

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

IN RE:

Allan Clifford Berkhimer,
District Justice In and For;
Magisterial District 47-3-06;
Cambria County

:
:
: No. 1 JD 03
:
:
:

JUL 15 10 15 AM '03
RECEIVED AND FILED
COURT OF
JUDICIAL DISCIPLINE
OF PENNSYLVANIA

ORDER

AND NOW, this 15th day of July, 2003, a Sanction Hearing having been held on June 24, 2003, in view of the stipulated evidence and of Respondent's candid admission that his conversation with the arresting officer "crossed the line," and upon consideration of Respondent's faithful and exemplary performance of the duties of his judicial office for over fifteen years, and of his record of unselfish service in the affairs of his community, and in consideration of Respondent's demonstration at the bar of this Court of a deep and sincere regret and embarrassment for the shame which he has inflicted on his office, his family and himself, the Court hereby enters the sanction of reprimand.

PER CURIAM

Leadbetter, J., files a dissenting opinion.

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

IN RE: :
 :
 :
 Allan Clifford Berkheimer, : No. 1 JD 03
 District Justice In and For; :
 Magisterial District 47-3-06; :
 Cambria County :

DISSENTING STATEMENT OF JUDGE LEADBETTER

I must respectfully dissent from the sanction order imposed by the court in this matter. Based upon facts to which the parties stipulated, we found in our decision of May 20, 2003:

It is beyond any dispute that when Respondent “approached” Officer Kosmac, the arresting officer, and “discussed the charges against Dean George pending before District Justice Decort in a manner understood to effectuate a specific outcome,” he was “interfering with the systematic or normal functions of the court.”³

³ Although the Stipulations of Fact seem to carefully avoid stating that the discussion of the charges with Officer Kosmac had to do with a reduction of the charges and that the “specific outcome” sought was elimination of the DUI charge, it is perfectly clear that that was the case, for, after the discussion, Officer Kosmac did reduce the charges and did eliminate the DUI charge.

Opinion at p. 7.¹

¹ Having admitted this conduct, Respondent attempted at the sanction hearing to paint the conversation as an innocent one during which he thoughtlessly “crossed the line” by expressing sympathy for Mr. George. I found this testimony to be wholly incredible, and at all events contrary to his specific admission and this court’s factual finding.

Although there may be more egregious examples than this one, I can think of few infractions of the judicial rules more serious than that of a judge using the authority of his office to influence the result in a pending case. In my judgment when such conduct is established, substantial sanctions are not only merited but are necessary to maintain public confidence in the integrity of the judiciary.

Accordingly, I would impose a suspension of at least ninety days without pay.