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SUPREME COURT  
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SUPREME COURT OF NEW JERSEY  
ADVISORY COMMITTEE ON  
JUDICIAL CONDUCT

DOCKET NO.: ACJC 2016-377

IN THE MATTER OF

CAROLYN E. WRIGHT  
JUDGE OF THE SUPERIOR COURT

PRESENTMENT

The Advisory Committee on Judicial Conduct (the "Committee" or "ACJC") hereby presents to the Supreme Court its Findings and Recommendation in this matter in accordance with Rule 2:15-15(a) of the New Jersey Court Rules. The Committee's findings demonstrate that the charges set forth in the Formal Complaint issued against Carolyn E. Wright, Judge of the Superior Court ("Respondent"), which relate to Respondent's inappropriate involvement in her family friend's uncontested matter which created the risk that her judicial office could be influential in the court's processing of his matter, have been proven by clear and convincing evidence. As a result of these findings, the Committee respectfully recommends that Respondent be publically reprimanded for her misconduct.

I. PROCEDURAL HISTORY

This matter was initiated after the Committee received an ACJC "Complaint Form" dated August 12, 2016 from the Honorable Sallyanne Floria, Assignment Judge for the Essex Vicinage ("Judge

Floria"). P-9. Multiple documents were annexed to Judge Floria's "Complaint Form," including her August 12, 2016 "Memorandum" to the Committee detailing her knowledge of the subject incident, an August 10, 2016 "Memorandum" written by Joseph Wright, Assistant Family Division Manager, and sent to Karen Smith, Family Division Manager, concerning Respondent's interactions with court personnel in the Family Division Intake Unit ("Intake Unit"), and a copy of a handwritten note dated August 5, 2016 from Respondent to Mariela Gabriel, Senior Probation Officer. Ibid.

Upon its review of Judge Floria's "Complaint Form" along with multiple attachments, the Committee concluded that it was appropriate to conduct an investigation into this matter. The investigation included the interviews of several individuals of the Essex Vicinage, including four court staff members, three Superior Court judges, and Respondent. See P-1 through P-8.

On May 1, 2017, the Committee issued a Formal Complaint against Respondent, charging her with having engaged in conduct that violates Canon 1, Rule 1.1 and Canon 2, Rule 2.1 and Rule 2.3(A) of the Code of Judicial Conduct in light of her decision on August 5, 2016 to immerse herself in the scheduling and processing of her longstanding friend's impending, uncontested application<sup>1</sup>

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<sup>1</sup> See Transcript of Formal Hearing, pgs. 20-21.

to obtain legal custody of his grandchild due to concerns regarding medical insurance coverage. R. 2:15-12.

Respondent, through her counsel Joseph P. La Sala, Esq. and William F. O'Connor, Jr., Esq. of McElroy, Deutsch, Mulvaney & Carpenter, LLP., filed on June 20, 2017 a "Verified Answer" to the Committee's Formal Complaint, wherein Respondent admitted certain factual allegations, offered clarification and elaboration regarding some allegations, denied others and denied violating the cited Canons of the Code of Judicial Conduct.

Pursuant to Rule 2:15-13(a), the Presenter, by way of letter dated June 23, 2017, provided to Respondent the discovery documents<sup>2</sup> that would be relied upon to sustain the disciplinary charges asserted in the Formal Complaint. By letter dated June 6, 2018, Presenter provided to Respondent supplemental discovery documents.<sup>3</sup> Reciprocal discovery was requested by the Presenter on June 23, 2017 and August 7, 2017. R. 2:15-13(b) Respondent did not produce any discovery.

On June 26, 2018, the Presenter and Respondent jointly filed Stipulations with the Committee regarding the salient facts under consideration in this matter, wherein they agreed to all facts materially relevant to the allegations set forth in the Formal Complaint.

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<sup>2</sup> These materials were *Bates* stamped ACJC 00001 through ACJC 00266.

<sup>3</sup> These materials were *Bates* stamped ACJC 00267 through ACJC 00282.

The Committee convened a Formal Hearing at the Richard J. Hughes Justice Complex on June 27, 2018. R. 2:15-12(d). Respondent appeared, with her counsel, and offered mitigation testimony to explain and provide context to the circumstances surrounding the events that led to the filing of disciplinary charges. No other witnesses were called, as the Presenter and Respondent previously agreed by way of Stipulations filed on June 26, 2018 to all material facts. Exhibits were offered by the Presenter and Respondent, all of which were admitted into evidence. See Presenter's Exhibits P-1 through P-10; see also Respondent's Exhibits R-1 through R-4. Pursuant to Rule 2:15-14(g), the Committee provided the opportunity for post-hearing briefs, which were submitted by the Presenter and Respondent on July 6, 2018 and July 11, 2018, respectively. After carefully reviewing all of the evidence, the Committee makes the following findings, supported by clear and convincing evidence, which form the basis for its recommended discipline.

## II. FINDINGS

Respondent is a member of the Bar of the State of New Jersey, having been admitted to the practice of law in 1985. See Formal Complaint and Verified Answer at ¶1. At all times relevant to this matter, Respondent served and continues to serve as a judge of the Superior Court of New Jersey, assigned to the Family Division in the Essex Vicinage. Stipulations at ¶2.

On August 5, 2016, Benjamin Hayes ("Hayes") stopped by Respondent's Chambers. Id. at ¶3. Hayes is a family friend with whom Respondent became acquainted through her mother, who taught Hayes in pre-school many years earlier. Ibid. Hayes advised Respondent that he was in the courthouse seeking temporary custody of his grandson and had the consent of his grandson's parents. Ibid. Hayes showed Respondent the paperwork he received from court personnel in the Intake Unit. Ibid. Respondent reviewed the paperwork and concluded that they did not appear to include the correct forms for Hayes to complete to obtain the relief he sought. Ibid.

Then, Respondent told Hayes that because she was on her way out of the courthouse for lunch, Respondent would accompany him to the Intake Unit and assist him in obtaining the appropriate forms. Id. at ¶4. During their time at the Intake Unit, Respondent wore around her neck her red judiciary lanyard containing an identification holder. Id. at ¶5. The Judiciary issues red lanyards to judges and issues blue lanyards to all other Judiciary employees. Ibid. Upon their arrival to the reception area of the Intake Unit, Respondent asked for Damaris Alvarado ("Alvarado"), Court Services Supervisor II, who Respondent already knew from her prior Non-Dissolution ("FD") assignment in the Family Division. Id. at ¶6. Respondent was advised that Alvarado was not there. Ibid. Next, Respondent approached Senior Probation Officer Mariela

Gabriel ("Gabriel") and told her that she had an FD related question. Id. at ¶7. Respondent provided Gabriel with information concerning Hayes' situation and her belief that Hayes was provided the incorrect forms to complete, as the parties had never been in court before and Hayes already obtained consent from his grandson's parents for the sought after modification to the custodial designation. Id. at ¶8. After inquiring with Hayes about his circumstances, Gabriel determined which forms were appropriate, provided them to Hayes, and directed him to the lobby area to complete the forms. Id. at ¶9.

Thereafter, Respondent inquired with Gabriel about which judge was assigned to emergent duty that day. Id. at ¶10. Upon learning from Gabriel that the Honorable Nora J. Grimbergen, J.S.C. ("Judge Grimbergen") was assigned to emergent duty, Respondent left the Intake Unit and went to Judge Grimbergen's courtroom. Id. at ¶¶9-10. Respondent told Judge Grimbergen that she had an FD related question and provided her with information about Hayes' matter. Id. at ¶11. Respondent asked Judge Grimbergen about her afternoon schedule and Judge Grimbergen indicated to Respondent that she had a busy afternoon court session. Ibid. Then, Respondent returned to the Intake Unit and advised Gabriel about Judge Grimbergen's busy afternoon schedule and that Hayes could return to the courthouse on the upcoming Monday. Id. at ¶12. Gabriel

advised Respondent that she would bring Hayes to her desk so he could complete the application for the relief he sought. Ibid.

Shortly thereafter, Respondent went out for lunch and saw Alvarado while walking near the courthouse. Id. at ¶13. Respondent told Alvarado that she looked for her earlier at the Intake Unit for guidance on the Hayes matter and explained to her Hayes' situation. Ibid.

Later that same day, Respondent left a handwritten note addressed to Gabriel wherein she apologized if she made Gabriel uncomfortable by approaching her. Id. at ¶14. See P-2. Respondent's note to Gabriel also contained an acknowledgement that Respondent should not have involved herself in Hayes' matter. Stipulations at ¶14. The court employees who interacted with Respondent on August 5, 2016 were aware of Respondent's status as a Judge of the Superior Court. Id. at ¶16.

Karen Smith, Family Division Manager, later informed the Honorable David B. Katz, J.S.C. ("Judge Katz"), Presiding Judge of the Family Division, of the circumstances surrounding Respondent's actions earlier that day while at the Intake Unit in respect of Hayes. Id. at ¶17. Judge Katz telephoned Respondent that afternoon to request that she meet with him to discuss the matter and recommended to Respondent that she review the Judiciary's policy concerning a jurist's involvement in litigation. Id. at ¶18.

On Monday, August 8, 2016, Respondent met with Judge Katz and Judge Floria to discuss what occurred on the preceding Friday, August 5, 2016. Id. at ¶19. Respondent advised them that she felt badly because she knew her actions would result in the out-of-county transfer of Hayes' matter and thus, delay his efforts in obtaining the relief he sought. Ibid. Respondent apologized and expressed her deep regret for getting involved on behalf of Hayes. Ibid.

On August 8, 2016, per the instructions of Judge Katz, Respondent filled out and signed the form titled "New Jersey Judiciary - Judge's Personal or Family Member Involvement in Litigation Report." Id. at ¶20; See P-8 at ACJC 00265. Gabriel later notified Hayes that his matter was transferred to Hudson County. Stipulations at ¶21.

### III. ANALYSIS

The burden of proof in judicial disciplinary matters is clear-and-convincing evidence. Rule 2:15-15(a). Clear-and-convincing evidence is that which "produce[s] in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established, evidence, so clear, direct and weighty and convincing as to enable the factfinder to come to a clear conviction, without hesitancy, of the precise facts in issue." In re Seaman, 133 N.J. 67, 74 (1993) (citations and internal quotations omitted).



In this judicial disciplinary matter, Respondent has been charged with violating Canon 1, Rule 1.1, and Canon 2, Rule 2.1 and Rule 2.3(A) of the Code of Judicial Conduct as a result of her demonstrating poor judgment on August 5, 2016 when she imprudently involved herself in the private matter of her family friend and attempted to assist him in obtaining the relief he sought.

We find, based on our review of the significant evidence of record, that these asserted disciplinary charges have been proven by clear and convincing evidence and as such, Respondent violated the cited Canons of the Code of Judicial Conduct. Consequently, Respondent is subject to discipline.

Respondent is charged with the duty to abide by and enforce the provisions of the Code of Judicial Conduct. Rule 1:18 ("It shall be the duty of every judge to abide by and to enforce the provisions of the Rules of Professional Conduct, the Code of Judicial Conduct and the provisions of R. 1:15 and R. 1:17.")

Canon 1, Rule 1.1, requires judges to "participate in establishing, maintaining and enforcing, and . . . [to] personally observe, high standards of conduct so that the integrity, impartiality and independence of the judiciary is preserved."

Canon 2, Rule 2.1, requires judges to "act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary, and . . . [to] avoid

impropriety and the appearance of impropriety." As the Commentary to Canon 2, Rule 2.1 explains:

Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety and appearance of impropriety and must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions on personal conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.

Code of Judicial Conduct.

This Commentary emphasizes the special role that judges play in our society and the significance of their public comportment. "[J]udges have a special responsibility because they are 'the subject of constant public scrutiny;' everything judges do can reflect on their judicial office. When judges engage in private conduct that is irresponsible or improper, or can be perceived as involving poor judgment or dubious values, '[p]ublic confidence in the judiciary is eroded.'" In re Blackman, 124 N.J. 547, 551 (1991). As recognized by our Supreme Court, adherence to this principle is of the utmost importance. In re Santini, 126 N.J. 291, 298 (1991); see also In re Murray, 92 N.J. 567, 571 (1983); In re Hardt, 72 N.J. 160, 166-167 (1977).

Canon 2, Rule 2.3(A) prohibits a judge from lending the prestige of the judicial office to advance "the personal or economic interests of the judge . . . ." As the Commentary to Canon 2, Rule 2.3 explains:

It is improper for judges to use or attempt to use their position to gain personal advantage or deferential treatment of any kind. For example, it would be improper for a judge to allude to his or her judicial status to gain favorable treatment in encounters with others, such as persons in official positions and members of the public.

Code of Judicial Conduct.

In the instant matter, the evidence presented demonstrates, clearly and convincingly, that Respondent failed to conduct herself in a manner consistent with the above referenced high ethical standards. Respondent's actions on August 5, 2016 constitute violations of the Code of Judicial Conduct for which public discipline is warranted.

As our Supreme Court made clear almost two decades ago, those fortunate enough to hold judicial office are bestowed with tremendous power "on the condition that [they] not abuse or misuse it to further a personal objective." In re Samay, 166 N.J. 25, 43 (2001) Indeed, each judge, upon assuming the bench, takes an oath to "faithfully, impartially and justly perform all the duties of judicial office." Ibid. (citing N.J.S.A. 41:1-3).

Having concluded that Respondent violated Canon 1, Rule 1.1 and Canon 2, Rule 2.1 and Rule 2.3(A) of the Code of Judicial Conduct, the sole issue remaining is the appropriate quantum of discipline. In our consideration of this issue, we are mindful that the primary purpose of our system of judicial discipline is to preserve the public's confidence in the integrity and

independence of the judiciary, not to punish an offending judge. In re Seaman, supra, 133 N.J. at 96 (1993). Relevant to this inquiry is a review of both the aggravating and mitigating factors that may accompany judicial misconduct. Id. at 98-100. The aggravating factors to consider when determining the gravity of judicial misconduct include the extent to which the misconduct demonstrates a lack of integrity and probity, a lack of independence or impartiality, misuse of judicial authority that indicates unfitness, and whether the conduct has been repeated or has harmed others. Id. at 98-99. The Committee finds that no aggravating factors have been presented.

Factors considered in mitigation include the length and quality of the judge's tenure in office, the judge's sincere commitment to overcoming the fault, the judge's remorse and attempts at apology, and whether the inappropriate behavior is susceptible to modification. See In re Subryan, 187 N.J. 139, 154 (2006). In respect of any mitigating factors, the record before us includes four character letters submitted by attorneys on behalf of the Respondent. See R-1 through R-4. We recognize and commend the Respondent's service on the bench since 2009, more than nine years, which included assignments in the Family, Civil, and Criminal Divisions. We also note that Respondent's disciplinary history with the Committee is flawless as it relates to public discipline. Furthermore, Respondent's testimony at the Formal

Hearing reflected sincere remorse and contrition. Additionally, we find entirely credible Respondent's expression of repentance and acknowledge that while not an excuse for her behavior, her actions on August 5, 2016 were genuinely motivated by a desire, albeit misguided, to provide assistance to someone in need. Moreover, this Committee finds nearly nonexistent the likelihood that Respondent will engage again in this sort of unbecoming conduct.

Indeed, we find significant the mitigating factors present here and when coupled with the lack of aggravating factors, believe that Respondent's abuse of the judicial office warrants a public reprimand. See In re Isabella, 217 N.J. 82 (2014) (admonishing judge for using his judicial stationery to intervene in a school board matter involving his girlfriend's child); In re Muller, 208 N.J. 435 (2011) (reprimanding municipal court judge for improperly invoking her judicial office in a private matter while disrespecting police officers and demonstrating a lack of professionalism and courtesy); In re Anastasi, 76 N.J. 510 (1978) (reprimanding a municipal court judge for sending a letter on behalf of a former client to the New Jersey Racing Commission on his official stationery).

#### IV. RECOMMENDATION

For the foregoing reasons, the Committee recommends that Respondent be publically reprimanded for her conduct violative of Canon 1, Rule 1.1 and Canon 2, Rule 2.1 and Rule 2.3(A) of the

Code of Judicial Conduct. This recommendation takes into account Respondent's ethical infractions along with the mitigating factors and lack of aggravating factors present in this case, which justify the quantum of discipline recommended.

Respectfully submitted,

ADVISORY COMMITTEE ON JUDICIAL CONDUCT

August 7, 2018

By:

Virginia A. Long  
Virginia A. Long, Chair