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A. C. J. C.

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

IN THE MATTER OF

F. MICHAEL GILES

JUDGE OF THE SUPERIOR COURT

DOCKET NO.: ACJC 2006-162; 2008-169

AMENDED FORMAL COMPLAINT

Candace Moody, Disciplinary Counsel, Advisory Committee on Judicial Conduct
("Complainant"), complaining of Superior Court Judge F. Michael Giles (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 1974.
2. At all times relevant to this matter, Respondent was a Judge of the Superior Court of New Jersey, assigned to the Essex vicinage.

COUNT I

3. Complainant repeats the allegations contained in the foregoing paragraphs as if each were set forth fully and at length herein.
4. On the morning of April 10, 2006, Sebastian M. Bio, Esq. (the "Grievant"), with the prior consent of Respondent, appeared in Respondent's courtroom with his client, Altereek Dunne, in response to a bench warrant previously issued on Mr. Dunne and to set bail. Mr. Dunne's matter was not reached by Respondent before lunch.
5. When Respondent recessed court for the lunch break, the Grievant escorted Mr. Dunne to the Essex County Sherriff's Department for processing.
6. After lunch, the Grievant learned from Bernardo Henry, Esq. of the Public Defender's Office, that Mr. Dunne had been remanded to the custody of the Essex County Sherriff's Department on several outstanding municipal warrants.

7. At or around 3:00 p.m., the Grievant appeared before Respondent and requested Respondent address Mr. Dunne's bench warrant.

8. Respondent advised the Grievant that he could do nothing about Mr. Dunne's recent incarceration on several outstanding municipal warrants.

9. The Grievant responded with a request that Respondent address only the Superior Court's warrant.

10. Prior to answering the Grievant, Respondent asked if he was still on the record.

11. After learning that he was no longer on the record, Respondent stated to the Grievant: "I said get the . . . [expletive] . . . out of my courtroom, what the . . . [expletive] . . . don't you understand, shut the . . . [expletive] . . . up and get the . . . [expletive] . . . out of here, I have a meeting this afternoon."

12. Respondent's conduct, as described above, violated Canons 1, 2A, 3A(2) and 3A(3) of the Code of Judicial Conduct in that he did not maintain high standards of conduct, did not act in a manner that promotes public confidence in the integrity and impartiality of the Judiciary, did not maintain order and decorum in judicial proceedings and was not patient, dignified or courteous to the Grievant or Mr. Dunne.

13. Respondent's conduct also constitutes intemperate conduct prejudicial to the administration of justice that brings the judicial office into disrepute, in violation of Rule 2:15-8(a)(4) and 8(a)(6).

COUNT II

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

15. Respondent is the trial judge in the matter of Ritschel and Allied Realty Assoc. LLC v. Spencer Savings Bank, SLA, Docket No. ESX-L-145-05.

16. On December 11, 2007, Respondent initiated settlement discussions in the Ritschel matter. The settlement discussions continued through December 12, 2007. During the settlement conference on December 12, 2007, which occurred in Respondent's chambers with Respondent and counsel for all parties, Respondent cursed at counsel for the defendant, Spencer Savings Bank, SLA, stating "Did you wake up on the wrong . . . [expletive] . . . side of the bed?"

17. On February 5, 2008, following argument on several pre-trial motions in the Ritschel matter, Respondent, after ascertaining that he was no longer on the record, asked counsel if they had read the newspaper articles regarding the Formal Complaint that was filed against him by the Advisory Committee on Judicial Conduct (the "Committee") on January 29, 2008. When all counsel answered affirmatively, Respondent volunteered to counsel that when the Honorable Patricia K. Costello, A.J.S.C. removed him from the criminal bench for cursing at a lawyer, Respondent told Judge Costello that he could just as easily curse at a civil defense attorney as he could a criminal defense attorney. In response, counsel for the defendant, Spencer Savings Bank, SLA, reminded Respondent that he had cursed at her during a settlement conference in Respondent's chambers on December 12, 2007. While not denying that it had occurred, Respondent claimed to have no recollection of the incident. Respondent further remarked that he would call defense counsel as a witness at his hearing before the Committee because she seemed to have survived the incident and was faring well before him.

18. Respondent's use of an expletive when addressing defense counsel in the Ritschel matter, as described above, violated Canons 1, 2A, 3A(2) and 3A(3) of the Code of Judicial Conduct in that he did not maintain high standards of conduct, did not act in a manner that promotes public confidence in the integrity and impartiality of the Judiciary, did not maintain order and decorum in judicial proceedings and was not patient, dignified or courteous to counsel.

19. Respondent's conduct towards defense counsel also constitutes intemperate conduct prejudicial to the administration of justice that brings the judicial office into disrepute, in violation of Rule 2:15-8(a)(4) and 8(a)(6).

20. In commenting publicly and in a sarcastic manner about a pending complaint of the Committee to persons not involved in the matter, Respondent impugned the integrity of the Judiciary and demonstrated disrespect for the Judiciary. Such conduct undermines public confidence in the integrity of the Judiciary and violates Canons 1 and 2A of the Code of Judicial Conduct. Further, such conduct is prejudicial to the administration of justice in that it brings the judicial office into disrepute in violation of Rule 2:15-8(a)(6).

COUNT III

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

22. On February 18, 1998, the Committee sent a letter of caution to Respondent regarding two separate complaints, in which the Committee cautioned Respondent about his discourteous conduct toward several litigants who had appeared before him in landlord-tenant matters. The Committee informed Respondent that in light of his acknowledgement that he was discourteous to the litigants, his representation to the Committee that he had apologized to the litigants to whom he had been discourteous, and his assurance that he would not repeat this conduct, the Committee closed the matters with a letter of caution.

23. Respondent's conduct as enumerated in the preceding paragraphs and in Counts I and II demonstrates a pattern of improper conduct that calls into question his judgment and his ability to conform his conduct to the requirements of the Code of Judicial Conduct.

WHEREFORE, Complainant charges that, by the conduct set forth above, Respondent, Superior Court Judge F. Michael Giles, 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;

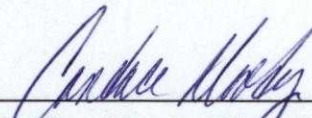
Canon 2A, which requires judges to respect and comply with the law and to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary;

Canon 3A(2), which requires judges to maintain order and decorum in judicial proceedings;

Canon 3A(3), which requires judges to be patient, dignified, and courteous to all those with whom they deal in an official capacity; and

Complainant also charges that Respondent's remarks were intemperate and prejudicial to the administration of justice thereby bringing the judicial office into disrepute, in violation of Rule 2:15-8(a)(4) and 8(a)(6).

DATED: March 18, 2008



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