SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO: ACJC 2002-219

IN THE MATTER OF	:	
	:	
LAWSON R. MC ELROY	:	PRESENTMENT
JUDGE OF THE MUNICIPAL COURT	:	

The Advisory Committee on Judicial Conduct, pursuant to Rule 2:15-15(a), presents to the Supreme Court its Findings that charges set forth in a formal complaint against Lawson R. McElroy, Judge of the Municipal Court, have been proved by clear and convincing evidence and its Recommendation that the Respondent be publicly reprimanded.

The Advisory Committee on Judicial Conduct issued a Formal Complaint alleging that Respondent, Municipal Court Judge Lawson R. McElroy, engaged in conduct in violation of Canons 1, 2A, and 2B of the Code of Judicial Conduct and in violation of Rule 1:15-1(b) and Rule 2:15-8(a)(6) by writing a note on the back of his business card and giving it to an acquaintance who was scheduled to appear in municipal court to answer to a traffic charge. The Complaint alleged that Respondent intended the note be given to the municipal prosecutor.

Respondent filed an Answer to the Complaint, denying that he had intended that the note be presented to the municipal prosecutor and maintaining that he had intended it only as information for his acquaintance to use when discussing a possible downgrade with the municipal prosecutor. Through counsel, Respondent waived his right to a hearing and stipulated to the Committee's consideration of his Answer and of the results of its investigation. The Committee carefully reviewed Respondent's Answer and other evidence of record. The

Committee made factual determinations supported by clear and convincing evidence that are the basis for its Findings and Recommendation.

FINDINGS

Respondent is a member of the Bar of the State of New Jersey, having been admitted to the practice of law in 1983. At all times relevant to this matter, he was a part-time Judge of the Municipal Court of the City of Trenton, a position that he continues to hold. In addition, Respondent had, and still has, an office for the practice of law in Trenton, as is permitted for those who serve in part-time positions on the municipal bench.

At some time between April 24, 2002, and July 29, 2002, Ms. Yvonne Adams of Pennington, New Jersey, a social acquaintance of Respondent, visited Respondent at his private law office and asked him if he would represent her in a traffic matter. Respondent replied that he could not because he was a municipal court judge.

Ms. Adams informed Respondent that on April 24, 2002, she had been issued a summons in Lawrence Township, New Jersey, charging her with speeding in violation of N.J.S.A. 39:4-98. She asked Respondent if there were any way that she could have the charge reduced. Respondent replied that she could go to court and speak to the prosecutor, who would have the discretion to consider downgrading the charge.

Ms. Adams then asked what lower charge she should request, whereupon Respondent took one of his attorney business cards and wrote on the back of it: "Please consider an amendment from N.J.S.A. 39:4-98 to N.J.S.A. 39:4-97.2 Unsafe Driving. RE: Yvonne Adams. Thanks Lawson Mc Elroy."

On July 29, 2002, Ms. Adams appeared at the Lawrence Township Municipal Court and presented Respondent's card to Municipal Prosecutor Robert W. Rubinstein. She informed Mr. Rubinstein that Respondent could not appear because he was a judge. Mr. Rubinstein reported the matter to the Judge of the Lawrence Township Municipal Court, who subsequently reported the matter to the Committee.

Although both Respondent and Ms. Adams have maintained that the note was intended for Ms. Adams' personal use and not for presentation to the municipal prosecutor, the Committee considers that explanation to run counter to the plain meaning of the note. Had the note been intended as a reminder for Ms. Adams, there would have been no need to begin it with the request to "[p]lease consider" a downgrade from speeding to unsafe driving and there would have been no need to follow that request with the words "Re: Yvonne Adams," who, after all, certainly knew who she was. And there clearly would have been no point in closing the note with "Thanks[,] Lawson McElroy." In short, the note has all the appearances of a communication intended for someone other than Ms. Adams, and particularly for someone in the position of a municipal prosecutor.

The very giving of such a note to Ms. Adams was, as Respondent now recognizes, "a severe error in judgment." It created the obvious potential and risk of implicating and compromising the judicial office. That was realized when the municipal prosecutor saw the note and heard that Respondent could not accompany Ms. Adams to court because he was a municipal court judge. Even if Respondent did not intend the note for the prosecutor, he should have expected that what actually occurred was clearly foreseeable and likely to occur and that the prosecutor would conclude that a municipal court judge was seeking favorable treatment for a friend. Whatever his intent was, the Committee finds that he violated Canon 2B of the Code of

Judicial Conduct, which prohibits judges from lending the prestige of office to advance the private interests of others.

Respondent knew that he could not appear on behalf of Ms. Adams because Rule 1:15-1(b) prohibited him from doing so. Instead, he sought to accomplish indirectly that which he knew he was not permitted to do directly. In the process of trying to circumvent the rule against practicing in quasi-criminal matters, he directly violated it. He advised Ms. Adams how to proceed in her case, and he gave her a note that, whether or not he so intended, was bound to wind up in the prosecutor's hands. Such actions undermine the integrity and impartiality of the judiciary and violate Canons 1 and 2A of the Code of Judicial Conduct, as well as constituting conduct prejudicial to the administration of justice that brings the judicial office into disrepute, in violation of Rule 2:15-8(a)(6).

RECOMMENDATION

Municipal court judges readily recognize that they may not appear on behalf of others in municipal court. There has been no reported instance of such conduct since In re Di Sabato, 76 N.J. 46 (1978) (imposing censure for municipal court judge who appeared in a speeding case in another municipal court on behalf of his son). However, there have been multiple instances over that twenty-five year period of municipal court judges who took actions short of actual appearance to benefit themselves, their clients, or their friends: In re Murray, 92 N.J. 567 (1983) (imposing public reprimand for writing letter to another municipal court judge on behalf of long-time clients); In re Santini, 126 N.J. 291 (1991) (imposing public reprimand for contacting staff and judge of another municipal court on behalf of a client); In re Carton, 140 N.J. 330 (1995) (imposing public reprimand for permitting request for adjournment for son of court staff member to be faxed from his private law office to another municipal court judge); In

re Sonstein, 175 N.J. 70 (2003) (imposing public reprimand for contacting another municipal court judge about his own parking ticket pending in that judge's court); In re Wright, ACJC Docket No. 2002-111 (issuing Presentment recommending discipline for requesting prosecutor of another municipal court to amend traffic charges against his secretary's nephew).

All municipal court judges should be aware that there is no way to skirt the requirements of Rule 1:15-1(b). There is simply no proper way for a municipal court judge to provide advice to others regarding their municipal court matters or to communicate with the personnel of another municipal court except on matters of common official interest. To do a favor for a friend, Respondent sought to evade his responsibilities. For that he deserves public discipline.

Accordingly, the Committee respectfully recommends that Respondent, Municipal Court Judge Lawson R. McElroy be publicly reprimanded.

Respectfully submitted,

Advisory Committee on Judicial Conduct

By: _____
Alan B. Handler, Chair