SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO: ACJC 2004-101

IN THE MATTER OF RANDOLPH M. SUBRYAN, JUDGE OF THE SUPERIOR COURT	: : :	PRESENTMENT

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 Randolph M. Subryan, Judge of the Superior Court, have been proved by clear and convincing evidence and its Recommendation that the Respondent be censured.

The Committee recalled its original Presentment in the face of an application by Respondent to present new evidence in support of a request that the Committee reconsider its findings and, in consequence, its recommendation for public discipline. This Presentment is responsive to that application and supersedes the original Presentment.

This matter was referred to the Advisory Committee on Judicial Conduct by the Administrative Director of the Courts, who found after investigation that Superior Court Judge Randolph M. Subryan (Respondent) had violated the Judiciary's Policy

Statement on Equal Employment Opportunity, Affirmative Action and Anti-Discrimination by his conduct toward J.B., Respondent's law clerk from September 2002 to May 2003.

The Committee issued a Formal Complaint alleging that Respondent engaged in conduct in violation of Canons 1 and 2A of the Code of Judicial Conduct and in violation of Rule 2:15-8(a)(6) by engaging in a pattern of improper conduct toward J.B that culminated in his holding and kissing her on the lips against her will on May 30, 2003. Respondent filed an Answer in which he denied the allegations against him.

The Committee held a formal hearing. Respondent appeared, with counsel, and testified under oath, as did J.B., Respondent's secretary, and numerous other witnesses. After carefully reviewing the testimony and the other evidence, the Committee made factual determinations supported by clear and convincing evidence that are the basis for its Findings and Recommendation.

I. Background and Findings

A.

Respondent is a member of the Bar of the State of New Jersey, having been admitted to the practice of law in 1980. At all times relevant to this matter, Respondent served as a judge

of the Superior Court of the State of New Jersey, assigned to the Passaic Vicinage, a position he continues to hold.

In November 2001, J.B., who was then in her final year of law school in New York, applied to New Jersey's Administrative Office of the Courts for a position as a law clerk in New Jersey for the period from September 2002 through August 2003. She submitted her resume, listing as references three individuals, including two law school professors with whom she had worked closely: Professors Ruthann Robson and Merrick T. Rossein.

In the beginning of 2002, Respondent received a set of resumes from the Administrative Office of the Courts, as well as applications sent to him directly. With the aid of his then current law clerk, Respondent selected a few candidates to be interviewed, including J.B.

During Respondent's interview of J.B., she informed him that she intended to sit only for the New York bar exam, explaining that she wanted to serve as a law clerk in New Jersey to gain litigation experience, which would not be available to her in New York.

Within a week or two of his interviewing her, Respondent offered J.B. the position as his law clerk for the coming year.

J. B. began her work as Respondent's law clerk in September 2002. She enjoyed the work and found it interesting. She got along well with Respondent, with the rest of his staff, and with

other court personnel. She respected Respondent and was learning a lot from him. She went to bar dinners, to lunch, and to other functions with him. In addition, he was very helpful in advising her in her search for a job to follow the clerkship.

In turn, Respondent liked J.B. He thought her a good clerk, and he had a very comfortable relationship with her.

In April and May 2003, however, after Respondent had been ill and then suffered deaths in his family, J.B. noted that Respondent began making "bizarre comments" to her. She had noticed certain things before that, but they were few and far between. She testified that it was not until April and May "that things seemed to start to go a little out of control." Although some things made J.B. uncomfortable, it was only after the incident of May 30, 2003, that "everything took on a different meaning."

B.

The events of May 30, 2003 and the succeeding days are the crucial factual events. Here is J.B.'s version of the events. May 30, 2003, was a Friday. The following Monday, June 2, J.B. had a job interview on Long Island and had arranged to take a half day off from work.

J.B. had spoken to Respondent about the interview during the afternoon of May 30 because she had learned that the

position would require supervision of two paralegals and one or two secretaries. She had previously discussed the matter with fellow law clerks and with Respondent, all of whom had told her that she could have sought a higher salary for the job because it was supervisory. On May 30, J.B. had not been able to complete a conversation with Respondent on that subject, so she called to him as he was leaving the office shortly before 4:30 p.m. to ask him if there were some way she could request a higher salary than what she had sought originally.

J.B. and Respondent entered chambers, and Respondent closed the door. J.B. considered that "weird." She asked Respondent what she could say at the interview to get a higher salary. Respondent told J.B. that she had no experience and really could not seek a higher salary. He went on to add that J.B. had a bigger problem in that the firm wanted her to start soon and she needed his "blessing" to leave before the end of her clerkship. He added that she would have a bad mark on her record if she did not have his "blessing" when she left.

J.B. asked Respondent why she should care about a bad mark in Trenton inasmuch as she was returning to New York to practice. Respondent replied that the mark would follow her. He asked J.B. what it was worth to her, and she said it was worth nothing because she was not sure she wanted the job for which she was about to interview because it would entail a

lengthy commute to and from Long Island. Respondent asked again how much it was worth to her, and J.B. jokingly asked if Respondent wanted her to stay for her full term or if he wanted her to stay forever.

Respondent then asked J.B. if she wanted to stay there forever. He then became very serious. His attitude changed completely. It was no longer light and joking. He asked again if J.B. wanted to stay there forever, and she replied that she could not because she could not afford to. Respondent repeated his question and then asked once again how much it was worth to her. J.B. replied it was worth nothing to her.

Respondent told J.B.: "You and your boundaries, that's all that's been saving you." After a further exchange about boundaries and reference to another law clerk, Respondent started to approach J.B., asking repeatedly: "What am I going to do with you?" J.B. was apprehensive because it was almost 4:30 p.m., at which time everyone else would leave chambers, leaving her "trapped" with Respondent. Consequently, when Respondent approached J.B. as if he were going to hug her, she was relieved because she thought that the episode was over.

Respondent put his arms around J.B. as if to hug her. After J.B. let him do so, she started to pull away but was unable to because he would not let her go. He pulled J.B. closer so that his face was right in front of hers, and he

repeatedly said: "Are you sure?" He said: "You know, I've never forced anyone," and then he kissed J.B., whereupon she threw her head back. Respondent continued to hold J.B., asking again: "Are you sure?" He then let go of her, stepped back, and stared at her. From the look on his face, he was enraged, but he said repeatedly: "Are you sure?"

Respondent walked to his desk, still repeating the question: "Are you sure?" without looking at J.B. J.B. finally replied that she was sure, and she left Respondent's chambers.

According to Respondent's secretary, she was at her desk when Respondent and J.B. entered chambers, but she did not see who entered first because her back was turned. She heard nothing of what had transpired while J.B. and Respondent were in Respondent's chambers. She stated that J.B. left the office directly after coming out of chambers. J.B. recalled that she stopped briefly at the secretary's desk to check her computer and then left.

After leaving the office, J.B. walked to her car with two other law clerks. Because she was visibly upset, they asked her what was wrong and she hesitatingly told them what had occurred in Respondent's chambers.

That evening, J.B. called her former professor, Ruthann Robson, and told her about the incident and asked her advice.

Robson advised her to memorialize the incident, which J.B. did and then e-mailed that description to Robson.

The following Monday, June 2, J.B. went to Long Island for her job interview, which was "a disaster." After returning to her apartment in the Bronx, she called Respondent's chambers to say that she would not return to work that day. She also called a fellow law clerk, who had left her a voice mail message and who suggested that J.B. call the vicinage EEO officer. J.B. called that officer and explained what happened. The officer, Sharon Kinney, suggested that J.B. come to her office the following day at noon to discuss the matter.

Fifteen minutes or so later, Kinney called back and informed J.B. that the Assignment Judge had transferred her out of Respondent's courtroom. She told J.B. to report the following morning at 9:00 a.m. to meet with a State investigator because a formal complaint was being filed. J.B. said that she thought Kinney was going to explain her options to her, and Kinney replied that the matter had already been referred to the State and had been taken out of her hands.

J.B. was interviewed at the courthouse by the State investigator the next day, Tuesday, June 3. She related the incident of May 30 and gave the investigator the e-mail description that she had prepared that evening. J.B. was out for the rest of the week. When she returned to the courthouse

the following Monday, June 9, she met with the Assignment Judge at his request. He asked her if she would be comfortable working with Judge Miniman for the remainder of her clerkship. J.B. said she was comfortable with that, and she was reassigned to Judge Miniman.

Some weeks later, a complaint, which included the e-mail description of the May 30 incident, was prepared by the investigator and presented to J.B. for her signature.

C.

Respondent denied J.B.'s allegations about what occurred in his chambers on May 30.

According to him, he started to leave the office at about 4:15 p.m. that day because he was going to have dinner with his wife before picking up his brother at the airport. He had said goodnight to his secretary and to J.B., and his hand was on the knob of the door leading into the hallway when J.B. said she had to speak to him about something. Respondent then walked back into his chambers, followed by J.B., because he insisted on entering his chambers first and did not allow anyone to walk into chambers in front of him.

J.B. asked Respondent for the second time that day how she could go about asking for a higher salary at her job interview than she had previously requested. Respondent replied that they

had gone through that before, that J.B. did not have the experience to ask for more money before starting the job, and that she might price herself out of a job if she brought the matter up at the upcoming interview.

According to Respondent, J.B. then thanked him for his help, hugged him, kissed him on the cheek, thanked him again, turned, and walked out. Respondent then left.

D.

Confronted by two such glaringly opposed versions of an event to which J.B and Respondent were the only witnesses, the Committee found it necessary to carefully evaluate and weigh all the evidence and especially to assess the credibility of the witnesses.

J.B. was a very credible witness, not only in terms of her demeanor while testifying but also with regard to the logical consistency of her actions. When Respondent and she were alone in chambers on May 30, she was initially unafraid. She had a comfortable relationship with Respondent and had engaged in friendly banter with him in the past; and she attempted to do so on that occasion as well. She was a mature woman who had traveled extensively before entering law school. When Respondent's attitude changed, she became first apprehensive and then relieved when she thought he was trying to hug her as a

sign of conciliation. When she realized that he was serious in his approach toward her, she became frightened because she thought she was trapped and would soon be alone with him because it was almost quitting time. And when Respondent kept asking her if she were sure, J.B. took that as an indirect threat against her legal career.

J.B.'s conduct on June 2 is logically consistent with her testimony about what happened in chambers. At a friend's suggestion, she called the vicinage EEO officer to find out what her options were because she was afraid to return to Respondent's chambers, knowing that he could adversely affect her legal career, as she had understood him to threaten on May 30. As it turned out, she had no options because the Assignment Judge took the matter out of her hands by turning the matter over to the Administrative Office of the Courts.

Given the inherent credibility of J.B. and the consistency of her actions, it would be possible to find from her testimony alone the required clear and convincing evidence that the incident of May 30 occurred as she testified. As the Court observed in In re Samay, 166 N.J. 25, 30 (2001): "The clear and convincing standard may be satisfied by uncorroborated evidence. [Citation omitted]." In addition to J.B.'s testimony, however, there are other indicia of credibility and trustworthiness.

Minutes after the incident in chambers, J.B. told the two other clerks, who were her friends, what had just occurred. She was still emotionally affected. The other clerks noticed that J.B. was agitated and something was troubling her, and they were concerned. They asked her what was wrong, but J.B. insisted on getting away from the courthouse before relating what she had experienced.

One of the clerks, Myrna Perez-Drace, testified that she saw J.B. was upset and she asked her what was wrong, but J.B. said "she didn't know whether she should tell [them]." The clerks continued to inquire and J.B. said: "Oh, my God. Oh, my God. I can't believe he did this." In response to the clerks' further questioning, J.B. told them that Respondent had kissed her.

The other clerk, Erin Zimmerman, testified that J.B. was "in shock, as far as how this could happen. Or why this happened, what was she going to do." J.B. expressed concern because Respondent was a reference and recommendation in her job search, and she "was just thinking about her career and how it would be affected in a negative way by this."

J.B.'s description of the incident and the testimony of both clerks are consistent with J.B.'s own testimony concerning the incident in chambers. J.B.'s description of the incident to them, coming so soon afterward to people who knew her well and

who questioned her because they saw her agitation, has circumstantial guarantees of trustworthiness and is in the nature of a fresh complaint that bolsters her own testimony about the incident. In re Seaman, 133 N.J. 67, 85, 92-93 (1993); see State v. Hill, 121 N.J. 150 (1990). That testimony is further corroborated by the e-mail description memorializing the incident which, although hardly routine, is akin to a past recollection recorded, having been prepared the evening of the incident. J.B.'s testimony is further buttressed by the testimony of the judiciary employees who interviewed J.B. a few days after the event; they observed her to be emotionally upset even then and the description of the event she gave them is essentially what she told the clerks minutes after the event occurred, as are the contents of the notes taken by one of those employees and provided to the Committee in support of Respondent's application for reconsideration of the original Presentment.

E.

Respondent sought to undermine J. B.'s credibility in an effort to show that she had fabricated the incident in chambers. He demonstrated that there was a discrepancy between J.B.'s testimony and that of two other witnesses in that J.B. testified that she walked out of the office with them on May 30, while

they testified she did not. That discrepancy is without significance, however, and memories may vary regarding insignificant detail.

While cross-examining J.B. on her testimony that she felt trapped in chambers on May 30, Respondent's attorney asked J.B. why she had not simply escaped from chambers through the door into the courtroom and thence into the public hallway. After J.B. testified that she had not done so because she expected the door from the courtroom into the public hallway to be locked, Respondent produced extensive testimony that it was the practice of the Sheriff's Department to open and leave wide open all doors leading out from the courtrooms at the end of the day to provide access for the cleaning staff.

That discrepancy is also without significance, assuming that J.B. had ever taken note of the practice. In view of the stress J.B. was under during the incident, moreover, it would not be unreasonable or surprising that she did not think of a different, and less direct, exit route.

Respondent also sought to cast doubt on J.B.'s credibility by asserting that she had never had a job interview in New York on Monday, June 2, 2003, and had fabricated the story of the interview. The two judiciary employees charged with handling claims of sexual harassment testified unequivocally that J.B.

was at the courthouse in Paterson at the time when she stated that she was in New York on the job interview.

Conversely, J.B. testified strongly and unequivocally that she imparted information about the events of May 30 to the EEO officer not during a visit to the courthouse but by telephone after she returned to her Bronx apartment from her interview on Long Island. EZ-Pass records and telephone toll billing records convincingly demonstrated that J.B.'s version of events that took place on the Monday after the incident was the true version of events.

The two judiciary employees who testified that they had met personally with J.B. at the courthouse on June 2 did not have formal or official notes to indicate that such a meeting had actually taken place. There were informal notes, and they actually support the inference that J.B.'s only communication with personnel at the courthouse that day was by telephone. For example, the EEO officer who made the informal notes wrote after the fact that J.B. "spoke" to her on June 2 but "met" with the EEO investigator on June 3 and "came" to the courthouse on June 9. And, the notes contain no mention of a personal meeting and no reference to J.B.'s physical appearance.[1]

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[1] These informal notes were not produced or offered in evidence at the hearing. They were furnished by Respondent to seek reconsideration of the Committee's conclusion in its original Presentment. The notes are not dated. They amount to slightly more than one page, which conforms to the twenty-eight minute telephone call that J.B.'s telephone bill shows she made to the EEO officer at 1:41 p.m. on June 2 rather than to the hour and one-half interview the officer testified to, especially when compared to the six pages of notes the same officer took on June 3

Respondent has made much of certain discrepancies in J.B.'s testimony concerning her activities on June 2. Even though her testimony was not precise regarding the exact name of the law firm with which she interviewed and to some degree inaccurate with respect to the location of the firm, the Committee does not find that to be significant in any material respect.

Respondent claimed that J.B. had fabricated the story either to get out of her clerkship early or to get out of an assignment she had been given less than an hour before the incident or to create a fictional basis for a civil action. The facts are that J.B. had no job offers until weeks later; that the assignment, although tedious, was something she had done before and that not all of the work, the preparation of so-called PCR files, would be expected to be completed before the end of the term; that it was already late in the term and a law clerk with J.B.'s good record and reputation could anticipate permission to leave early to secure employment. In addition, J.B. did not initiate the filing of a complaint. She followed a friend's advice and made an inquiry of the vicinage EEO officer. At that juncture, matters were taken out of her hands.

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during the hour and forty-five minute interview of J.B. by the State investigator. The Committee's conclusion regarding these informal notes is further supported by the testimony of the Assignment Judge that his staff informed him on June 2 that J.B. "sounded" upset. We do not believe that the judiciary employees deliberately misstated the facts, but we were concerned that the employees had no formal notes or official records of the crucial events of that day. This is perhaps attributable to the fact that following J.B.'s telephone call, the EEO employee was directed to refer the matter to the State EEO.

In support of his contention that J.B. had fabricated her story to create a basis for a claim against him, Respondent focused on her communication with two of her former law professors after the incident of May 30.

The Committee does not find J.B.'s communications sufficient to compel an inference that there was any desire, actual or inchoate, to lay the groundwork of a civil action or to fabricate the incident to be used as a basis for such a claim. J.B. had just undergone an unpleasant experience that seriously upset her employment situation. Under the circumstances, it is only natural that she would wish to speak to friends and her professors, who were especially knowledgeable and involved in such matters.

Everything that J.B. did after she left chambers on May 30 is wholly consistent with her testimony. Further, J.B., who got along well with Respondent and was relying on him for future employment references, had no reason to lie in a way that could damage his reputation and career, as well as her own professional prospects.

F.

Respondent's testimony is inconsistent. His version of events in chambers does not make sense. According to him, he merely, and rather impatiently, told J.B. in the course of a

five-minute conversation what he had previously told her that same day about her not having enough experience to ask for more money at her interview. And yet, she supposedly hugged him and kissed him after he told her that. It did not even strike him as odd that she would hug him and kiss him for telling her the same thing he had told her earlier, which was essentially that she had no business asking for more money.

When Respondent returned to chambers after having been summoned to the Assignment Judge's office on June 2, he told his secretary that J.B. had filed a complaint about him but that he had few details. He was very surprised and upset, and he asked if she had spoken to J.B. The secretary, who testified that she too was surprised and upset, replied that J.B. would be calling her at home that night and she would use that opportunity to find out from J.B. what was going on.

Respondent advised her not to speak to J.B. when she called. He told her that J.B. might tape record the conversation. When the secretary persisted because she wanted to know what was going on, Respondent said once again that she should not answer the telephone because J.B. might tape the conversation.

Weeks later, by letter of June 30, 2003, the State EEO investigator asked Respondent to submit his response to the allegations. Respondent had his secretary type his written

response even though some of the items recited therein were not as the secretary testified that she remembered and even though she would undoubtedly be interviewed as a witness. Respondent testified that he was not concerned when he gave his handwritten response to her for typing that she might be called as a witness in the EEO investigation or that it might be inappropriate to have her made aware of his position regarding the complaint.

Respondent submitted an eleven-page response, which he admitted took him some time to prepare. The response contained no reference to a kiss by J.B. It was not until later, after he had submitted his response, when Respondent was interviewed by the investigator, that he first mentioned a kiss. Respondent's testimony that he simply forgot to mention the supposed kiss by J.B. when he composed his written statement for the investigator shortly after the events occurred lacks plausibility.

Respondent's extensive treatment of irrelevant and trivial details in his written response undermines his contention that he simply failed to initially recall something so significant as a kiss. He wrote about such irrelevant minutiae as J.B.'s discussion of an alpaca farm, her joking to another judge that although Respondent was taking her to lunch for her birthday it was she who was going to pay, and the age and condition of her car. Short of a denial, the immediate natural response to an allegation that he had kissed her would have been to assert that

any kiss was at most only a friendly gesture or expression or that any kiss by her was not reciprocated or encouraged in any way.

In addition, according to J.B., Respondent had told her once in private that she was "going to turn [him] into Judge Seaman," and when she asked who that was, Respondent answered that it was a judge who had been removed from office for sexual harassment. Respondent denied making that remark. In fact, he maintained that he had never heard of Judge Seaman.

That matter, which resulted in the Court's opinion in In re Seaman, supra, received widespread publicity in both legal and public media throughout 1993. Respondent was sworn in as a Judge of the Superior Court on February 8 of that year. It is inconceivable that anyone practicing law during that time would not know the name, and it is particularly incredible that a judge, especially a newly appointed one, would not know it.

G.

On the basis of our assessment of this evidence, the Committee finds clear and convincing evidence that Respondent made an unwanted advance to J.B. on May 30, 2003. Respondent may have mistakenly hoped that J.B. would be receptive to his

advance.[2] He failed to exercise sound judgment and restraint and when he realized that he had offended her, his further responses created the impression that, as J.B.'s supervisor and mentor, he was disappointed and there could be adverse career consequences for her.

By that conduct, Respondent violated Canon 1 of the Code of Judicial Conduct, which requires judges to observe high standards of conduct so that the integrity and independence of the judiciary may be preserved, and 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. His conduct also constitutes conduct prejudicial to the administration of justice that brings the judicial office into disrepute, in violation of Rule 2:15-8(a)(6).

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[2] Friendly and affectionate behavior, involving kisses on the cheek, hugs, touching on shoulders, and the like, was tolerated and accepted, if not encouraged, in chambers. In many respects that conduct was gender-tinged and created a permissive atmosphere. For example, Respondent and others made a series of recurring remarks to the effect that women under the age of eighteen are protected by law and women over the age of thirty-five are protected by nature; references to "blonde mistakes" and blondes as less intelligent than others; and an assistant prosecutor who would send Respondent a postcard every year with a picture of a woman or women in swimming attire. Further, there was a great deal of familiarity and informality exhibited with many former law clerks who were working for the Prosecutor's Office, fostering the impression that Respondent had a close association with that Office. This was exemplified when in the course of a highly publicized criminal trial over which Respondent was presiding, obscene and sensational photographs had been proffered in evidence. Before any ruling by Respondent, these photographs became a quest for some of the former law clerks, presumably out of curiosity; during a recess in the trial, they freely came into Respondent's chambers and badgered him to see the pictures.

The complaint contains other allegations of misconduct. The subject matter of those allegations, briefly noted in footnote 2, involved conduct that appears problematic and inappropriate, and which created an atmosphere of permissiveness that seemingly desensitized persons associated with Respondent to the risk that such behavior could become offensive and sexually harassing. The Committee finds these allegations are not supported by clear and convincing evidence sufficient to constitute judicial misconduct.

II. Recommendation

To his credit, Respondent has heretofore enjoyed an excellent reputation as a judge and has displayed great professionalism in the performance of his judicial duties. He has been recognized for his accomplishments, and he has received challenging judicial assignments that reflect deserved confidence in his ability.

In many ways, his life has typified the American dream. Born the thirteenth child in a modest family in the British colony of Guyana, he pursued the dream of a legal career through arduous years. Educated in Guyana through high school, he immigrated to the United Kingdom and there attended university, read law, and became a member of the British bar. Eventually he immigrated to America, obtained a clerical job, and earned a law degree from Rutgers Law School in order to become eligible for admission to the New Jersey bar. He became an Assistant Prosecutor in Passaic County and at age 50 was appointed a Judge of the Superior Court, the first Asian American so honored. Members of the clergy, the judiciary, and the legal community have all attested to his extraordinary life, his respect for the law, the fairness and dignity with which he conducted court, and his observance of strict decorum in his courtroom. His family life is exemplary. Not to find redemptive aspects of his character would be inconsistent with the record and with J.B.'s

own evaluation of Respondent's qualities as a judge. Not to find in Respondent a will and determination to continue to perform as a judge at the highest level would be inconsistent with his personal history and stellar achievements as a judge.

The present matter, however, touches on Respondent's judicial office because his conduct occurred in his chambers and because it involved his law clerk.

A judge has an obligation to treat all those who work under his or her supervision with dignity and respect. That is especially true in the case of the judge's law clerk, to whom the judge has a special responsibility, one that is very close to being in loco parentis. The judge is not only the law clerk's supervisor but also the clerk's tutor and mentor. Moreover, it is the judge who will be the clerk's single most important, if not only, reference in the search for a job in the legal profession at the end of the clerkship term.

As the Court observed in In re Seaman, supra, 133 N.J. 67,

> The judge-clerk relationship is unique. The importance of a judicial clerkship to the career of a young lawyer can be enormous. [] Judicial clerkships are marked by both strong dependence and a significant power imbalance between judge and clerk. [] The vulnerability of a clerk to a judge is even greater than in most supervisor-employee relationships. By alienating his or her judge, a clerk risks great professional jeopardy.

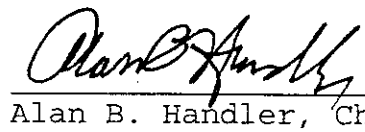
Id. at 94.

When a judge betrays the trust and responsibility inherent in the judge-law clerk relationship, as Respondent has done in his conduct toward J.B., severe disciplinary action should be taken. Were it not for the extensive and strong mitigating factors, the Committee would consider a more severe sanction to be appropriate. Given the totality of all the circumstances, the Committee considers the appropriate sanction to be censure.

III. Conclusion

For the foregoing reasons, the Advisory Committee on Judicial Conduct respectfully recommends that Respondent, Superior Court Judge Randolph M. Subryan, be censured.

Respectfully submitted,
Advisory Committee on Judicial Conduct

Dated: December 6, 2004 By: 
Alan B. Handler, Chair