

FILED

FEB 11 2014

A. C. J. C.

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO.: ACJC 2013-265

IN THE MATTER OF

C. WILLIAM BOWKLEY, JR.,
JUDGE OF THE MUNICIPAL COURT

FORMAL COMPLAINT

Tracie H. Gelbstein, Disciplinary Counsel, Advisory Committee on Judicial Conduct (“Complainant”), complaining of Municipal Court Judge C. William Bowkley, Jr. (“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 1971.

2. Respondent has continuously served as a municipal court judge in various municipalities for approximately 35 years since 1978.

3. At all times relevant to these matters, Respondent served as Judge of the Municipal Court of the Township of Jefferson, Morris County, a position he held on a part-time basis.

COUNT I

4. On October 8, 2012, the Jefferson Township police arrested John Chibbaro (“Chibbaro”), the grievant in this disciplinary matter, as a result of a domestic violence incident involving his wife Linda Mangan (“Mangan”).

5. On that same day, Mangan went to the Jefferson Police Department to apply for a temporary restraining order (“TRO”).

6. The Jefferson police contacted Respondent, as municipal court judge for Jefferson Township, regarding Mangan's application for a TRO and warrant for harassment. Mangan and a police officer provided the factual basis for the TRO to Respondent.

7. Respondent found probable cause to issue an *ex parte* TRO and warrant for harassment against Chibbaro under State v. John Chibbaro, Docket No. W-2012-000395.

8. On October 9, 2012, Chibbaro filed a cross-complaint for harassment against Mangan in Jefferson Township under State v. Linda Chibbaro, Docket No. S-2012-000396.

9. Two days later on October 11, 2012, Chibbaro filed a complaint for divorce in Morris County Superior Court, Family Division, against Mangan under John Chibbaro v. Linda (Mangan) Chibbaro, Docket No. FM-14-484-13 ("Divorce Matter").

10. On October 18, 2012, Respondent arraigned Chibbaro and Mangan on the cross-complaints for harassment ("Harassment Complaints), and approved Chibbaro's application for a public defender.

11. On November 1, 2012, Jefferson Municipal Court sent out Notices of Appearance to Chibbaro and Mangan to appear before Respondent on January 3, 2013 on the Harassment Complaints.

12. On January 3, 2013, Chibbaro and Mangan appeared before Respondent on the Harassment Complaints. The matters did not go to trial, and instead Respondent carried the Harassment Complaints for six months in order for the parties to attend counseling.

13. On January 4, 2013, the Jefferson Municipal Court sent out Notices of Appearance to Chibbaro and Mangan to appear before Respondent at the end of the six-month period on July 11, 2013.

14. On January 9, 2013, six days after he presided over the Harassment Complaints, Respondent, in his capacity as private counsel, met with Mangan for an initial consultation on the Divorce Matter.

15. During the initial consultation, Mangan told Respondent that he had issued an *ex parte* TRO and harassment warrant against Chibbaro, Mangan and Chibbaro had appeared before Respondent in Jefferson Municipal Court on the Harassment Complaints, and Respondent placed the Harassment Complaints on hold for six months.

16. On January 14, 2013, Respondent entered into a retainer agreement with Mangan to represent her in the Divorce Matter knowing at that time that the Harassment Complaints were pending in Jefferson Municipal Court "subject to a 6-month carry order, meaning that the likely result is that the matter is going to be dismissed if there was no further adverse action between the parties."

17. Respondent did not transfer the Harassment Complaints out of Jefferson at the time Mangan retained his legal services.

18. On February 8, 2013, Respondent filed an Answer and Counterclaim on behalf of Mangan that included his certification that there were no other related actions pending or contemplated "except a previously concluded action brought pursuant to the Prevention of Domestic Violence Act bearing Docket No. FV-14-403-13."

19. On April 15, 2013, Jefferson Municipal Court sent out second Notices of Appearance to Chibbaro and Mangan to appear before Respondent on July 11, 2013 on the Harassment Complaints.

20. On April 22, 2013, Chibbaro retained the legal services of Joel A. Murphy, Esq. ("Murphy") to represent him in the Divorce Matter.

21. On that same day, Murphy wrote Respondent advising that he was "in direct conflict with [his] representation of Mrs. Chibbaro and acting as the sitting Municipal Court Judge of Jefferson Township." Murphy specifically pointed out that Respondent, in his capacity as municipal court judge, issued a TRO against Chibbaro that led to a final restraining order and issued a notice that Chibbaro appear before him on July 11, 2013 in Jefferson Municipal Court.

Murphy went on to write that “your representation of Mrs. Chibbaro commenced sometime in the middle of these two proceedings and mandates that you recuse yourself in the Municipal Court matter, sending it to another court and finding new representation for Mrs. Chibbaro in the Divorce matter.”

22. On April 23, 2013, one day after receiving Murphy’s letter and more than three months after Mangan had retained his legal services in the Divorce Matter, Respondent ordered the Harassment Complaints transferred to Denville Municipal Court for disposition.

23. On April 24, 2013, Respondent sent a letter to Murphy indicating that the municipal court matters will be heard in a different court, but that Respondent disagreed with Murphy that his representation of Mangan created a conflict of interest that necessitated his withdrawal as her counsel in the Divorce Matter.

24. On May 29, 2013, Murphy sent a letter to the Morris County Superior Court raising the issue of Respondent’s conflict of interest in the Divorce Matter.

25. On May 30, 2013, Respondent sent a letter of response challenging his adversary’s position, characterizing it as an “agenda” or “vendetta” and “nothing more than a thinly veiled attempt to cause disruption to [Mangan] and to require her to incur additional counsel fees.”

26. On June 3, 2013, the Morris County Superior Court disagreed with Respondent, and Respondent withdrew as counsel for Mangan in the Divorce Matter.

27. Respondent’s legal representation of Mangan in the Divorce Matter against Chibbaro while the Harassment Complaints involving Mangan and Chibbaro were pending before him in Jefferson Municipal Court created a clear conflict of interest.

28. By failing to immediately disqualify himself from the Harassment Complaints, Respondent violated Canon 3C(1) of the Code of Judicial Conduct and Rule 1:12-1(g).

29. By his conduct in creating the conflict of interest by engaging in the initial consultation with Mangan and then agreeing to represent her in the Divorce Matter while the Harassment Complaints were pending before him in Jefferson Municipal Court, Respondent also cast reasonable doubt on his ability to act impartially as a judge and interfered with the proper performance of judicial duties in violation of Canons 5A(1) and (3) of the Code of Judicial Conduct.

30. By his conduct in engaging in the initial consultation and then representing Mangan in the Divorce Matter for personal financial gain knowing that the Harassment Complaints were pending before him in Jefferson Municipal Court, Respondent also failed to refrain from financial dealings that reflected adversely on his impartiality, interfered with the proper performance of judicial duties, and exploited his judicial position in violation of Canon 5D(1) of the Code of Judicial Conduct.

31. By engaging in the conduct described above, Respondent also violated Canons 1 and 2A of the Code of Judicial Conduct.

COUNT II

32. Complainant repeats the allegations contained in the foregoing paragraphs as if each were set forth fully and at length herein.

33. In In re Bowkley, 195 N.J. 176 (2008), the Supreme Court publicly admonished Respondent for his similar conduct of engaging in two distinct conflicts of interest in violation of Canons 1, 2A and 3C(1) of the Code of Judicial Conduct while serving as a part-time municipal court judge.

34. Respondent's conduct in In re Bowkley, supra, and his conduct as outlined in Count I of this complaint constitute a pattern of disregard for the ethics obligations of part-time judges who also engage in the practice of law.

35. Respondent's pattern of disregard for his ethical obligations violates Canons 1 and 2A of the Code of Judicial Conduct.

WHEREFORE, Complainant charges that, by the conduct set forth above, Respondent, Municipal Court Judge C. William Bowkley, 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 3C(1), which requires judges to disqualify themselves from matters in which their impartiality might reasonably be questioned;

Canon 5A(1) which requires judges to conduct extra-judicial activities so that they do not cast reasonable doubt on the judges' capacity to act impartially as a judge;

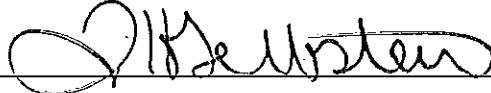
Canon 5A(3) which requires judges to conduct extra-judicial activities so that they do not interfere with the proper performance of judicial duties; and

Canon 5D(1) which requires judges to refrain from engaging in financial and business dealings that reflect adversely on the judges' impartiality, interferes with the proper performance of judicial duties and exploits the judicial position.

Complainant also charges that Respondent's conduct was in violation of Rule

1:12-1(g) of the New Jersey Court Rules.

DATED: February 11, 2014



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