

Judicial Conduct Board

Commonwealth of Pennsylvania



Joseph A. Massa, Jr., Chief Counsel
717-234-7911

Press Release

September 24, 2010

TO: Media/Press

FROM: Judicial Conduct Board

**SUBJECT: Thomas Carney,
Magisterial District Judge;
Magisterial District 06-1-03;
Erie County
2 JD 2010**

Harrisburg. The Judicial Conduct Board has announced today that it has instituted formal proceedings against Magisterial District Judge Thomas Carney of Erie County. A Board Complaint has been filed with the Court of Judicial Discipline in Harrisburg.

The Board Complaint alleges that Magisterial District Judge Carney has violated Rules Governing Standards of Conduct of Magisterial District Judges and has brought disrepute to the Pennsylvania Judiciary by: (1) making public statements concerning pending and impending criminal cases; (2) his involvement in the Anti-Graffiti Talk Force; and (3) his conviction of summary offenses concerning a January 11, 2009 incident on Interstate 79 in Mercer County.

In accordance with the rules which govern proceedings before the Court of Judicial Discipline, Magisterial District Judge Carney has an opportunity to respond to the charges, obtain and inspect the evidence which forms the basis of the allegations and the right to a public trial before the Court of Judicial Discipline.

Upon completion of the trial, if the Court determines that the charges have been proven by clear and convincing evidence, it will schedule a Sanctions Hearing to determine what sanctions should be imposed upon the magisterial district judge for violating the Rules Governing Standards of Conduct of Magisterial District Judges and the Pennsylvania Constitution. Possible sanctions include reprimand and restriction of future judicial employment.

Counsel

Board: Joseph A. Massa, Jr. – Chief Counsel

Respondent: David G. Ridge, Esquire

Contact: Joseph A. Massa, Jr., Chief Counsel

Board Complaint is attached.

For more information about the Judicial Conduct Board, please visit our website at www.jcbpa.org.

END

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

RECEIVED AND FILED
COURT OF
JUDICIAL DISCIPLINE
OF PENNSYLVANIA

2010 SEP 24 A 10: 23

In re:

Thomas Carney :
Magisterial District Judge :
Magisterial District 06-1-03 : 2 JD 2010
Erie County :

NOTICE OF FORMAL CHARGES

TO: THOMAS CARNEY, MAGISTERIAL DISTRICT JUDGE:

The Pennsylvania Judicial Conduct Board has determined that there is probable cause to file formal charges against you for conduct proscribed by Article V, §§ 17 and 18 of the Constitution of the Commonwealth of Pennsylvania. The Board's counsel will present the case in support of the charges before the Pennsylvania Court of Judicial Discipline.

You have an absolute right to be represented by a lawyer in all proceedings before the Court of Judicial Discipline. Your attorney should file an entry of appearance with the Court of Judicial Discipline within fifteen (15) days of service of this Board Complaint in accordance with Court of Judicial Discipline Rules of Procedure C.J.D.R.P. No. 110.

You are hereby notified, pursuant to C.J.D.R.P. No. 302(B), that should you elect to file an omnibus motion, that motion should be filed no later than thirty (30) days after the service of this complaint in accordance with C.J.D.R.P. No. 411.

FORMAL COMPLAINT

AND NOW, this 24th day of September, 2010 comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (hereinafter "Board") and files this Board Complaint against Magisterial District Judge Thomas Carney, (hereinafter "Respondent"), a Magisterial District Judge in Erie County, Pennsylvania, alleging that the Respondent has violated the Rules Governing Standards of Conduct of Magisterial District Judges, and Article V, §§ 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania, as more specifically delineated herein.

1. This action is taken pursuant to the authority of the Board under Article V, § 18 of the Constitution of the Commonwealth of Pennsylvania by which the Board is granted authority to determine whether there is probable cause to file formal charges, and, when it concludes that probable cause exists, to file formal charges, against a justice, judge, or magisterial district judge, for proscribed conduct and to present the case in support of such charges before the Court of Judicial Discipline.

2. Since on or about January 2, 2006, and at all times relevant hereto, the Respondent has served continuously to the present as Magisterial District Judge of Magisterial District 06-3-03, Erie County, Pennsylvania, encompassing the City of Erie-Ward 3, with an office located at 718 West 18th Street, Erie, Pennsylvania 16502. As a Magisterial District Judge, he is, and at all times relevant hereto, subject to all the duties and responsibilities imposed on him by the Rules Governing Standards of Conduct of Magisterial District Judges and the Constitution of Pennsylvania. The Respondent is charged with violating his judicial duties as set forth in the following paragraphs.

FORMAL CHARGES

Public statement concerning pending criminal case

3. On or about November 25, 2007, Tyra Butler, age 38 and her 16 year old son were charged by police with Criminal Conspiracy to Commit Robbery and Possessing Instruments of a Crime. Butler was charged additionally with Corrupting the Morals of a Minor.

4. Butler was arraigned before the Respondent, who set bail at \$50,000 cash. Butler was unable to post bail and was remanded to the Erie County Prison. Butler's son was remanded to the Edmund L. Thomas Adolescent Center.

5. An article appearing in the Erie Times-News on November 26, 2007, quoted Respondent as follows:

"There have been a lot of robberies lately and we want to send a message that this will not be tolerated."

Public statements concerning impending criminal cases

6. On April 25, 2008, 6:00 p.m. newscast, WICU-TV, in Erie, Pennsylvania, aired several segments throughout the newscast of Respondent speaking with a reporter about recent robberies and beatings in Erie, Pennsylvania.

6.1 Segment No. 1:

REPORTER: How many times did they stab you?

VICTIM: Three times.

REPORTER: Three times?

VICTIM: Three times. Here (lower back), here (side) and here (beneath shoulder blade).

REPORTER: Steve Lehner was brutally attacked at random by a 15 and 16 year old kid as he was walking home carrying a bag of groceries. He says they hit him on the back of his head with a brick and stabbed him.

LEHNER: Kids just approached me from across the street and they followed me up to Cochran Street...and they just jumped me and...they stabbed three times. It was a random thing, if it hadn't been me, it would have been somebody else.

REPORTER: Lehner spent about a week in the hospital recovering. 15 year old Jacob Sterling and 16 year old Adam Brown are facing adult charges of aggravated assault for the attack. District Judge Tom Carney arraigned them.

CARNEY: *The last one I just had, where the kids beat that guy in the back of the head with a brick and stabbed him in the back and lacerated his liver...\$50,000 cash. They went to the Erie County Prison, 16 and 17 years old...not to M & L (unclear). They have to realize they have to pay for their crime and society is going to start to take a more of a swift and hard approach to this.*

REPORTER: Lehner says he hopes the kids that attacked him, get that message that the law is sending.

LEHNER: Mad, I'd be real mad, anger. But I also want to say that I can forgive them for what they did. But, ah...I'm going to have justice. If you're going to do something like that, ya know, if you're adult enough to do it, you're adult enough, ya know, to be charged like an adult.

6.2 Segment No. 2:

REPORTER: Kids, charged with serious crimes and walking into courtrooms to pay for them. Something that Judge Carney says he's seeing a lot of, but hopefully, not for long.

CARNEY: *If these kids don't start getting the message, they're going to find out the hard way. They better start listening and learning because we're going to be coming down on them.*

REPORTER: (To victim) So they didn't say give me your money?

VICTIM: No, no.

REPORTER: In Erie, Emily Matson, WICU 12 News.

6.3 Segment No. 3

REPORTER: On February 8th, a Millcreek family is approached by a group of teenagers while walking to the car after a basketball game. The teens allegedly attacked the father, he wound up in the hospital. Erie Police ended up charging the kids with assault. A week later, on February 14th, an East teacher was beaten with a belt. It happened right after school. Three students were charged with felony assault for that crime. Then on March 24th, three 18 year olds allegedly broke into a home on Ross Street and beat an elderly man with a mop handle. Police say they also robbed him. All three are facing several charges, including robbery and assault. The 84 year old victim of that home invasion, died last week of a stroke.

REPORTER: On March 30th, a man was randomly attacked while carrying a bag of groceries home. A 15 and a 16 year old were both charged as an adult for the attack. They allegedly hit the victim with a brick and stabbed him several times.

REPORTER: Meanwhile, District Judge Tom CARNEY says he seeing more and more kids walk into his courtroom charged with violent crimes like these.

CARNEY: *Today, it's a regular part of the job...that I have to tell these young kids, 15 years of age or older, 16 and 17, that you have done a violent crime, you're being treated as an adult under the Fisher Bill, you're being charged as an adult. They gotta realize that if they're going to do serious crime, they're going to be charged as an adult, and they're going to be...uhm...prosecuted as an adult. These guys, they committed serious crimes and society is looking at the crime, not the age. 35% of those kids come from single-parent families. What's happening in this society, our parents raised (emphasis) us. These kids today, they're getting raised at school, or they're getting street wise.*

Respondents involvement with the Anti-Graffiti Task Force

7. Prior to January 5, 2008, Erie Mayor Joseph E. Sinnott announced the formation of an Anti-Graffiti Task Force, under the direction of the Respondent, with the goals of:
 - 7.1. identifying, tracking and removal of graffiti;
 - 7.2. creation of brochures and public service announcements;

7.3. to identify and prosecute “taggers” to the fullest extent of the law and to pursue full restitution for their crimes; and

7.4. to assist the City of Erie and local businesses in removing graffiti from their property.

8. In an article in the Erie Times-News on January 5, 2008, Respondent was quoted as saying: *“It’s (graffiti) a real problem that’s growing worse by the day, especially in the inner city.”* He was further quoted as saying, *“Dennis Braendel offered to donate funds to come up with a solution, and many others have volunteered their time, so we’re putting together a group to address the problem.”*

9. In an article in the Erie Times-News on March 21, 2008, it was reported that Respondent said that the Task Force would seek community help in identifying the vandals and would suggest tougher fines for violations. He was further quoted as saying:

“We think graffiti’s ugly.” “It’s criminal in nature, and we’re going to work our hardest to abate it.”

10. On June 25, 2008, Respondent appeared on the early morning newscast of WJET-TV in Erie, Pennsylvania. Respondent and the Reporter engaged in a dialogue as follows:

REPORTER: The Graffiti Task Force is brainstorming new ways to clean up our local neighborhoods...

The task force met yesterday to come up with ideas on how to stop the unwanted art that is being spread throughout the community. Before each block party they will be cleaning up the graffiti on street signs and mail boxes to make downtown as appealing as possible.

They are also trying to get a grant so they are able to buy cameras to put up in trees and polls [sic] to catch any vandals in action.

CARNEY: *This isn't just de minimus crime that's fines and costs could be substantial and that when they tag banks, schools, and a synagogue like some just recently tagged a synagogue at 10th & Liberty, that's institutional vandalism. That's a serious crime.*

REPORTER: This community service project is ongoing at no cost for the tax payers.

11. In an editorial in the Erie Times-News on July 23, 2008, entitled "Graffiti fighters lead the way," Respondent was identified as a leader of the Anti-Graffiti Task Force. One of the ideas for the Task Force which Respondent had described to the Erie Times-News was setting up a reward fund "*for any good Samaritan (who can) help us and assist us*" in catching vandals in the act or after the act. Respondent stated that a local businessman had donated \$2,000 to start the reward fund. People were asked to call Respondent's office at 451-6528 if they could make contributions.

Gun incident and subsequent conviction of summary offenses

12. On January 11, 2009, after having attended a Pittsburgh Steelers football game at Heinz Field, Pittsburgh, Respondent was driving northbound on Interstate 79, enroute to Erie.

13. Approximately 4-5 miles north of Exit 105 (Slippery Rock exit), Respondent drove up behind a vehicle driven by Nico Baldelli, a freshman at Mercyhurst College-North East, in the left-hand lane, wanting to pass. Respondent flashed his high beams but Baldelli continued to drive in the left-hand lane.

14. Eventually, Respondent moved into the right hand lane and passed Baldelli and his passenger, Ryan J. Tanner, his college roommate. While passing Baldelli and Tanner, Respondent had his interior light on, and he displayed his middle finger to Baldelli.

15. Baldelli flicked his high beams when Respondent passed. Respondent then slowed down until Baldelli's car was again beside his, and he again displayed his middle finger to Baldelli. Baldelli returned the gesture. Respondent then retrieved a silver Walther PPK/S .380 caliber handgun out of his center console, rolled down the car window, extended his arm out the window and displayed it to Baldelli. He did not point it at Baldelli.

16. On June 15, 2009, the Pennsylvania State Police filed charges accusing Respondent of:

16.1 Terroristic Threats (18 Pa. S.C.A. §2706—Misdemeanor 1st Degree);

16.2 Simple Assault (18 Pa. C.S.A. §2701 (A)(3)—Misdemeanor 3rd Degree);

16.3 Disorderly Conduct (18 Pa. C.S.A. §5503 (A)(4)—Misdemeanor 3rd Degree); and,

16.4 Recklessly Endangering Another Person (18 Pa. C.S.A. §2705—Misdemeanor 2nd Degree).

17. On August 6, 2009, Magisterial District Judge Lorinda L. Hinch, of Magisterial District 35-3-01, Mercer County, presided at Respondent's preliminary hearing. Following testimony, Judge Hinch dismissed all charges against Respondent.

18. Subsequently, the Pennsylvania State Police re-filed charges accusing Respondent of two (2) misdemeanor counts each of: Terroristic Threats, Simple Assault, Recklessly Endangering Another Person and Disorderly Conduct.

19. On November 10, 2009, Respondent pled guilty to two (2) summary offenses of Disorderly Conduct and was ordered to pay fines and costs totaling \$541.00. In exchange for the plea, the Mercer County District Attorney's Office dropped all other charges against Respondent.

By virtue of some, or all of the facts, alleged in paragraphs two (2) through fifteen (15) of this Board Complaint, the Respondent is subject to discipline pursuant to Article V, §18(d)(1) of the Pennsylvania Constitution for the following reasons:

COUNT 1: The Respondent has violated Article V, §18(d)(1) of the Pennsylvania Constitution by engaging in activity which brings the judicial office into disrepute.

COUNT 2 : The Respondent has violated Rule 2A of the Rules Governing Standards of Conduct of Magisterial District Judges which provides:

A. Magisterial District Judges shall respect and comply with the law and shall conduct themselves at all times in a manner that promotes public confidence in the integrity and impartiality of the Judiciary.

COUNT 3: Respondent has violated Rule 6 of the Rules Governing Standards of Conduct of Magisterial District Judges which provides in relevant part:

Magisterial District Judges shall abstain from public comment about a proceeding pending or impending in their offices or in any court...

COUNT 4: Respondent has violated Rule 8A(1), which provides in relevant part:

(A) Magisterial District Judges shall disqualify themselves in a proceeding in which their impartiality might reasonably be questioned, including but not limited to instances where:

(1) they have a personal bias or prejudice concerning a party...

COUNT 5: The Respondent has violated Rule 2(A) of the Rules Governing Standards of Conduct of Magisterial District Judges by allowing a relationship to influence his judicial conduct or judgment and by lending the prestige of his office to advance a private interest of others.

COUNT 6: Respondent has violated Rule 11 of the Rules Governing Standards of Conduct of Magisterial District Judges which provides:

A Magisterial District Judge shall not solicit funds for any educational, religious, charitable, fraternal or civic organization, use or permit the use of their office for the purpose.

COUNT 7: Respondent has violated Article V, §18(d)(1) of the Pennsylvania Constitution by engaging in conduct which bring the judicial office into disrepute.

WHEREFORE, Thomas Carney, the Magisterial District Judge named in these charges, is subject to disciplinary action pursuant to the Constitution of the Commonwealth of Pennsylvania, Article V, § 18(d)(1).

Respectfully submitted,

Date: September 24, 2010


Joseph A. Massa, Jr., Chief Counsel
Pa. Supreme Court No. 6467

Judicial Conduct Board
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 3500
P.O. Box 62525
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(717) 234-7911

COMMONWEALTH OF PENNSYLVANIA

COURT OF JUDICIAL DISCIPLINE

In re:

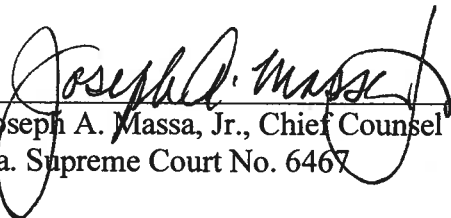
Thomas Carney :
Magisterial District Judge :
Magisterial District 06-1-03 : 2 JD 2010
Erie County :

VERIFICATION

I am the Chief Counsel for the Judicial Conduct Board and I am authorized to make this verification and file the foregoing *BOARD COMPLAINT*. I verify that the Judicial Conduct Board found probable cause to file the formal charges contained in the Board Complaint. I understand that the statements herein are made subject to the penalties of 18 Pa. Cons. Stat. Ann. Section 4904, relating to unsworn falsification to authorities.

Respectfully submitted,

Date: September 24, 2010



Joseph A. Massa, Jr., Chief Counsel
Pa. Supreme Court No. 6467

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COMMONWEALTH OF PENNSYLVANIA

COURT OF JUDICIAL DISCIPLINE

In re:

Thomas Carney :
Magisterial District Judge :
Magisterial District 06-1-03 : 2 JD 2010
Erie County :

PROOF OF SERVICE

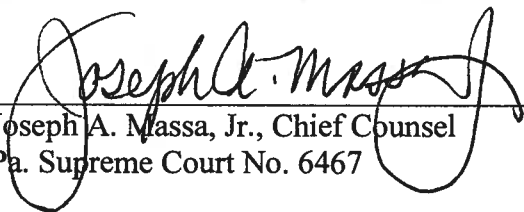
In compliance with Rule 122(D) of the Court of Judicial Discipline Rules of Procedure, on September 24, 2010, a copy of this *BOARD COMPLAINT* was sent by U.S. Mail to counsel for the Respondent:

David G. Ridge, Esquire
Ridge & McLaughlin
Attorneys at Law
246 West Tenth Street
Erie, PA 16501

Certified Mail No. 7161 7145 5370 3333 5897
Return Receipt Requested

Respectfully submitted,

Date: September 24, 2010



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Pa. Supreme Court No. 6467

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