respondent's failures in this regard aggravated his admitted misconduct. T11-17-25; Pb9. Respondent acknowledges that his failure to remove inappropriate content from his account, due to not understanding the Facebook platform, worsens his misconduct. Respondent, however, contends that his misrepresentation regarding the removal of the subject content was attributable to his negligence and should not be considered an aggravating factor in this circumstance. T28-1-21; Rb4.

[5] Consistent with Rule 2:6-8, references to the Presenter's and Respondent's post-hearing briefs will be designated as "Pb" and "Rb" respectively.

Respondent testified that between August 2016 and August 2020, during a hiatus from the bench, he maintained a private law practice in Brick Township, New Jersey, specializing in real estate law. T18-16 to T19-7. Real estate professionals, e.g. realtors, would connect with Respondent through his private Facebook account. T19-8-16. In addition, one of Respondent's children was and remains a detective in the Ocean County Prosecutor's Office, prompting Respondent's repeated Facebook posts in support of law enforcement. T19-17 to T20-5. Following his reappointment to the municipal bench in August 2020, Respondent admits he failed to remove these posts from his Facebook account, and in two instances reposted the impermissible content while a judge, for which Respondent concedes judicial discipline is warranted. T20-6 to T23-5.

Respondent, when advised by the Committee of these ethical improprieties in August 2023, testified that he attempted to "sanitize" his Facebook account, but was "clueless" as to its operation, including how to delete the offending posts. T23-12-18. Believing, erroneously, that he had successfully sanitized his account, Respondent advised the Committee on August 28, 2023 of his remedial efforts. T24-12-23; see also J-5. On learning that the impermissible posts remained on his Facebook account, Respondent deleted the account entirely. T24-24 to T27-22. Respondent maintains that his initial failure to remove the offending posts was the

result of "simple negligence" and his ensuing misstatement to the Committee erroneously attesting to the success of those efforts was unintentional. T28-1-21.

In mitigation, Respondent offers his expressed remorse, acknowledgement of wrongdoing, apology, and entry into a stipulation conceding his ethical impropriety and the need for discipline. Rb4-5. In addition, Respondent argues that the bench lacked clear guidance on the ethically appropriate use of social media prior to the Judiciary's issuance on October 28, 2024, of a *Policy on Judges Use of Social Media*, and relies erroneously on the purported absence of any evidence that a litigant viewed Respondent's Facebook account or was concerned about its content.

While we credit in mitigation Respondent's expressed remorse and apology for his misconduct, and recognize his concomitant acknowledgement of wrongdoing, we cannot credit that acknowledgement in mitigation. Respondent, as a judge and an attorney, is ethically obligated to be candid with a tribunal. See Canon 1, Rule 1.1, and Canon 2, Rule 2.1 of Code of Judicial Conduct; see also RPC 3.3. Though denying obvious wrongdoing may aggravate judicial misconduct, acknowledging that wrongdoing, separate from expressing contrition for it, does not mitigate it, rather candor is required of every judge and attorney in these circumstances.

We reject Respondent's remaining arguments in mitigation. The bench did not lack clear guidance on the ethically appropriate use of social media when these

events occurred. As recounted above, judges of the Superior and Municipal Court receive annual ethics training, to include the reach of their ethical obligations to their online activities and have operated under the Judiciary's *Policy for the Use of Social Media by Judiciary Employees* since January 31, 2011. In addition, the Advisory Committee on Extrajudicial Activities remains available to all judges who seek additional guidance as to their ethical obligations off the bench, a fact made known to newly appointed and reappointed judges during the mandatory training seminars offered to new judges, and annually thereafter. Indeed, Respondent readily concedes that he was not confused about his ethical obligations or lacked the requisite training but simply failed to consider those ethical constraints before his second appointment to the municipal bench. T20-15-22; T22-21-24; T29-5-18.

Lastly, the very existence of this ethics matter belies Respondent's reliance in mitigation on the "absence" of any evidence that a litigant viewed Respondent's Facebook account or was concerned about its content. This matter was, in fact, initiated by a litigant who complained about the very Facebook content at issue after that litigant received an unfavorable ruling from Respondent in his municipal court matter that involved law enforcement. See J-9.

Whether a judge has behaved unethically, however, does not turn on the presence or absence of an ethics grievance. There can be many reasons why an individual files or fails to file an ethics grievance against a judge that are wholly

unrelated to the perceived propriety or impropriety of a judge's conduct, e.g. delay, fear, intimidation. Indeed, in judicial disciplinary proceedings, the effect of judicial misconduct on others is not an essential element of an alleged ethics violation. In re Connor, 124 N.J. 18, 26-27 (1991). It is enough that Respondent's Facebook account, as Respondent concedes, evinced a bias or minimally the appearance of a bias to contravene the Code of Judicial Conduct, irrespective of any evidence that Respondent's account was viewed by a litigant, lawyer, witness, or court user.

III. ANALYSIS

Judges are obligated to abide by and to enforce the provisions of the Code of Judicial Conduct and the Rules of Professional Conduct. R. 1:18 ("It [is] the duty of every judge to abide by and to enforce the provisions of the Rules of Professional Conduct [and] the Code of Judicial Conduct . . .."). This obligation applies equally to a judge's professional and personal conduct. In re Reddin, 221 N.J. 221, 228 (2015) (citing Comment [1], Canon 2, Rule 2.1, of the Code of Judicial Conduct);[6] see also In re Hyland, 101 N.J. 631 (1985) (finding the "Court's disciplinary power

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[6]

> Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety and appearance of impropriety and must expect to be the subject of constant public scrutiny. This principle applies to both the professional and personal conduct of a judge. A judge must therefore accept restrictions on personal conduct . . . and should do so freely and willingly.
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> [Comment [1], Canon 2, Rule 2.1, Code of Judicial Conduct.]

extends to private as well as public and professional conduct by attorneys, and *a fortiori* by judges.") (Internal citation omitted). "When judges engage in private conduct that is irresponsible or improper or can be perceived as involving poor judgment or dubious values, '[p]ublic confidence in the judiciary is eroded.'" In re Blackman, 124 N.J. 547, 551 (1991). Indeed, Canon 5 of the Code requires judges to conduct their extra-judicial activities in a manner that minimizes the risk of conflict with their judicial obligations.

In matters of judicial discipline, "there are two determinations to be made" – whether a violation of the Code of Judicial Conduct has been proven and whether the proven violation "amount[s] to unethical behavior warranting discipline." In re DiLeo, 216 N.J. 449, 468 (2014).

The burden of proof in judicial disciplinary matters is clear-and-convincing evidence. R. 2:15-15(a). Clear-and-convincing evidence is that which "produce[s] in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established, evidence, so clear, direct and weighty and convincing as to enable the factfinder to come to a clear conviction . . . of the precise facts in issue." In re Seaman, 133 N.J. 67, 74 (1993) (internal citations omitted).

We find, based on our review of the uncontroverted evidence in the record and Respondent's admissions of wrongdoing, that the charges filed against Respondent involving his violations of Canon 1, Rule 1.1, Canon 2, Rules 2.1 and 2.3(A) and

(B), Canon 3, Rule 3.17(B), Canon 5, Rules 5.1(A), (B)(1) and (2), and Canon 7, Rule 7(A)(2), of the Code of Judicial Conduct in publicly expressing support for and affiliating openly with law enforcement, local professionals, businesses, and political figures on social media, have been proven by clear and convincing evidence and that this conduct violated the cited canons of the Code of Judicial Conduct.[7]

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[7] Canon 1, Rule 1.1: requiring judges to participate in establishing, maintaining and enforcing, and to personally observe, high standards of conduct to preserve the judiciary's integrity, impartiality and independence.

Canon 2, Rule 2.1: requiring judges to always act in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary, and to avoid impropriety and the appearance of impropriety.

Canon 2, Rule 2.3(A): requiring judges to avoid lending the prestige of the judicial office to advance the private interests of the judge or others or to allow others to do so.

Canon 2, Rule 2.3(B): prohibiting judges from conveying the impression that any person or organization can influence them.

Canon 3, Rule 3.17(B): requiring judges to disqualify themselves in proceedings in which their impartiality or the appearance of their impartiality might be reasonably questioned.

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

Canon 5, Rule 5.1(B)(1): prohibiting judges from participating in activities that can be reasonably anticipated to lead to frequent disqualifications.

Canon 5, Rule 5.1(B)(2): prohibiting judges from participating in activities that would appear to reasonably, fully informed persons to undermine a judge's independence, integrity, or impartiality.

The ethical issues presented by this case implicate "core ethical precepts," i.e., to preserve and promote the Judiciary's integrity and impartiality, to avoid impropriety and its appearance, to perform the duties of judicial office impartially and diligently, and to refrain from engaging in political activity. See Canon 1, Rule 1.1, Canon 2, Rule 2.1, Canon 3, Rule 3.17, and Canon 7, Rule 7, of the Code of Judicial Conduct; see also DeNike v. Cupo, 196 N.J. 502, 514 (2008) (reinforcing the "core ethical precepts" of Canons 1 and 2). As the DeNike Court stressed:

> "'Justice must satisfy the appearance of justice.'" State v. Deutsch, 34 N.J. 190, 206 (1961) (quoting Offutt v. United States, 348 U.S. 11, 14, 75 S.Ct. 11, 13 (1954)). That standard requires judges to "refrain … from sitting in any causes where their objectivity and impartiality may fairly be brought into question." Ibid. In other words, judges must avoid acting in a biased way or in a manner that may be *perceived* as partial. To demand any less would invite questions about the impartiality of the justice system and . . . "threaten[ ] the integrity of our judicial process." State v. Tucker, 264 N.J. Super. 549, 554 (App. Div. 1993), certif. denied, 135 N.J. 468 (1994).
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> [DeNike v. Cupo, 196 N.J. at 514-515].

Nowhere are these ethical obligations more acute than in the municipal courts where more cases are processed annually than in any other branch of the judicial system. In re Samay, 166 N.J. 25, 43 (2001). Municipal courts are the courts of "first

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Canon 7, Rule 7(A)(2): requiring judges to remain free of politics and the political process, including making speeches for a political organization or candidate, or publicly endorsing a candidate for public office.

and last resort for many, and for that reason, those courts are responsible 'for the popular image of the entire system.'" Id. at 43-44 (quoting In re Mattera, 34 N.J. 259, 275 (1961); see also In re Yengo, 72 N.J. 425, 433-34 (1977)).

In this instance, Respondent's conduct, by his own admission, contravened these core ethical precepts. Of particular concern are Respondent's public displays of support for and affiliations with local law enforcement and partisan political entities. As a Point Pleasant Municipal Court judge, Respondent adjudicates both the facts and the law, and must necessarily assess the credibility of testifying witnesses, including members of the Point Pleasant Police Department who testify before Respondent with some regularity. Having raised the specter of partiality for law enforcement, Respondent's ability to preside over the municipal court with integrity is severely compromised.

For these same reasons, Respondent's public affiliations with politics and partisan political viewpoints, in violation of Canon 7, Rule 7(A)(2), undermines his integrity and impartiality and that of the Point Pleasant Municipal Court. The total separation of judges from politics is absolute and longstanding. As noted by our Supreme Court 15 years ago:

> The 1947 Constitution marked a stark change by ensuring the "complete separation of politics from the judiciary." In re Randolph, 101 N.J. 425, 427 (1986). Since then, this Court has consistently upheld that principle. (internal citations omitted)

> The reasons for an absolute approach are clear: to ensure that the judicial branch operates independently of political influence and, consequently, to maintain public confidence in the integrity and impartiality of our system of justice.
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> The possibility of political influence is especially great in the municipal courts. Municipal judges are appointed by the mayor or local governing body for a term of three years. N.J.S.A. 2B:12-4(b). The overwhelming majority of judges who serve the public not only with excellence but also in an independent manner are a credit to that system. Nonetheless, the need to detach municipal court judges from politics remains patent.

[In re Boggia, 203 N.J. 1, 8 (2010) (internal citations omitted)].

The fact that this conduct occurred on a social media platform does not alter the import of these ethical constraints or render Respondent immune to the fundamental role he plays as a judge in upholding them. To suggest in mitigation, as Respondent does, that at the time of these events, which span 2020 through 2023, there existed a wholesale ignorance of the reach of these ethical obligations to a judge's online activity is to ignore that these ethical constraints and their applicability online were then and continue to be the subject of extensive training for judges of the Superior and Municipal courts, annually.

Finding Respondent's conduct to have violated multiple canons of the Code of Judicial Conduct, the sole issue remaining is the appropriate quantum of discipline. In our consideration of this issue, we are mindful that the primary purpose of our system of judicial discipline is to preserve the public's confidence in the

integrity and independence of the judiciary, not to punish an offending judge. In re Seaman, supra, 133 N.J. at 96. Relevant to this inquiry is a review of both the aggravating and mitigating factors that may accompany judicial misconduct. Id. at 98-100; see also In re Subryan, 187 N.J. 139, 154 (2006).[8]

Though Respondent readily appreciates the need for judicial discipline, he argues that such discipline should not rise above the level of a public censure. In advancing this argument, Respondent recounts several factors he contends mitigate his misconduct. Having previously discussed Respondent's arguments in this regard, we will not repeat that analysis here. We add, however, two additional mitigating factors not previously addressed, viz. Respondent's sincerely expressed commitment to overcoming this ethical breach, evinced, in part, by the closure of

[8] Factors considered in aggravation include the extent to which the misconduct demonstrates a lack of integrity and probity, a lack of independence or impartiality, misuse of judicial authority that indicates unfitness, and whether the conduct has been repeated or has harmed others. In re Seaman, supra, 133 N.J. at 98-99.

Factors considered in mitigation include whether the matter represents the first complaint against a judge, the length and quality of the judge's tenure in office, the judge's sincere commitment to overcoming the fault, the judge's remorse and attempts at apology, and whether the inappropriate behavior is susceptible to modification. Id. at 100.

his Facebook account, and his willingness to seek additional education in the areas of systemic, actual, and implicit bias, at his own expense. T27-13-22; T35-5-12.

We are cognizant, however, of several aggravating factors. First, the broad reach of Respondent's perceived partiality for law enforcement generally and his public endorsements of politicians and partisan political entities on social media renders Respondent's conduct significantly more egregious than that of previous judicial disciplinary matters involving bias towards an individual or, separately, political activity involving a discrete incident. Cf. In re Killen, 250 N.J. 546 (2022) (censuring judge for, in part, creating the appearance of a bias given his prior relationship with a litigant's father); In re Rivas, 241 N.J. 491 (2020) (censuring judge for treating two litigants discourteously and thereby creating the appearance of a bias); In re Convery, 201 N.J. 411 (2010) (reprimanding judge for, in part, an appearance of bias against an attorney); In re Citta, 201 N.J. 413 (2010) (reprimanding judge for biased statements towards two defendants); In re Rodriguez, 196 N.J. 450 (2008) (admonishing judge for appearing at mayor's house with a city councilman and campaign treasurer on the day of the mayor's arrest for taking a bribe); In re Sanchez, 175 N.J. 332 (2003) (reprimanding judge for attending political function).

Second, Respondent's continued use of Facebook following his appointment to the bench in August 2020, despite his professed ignorance of the platform's

operations, created a circumstance wherein Respondent permitted impermissible content to remain on his account in violation of his ethical obligations under the Code of Judicial Conduct and evinced extremely poor judgment on Respondent's part. Adding to this impropriety, Respondent was unable to remove the offending content when advised of its impropriety. Respondent's failure to educate himself on his chosen social media platform before using it and the resulting harm to the Judiciary's integrity and impartiality wrought by that ignorance aggravates Respondent's misconduct.

Lastly, we address Respondent's admitted misstatement to the Committee as to his initial removal of the offensive content from his Facebook account. The issue, stated succinctly, is whether Respondent's misstatement was a deliberate attempt to mislead the Committee or an honest mistake. Cf. In re Perskie, 207 N.J. 275, 290 (2011) (framing and ultimately dismissing a lack of candor charge as follows: "whether the inaccuracies were the product of honest mistaken recollection or a deliberate attempt to mislead."). On balance, there simply does not exist in this record evidence that clearly and convincingly establishes Respondent's deliberate attempt to mislead this tribunal. Accordingly, we do not find this misstatement to aggravate Respondent's underlying conduct.

Weighing Respondent's misconduct and its negative effect on the public's perception of Respondent's integrity and impartiality and that of the Judiciary,

against Respondent's expressions of remorse, attempts at apology and professed commitment to overcoming these ethical breaches, we find a two-month suspension, without pay, to be the most appropriate discipline in this circumstance. We recognize that this recommended quantum of discipline, without more, may not adequately address the perceptions of partiality engendered by Respondent's Facebook posts. Towards that end, we recommend as a condition of his resumption to the bench following a two-month suspension, without pay, that Respondent be required to attend a minimum of four hours of judicial education, at his expense, in the areas of systemic, actual, and implicit bias. With these recommendations, we seek to strike the appropriate balance between addressing the undeniable harm inflicted by Respondent's conduct on the Judiciary's integrity and impartiality with Respondent's credible representations of a commitment to redress the harm fully and permanently.

IV. RECOMMENDATION

For the foregoing reasons, a majority of the Committee recommends that Respondent be suspended from judicial office, without pay, for two months for his violations of Canon 1, Rule 1.1, Canon 2, Rules 2.1 and 2.3(A) and (B), Canon 3, Rule 3.17(B), Canon 5, Rules 5.1(A) and (B)(1) and (2), and Canon 7, Rule 7(A)(2), of the Code of Judicial Conduct. A majority of the Committee also recommends that Respondent, prior to returning to the bench, be required to

complete, at his expense, a minimum of four hours of in-person continuing professional development courses, approved by the Supreme Court, concerning systemic, actual, and implicit bias. This recommendation considers the seriousness of Respondent's ethical infractions, and the aggravating factors present in this case, which justify the recommended quantum of discipline.

Respectfully submitted,

ADVISORY COMMITTEE ON JUDICIAL CONDUCT

March 31, 2025 By: _____

Carmen Messano, Chair

Joined By: Georgia M. Curio, Vice Chair, Robert T. Zane, Diana C. Manning, Esq., and Emily A. Kaller, Esq.

A Matthew Boxer, Esq. did not participate.

Hector R. Velazquez files a separate opinion, concurring in part and dissenting in part:

I agree with the majority's findings and conclusions but dissent as to the recommended quantum of discipline. Given Respondent's conceded misconduct and the aggravating and mitigating factors referenced by the majority, I find a one-month suspension, without pay, coupled with the additional education recommended by the majority, to constitute the appropriate quantum of discipline in this instance. A term of suspension exceeding one month appears unduly excessive and no more likely to restore the public's trust in the courts than would a shorter suspension.

Karen Kessler, Paul J. Walker, and Katherine B. Carter file a separate opinion, concurring in part and dissenting in part:

We agree with the majority's findings and conclusions, but dissent as to the recommended quantum of discipline, finding nothing short of removal will restore the public's trust in the integrity and impartiality of our judicial system. While we found Respondent sincere in his remorse and attempts at apology, no amount of mandatory training on Respondent's part will restore the public's confidence in his integrity and impartiality or that of a judicial system that would permit him to retain his judgeship despite his open expressions of bias. As the majority rightly noted, our judges receive judicial training on initial appointment, reappointment, and annually thereafter concerning bias, the appearance of bias, and ethics generally.

Despite this, Respondent failed in a very public way to satisfy his ethical obligations in this regard.

By his own admission, Respondent expressed a bias for law enforcement whose local members testify before him regularly and whose credibility Respondent must assess. This bias, as Respondent testified, was engendered by his son's continued service as a detective with the Ocean County Prosecutor's Office. Given these circumstances, it is inconceivable that Respondent could sit credibly in any municipal court matter involving law enforcement, which encompasses most of the cases that come before him. No defendant or informed member of the public could have confidence in a court system were he to preside over these matters again. Cf. In re Russo, 242 N.J. 179, 199 (2020) (finding removal of a judge for mistreating a domestic violence victim necessary to restore the public's trust in the Judiciary as a body of integrity).

As the public members on this Committee, we cannot reconcile these facts with the majority's recommendation to permit Respondent to return to the bench following his participation in four hours of additional education on the very topics for which he has already received training. Accordingly, we find removal to be the only appropriate remedy to restore the public's confidence in the integrity and independence of the Judiciary.