SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO: ACJC 2015-001

IN THE MATTER OF	:
	:
	:
DENNIS M. BAPTISTA	:
JUDGE OF THE MUNICIPAL COURT	:

FORMAL COMPLAINT

Tracie H. Gelbstein, Disciplinary Counsel, Advisory Committee on Judicial Conduct ("Complainant"), complaining of Municipal Court Judge Dennis M. Baptista ("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 1985.

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

3.   On August 22, 2014 around 7:20 p.m., Respondent operated a motor vehicle in Clinton Township, Hunterdon County, New Jersey while under the influence of an intoxicating liquor in violation of N.J.S.A. 39:4-50.

4.   At the aforementioned time and place, a passing motorist called the State Police at the Perryville Barracks to report an erratic driver traveling westbound on I-78 around mile marker 27.

5.   State Trooper Josh Ladao ("Trooper Ladao") was parked in his police vehicle on the westbound shoulder of I-78 patrolling the area around mile marker 21. While there, he

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observed Respondent's vehicle traveling westbound on I-78 that matched the description of the erratic driver reported to the State Police. Trooper Ladao pulled out and followed Respondent's vehicle at which time he observed Respondent drifting between the right and center lanes of I-78.

6. Trooper Ladao stopped Respondent's vehicle for failure to maintain a lane, and questioned Respondent with the recording equipment activated about his conduct including whether he had anything to drink that evening. Respondent informed Trooper Ladao that he was a lawyer returning home from work and did not have anything to drink that evening.

7. Trooper Ladao removed Respondent from his vehicle and administered field sobriety tests. He observed that Respondent's speech was slurred, his movements were slow, his eyes were watery and glassy, his eyelids were droopy, and his face was pale. Trooper Ladao smelled the odor of alcohol emanating from his breath during the tests. Respondent was unable to maintain his balance when performing the balance tests, stumbling and needing to lean on his vehicle to remain standing on a few occasions.

8. Trooper Ladao again questioned Respondent about whether he had had anything to drink that evening. Respondent again denied having anything to drink that evening before operating his vehicle.

9. Based on the results of the tests, Respondent was placed under arrest at which time Trooper Ladao and Respondent engaged in the following conversation:

TROOPER LADAO: Okay. I'm going to put you back in your car, all right? Actually, you know what, come back around here for me. Right here up against my vehicle. Okay. Put your hands behind your back for me.

RESPONDENT: Are you going to arrest me?

TROOPER LADAO: Just keep your hands behind your back.

RESPONDENT: Can I say something to you?

TROOPER LADAO: What's that?

RESPONDENT: You have some discretion here, don't you?

TROOPER LADAO: Absolutely. Stand by, okay.

RESPONDENT: Okay.

TROOPER LADAO: Hey, hey, hang on, hang on.

RESPONDENT: Okay.

TROOPER LADAO: Come on.

RESPONDENT: Have you gone beyond the point where you can't change your mind?

TROOPER LADAO: (Indiscernible)

RESPONDENT: Have you gone beyond the point where you can't change your mind?

TROOPER LADAO: Just have a seat for me.

(Video #1 ends; Video #2 begins)

TROOPER LADAO: Okay. Do me a favor, step out for me. Unfortunately, we are beyond the point. Okay.

RESPONDENT: We are beyond the point?

TROOPER LADAO: We are beyond the point.

RESPONDENT: All right.

TROOPER LADAO: All right. Have a seat back in the car for me; my car.

RESPONDENT: We're beyond the point?

TROOPER LADAO: We're beyond the point, my friend. If we need to figure something out, we'll do it, but right now –

RESPONDENT: (Indiscernible).

TROOPER LADAO: -- hey, have a seat, have a seat before it gets worse.

RESPONDENT: For me, this is worse than most people.

TROOPER LADAO: Have a seat before it gets worse.

RESPONDENT: Hold on. I'm trying to (Indiscernible)

TROOPER LADAO: Who do you work for? You work for the State, are you private?

RESPONDENT: I have a public official job that this will kill me. It will become very bad. I can't tell you because if I tell you, I can get in trouble for that. But I won't. I was on the phone with my wife, that's why I was swerving. This will kill me more than the average guy.

TROOPER LADAO: All right. Well, like I said we're beyond the point, my friend, you know. I'm trying to help you out here, but you already lied to me. So I can smell it on your breath. How many drinks have you had tonight?

RESPONDENT: (Indiscernible).

. . . .

TROOPER LADAO: How much have you had to drink tonight?

RESPONDENT: (Indiscernible)

TROOPER LADAO: How much have you had to drink tonight?

RESPONDENT: Nothing tonight. (indiscernible).

TROOPER LADAO: What time was lunch?

RESPONDENT: Excuse me?

TROOPER LADAO: What time was lunch?

RESPONDENT: Is this being recorded?

TROOPER LADAO: It's on.

RESPONDENT: (Indiscernible).

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TROOPER LADAO: Okay.

10.   Trooper Ladao transported Respondent to the Perryville Barracks. While on route to the station, Respondent remained quiet.

11.   Upon their arrival at the Perryville Barracks, Trooper Ladao turned off the recording equipment in the police vehicle and proceeded to assist Respondent in exiting the vehicle. As he was assisting Respondent, Respondent inquired whether the recording equipment was running. Trooper Ladao advised him that the equipment was turned off at which time Respondent inquired "are you beyond the point of discretion, I'm a judge." Trooper Ladao responded "we will figure it out" and brought him into the station.

12.   While at the station, Respondent voluntarily submitted to two Alcotest inspections for blood alcohol content, but the results were later deemed unreliable and not used to prove guilt at a subsequent plea hearing.

13.   Respondent was issued summonses for driving under the influence of alcohol in violation of N.J.S.A. 39:4-50 and failure to maintain a lane in violation of N.J.S.A. 39:4-88B.

14.   On February 3, 2015, Respondent appeared before a Superior Court judge and entered a plea of guilty to driving under the influence of alcohol. The Judge dismissed the failure to maintain a lane summons, and sentenced Respondent to a three-month suspension of his driver's license, twelve hours of attendance at an intoxicated-driver resource center, and the standard fines and penalties.

15.   By his conduct of driving under the influence of alcohol on August 22, 2014 in violation of N.J.S.A. 39:4-50, Respondent failed to respect and comply with the law and

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impugned the integrity of the Judiciary in violation of Canons 1 and 2A of the Code of Judicial Conduct.

16.   By his conduct of identifying himself as a judge to the arresting officer, and inquiring into whether that officer retained discretion to file charges against him given his judicial position, Respondent attempted to use the prestige of his judicial office to advance his private interests in violation of Canon 2B of the Code of Judicial Conduct.

WHEREFORE, Complainant charges that Respondent, Municipal Court Judge Dennis M. Baptista, has violated the following Canons of the Code of Judicial Conduct:

Canon 1 that requires a judge to observe high standards of conduct so that the integrity and independence of the judiciary may be preserved;

Canon 2A that requires a judge 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; and

Canon 2B that prohibits a judge from lending the prestige of judicial office to advance private interests.

DATED: October 29, 2015

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