



Judicial Conduct Board
Commonwealth of Pennsylvania
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Press Release

July 18, 2006

TO: Media/Press
FROM: Judicial Conduct Board
SUBJECT: Court of Judicial Discipline Order of Court and Opinion
Wade J. Brown
Former Magisterial District Judge
Magisterial District 08-3-04
4 JD 2005

HARRISBURG. The Pennsylvania Court of Judicial Discipline has ruled that the conduct of former Magisterial District Judge Wade J. Brown was in violation of Rule 4C. of the Rules Governing Standards of Conduct of Magisterial District Judges. The decision was based on Brown's repetitive use of racially and ethnically inappropriate and insensitive language; his use of derogatory and demeaning language to or about his female employees; and behavior that was discourteous and ill-tempered towards his female employees.

The Order and Opinion can be found at the Board's website: www.jcbpa.org (On the home page, click on *Press Releases*)

The Board Proceedings

The Judicial Conduct Board filed an official complaint against Brown on December 9, 2005, on eight counts of misconduct. The Board charged that Brown was in violation of both Rule 2A. of the Rules Governing Standards of Conduct of Magisterial District Judges and Rule 4C. Brown answered the complaint on February 6, 2006. Brown voluntarily retired on July 3, 2005.

The Determination of the Court of Judicial Discipline

The Court of Judicial Discipline ruled on July 14, 2006. The Court concluded that five of the charges brought against Brown by the Board qualified as misconduct and were in violation of Rule 4C. Rule 4C. states that a judicial officer must be patient, dignified, and courteous to those with whom they deal in an official capacity.

The Court stated:

“We have no reluctance in finding that repeated use of ‘racially and ethnically insensitive and inappropriate terms in referring to minority members of the

community’ does not admit of the description of ‘dignified.’ Respondent’s conduct... cannot qualify as ‘noble’ or ‘stately’ or ‘dignified.’”

The Court also wrote that his repeated derogatory language toward female employees “surely is undignified and discourteous.” It was also noted that his frequent correction or criticism of his secretaries loudly and in the presence of third parties was neither patient, dignified, or courteous.

Brown is now subject to discipline under Article V, Section 18(d)(1) of the Pennsylvania Constitution. A hearing relating to the issue of sanctions will be scheduled at a later date.

Joseph A. Massa, Jr., Chief Counsel of the Judicial Conduct Board, commented that the Board is pleased with the ruling of the Court.

He stated:

“The Board felt strongly that, on repeated occasions, former Judge Brown failed to be patient, dignified and courteous to members of his staff. The Court’s ruling has vindicated the Board’s conclusion.”

Counsel

Board

Daniel T. Reimer, Assistant Counsel

Respondent

Samuel C. Stretton

Contact: Daniel T. Reimer, Assistant Counsel

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Note: Court Order and Opinion Attached

The Board has charged that Respondent's conduct set out in Part A (paragraphs 1-9 of the Complaint) constitutes:

1. conduct which brings the judicial office into disrepute, a violation of Article V, §18(d)(1) of the Pennsylvania Constitution (Count 1);
2. a violation of Rule 2A. of the Rules Governing Standards of Conduct of Magisterial District Judges by failing to conduct himself at all times in a manner promoting public confidence in the integrity and impartiality of the judiciary (Count 2);
3. a violation of Rule 4C. of the Rules Governing Standards of Conduct of Magisterial District Judges by failing to be dignified in the presence of those with whom he dealt in his official capacity (Count 3);

The Board has charged that Respondent's conduct set out in Part B (paragraphs 10-17 of the Complaint) constitutes:

4. a violation of Article V, §18(d)(1) of the Pennsylvania Constitution by engaging in conduct which brings the judicial office into disrepute (Count 4);
5. a violation of Rule 2A. of the Rules Governing Standards of Conduct of Magisterial District Judges by failing to conduct himself at all times in a manner promoting public confidence in the integrity and impartiality of the judiciary (Count 5);
6. a violation of Rule 4C. of the Rules Governing Standards of Conduct of Magisterial District Judges by failing to be patient, dignified and courteous to members of his staff, with whom he has dealt in his official capacity (Count 6).

The Board has charged that Respondent's conduct set out in Part C (paragraphs 18-23 of the Complaint) constitutes:

7. a violation of Article V, §18(d)(1) of the Pennsylvania Constitution by engaging in conduct which brings the judicial office into disrepute (Count 7);
8. a violation of Rule 4C. of the Rules Governing Standards of Conduct of Magisterial District Judges by failing to be patient,

dignified and courteous to members of his staff, with whom he has dealt in his official capacity (Count 8).

Proceeding in accordance with C.J.D.R.P. No. 502(F), the Board filed a Motion to Withdraw Counts 1, 4 and 7 which was granted upon a showing of good cause.

The Board and the Respondent have submitted Stipulations of Fact in Lieu of Trial under C.J.D.R.P. No. 502(D)(1) and a waiver of trial. The Court hereby accepts those stipulations in pertinent part, recited below, as the facts necessary for the disposition of this case.

II. FINDINGS OF FACT

1. The Board is empowered by Article V, §18 of the Constitution of the Commonwealth of Pennsylvania to file formal charges alleging misconduct on the part of justices, judges, or justices of the peace, and to present the case in support of the formal charges before the Pennsylvania Court of Judicial Discipline.

2. Respondent commenced his service as Magisterial District Judge serving Magisterial District 08-3-04 on or about January 5, 1976 and continued to hold office until his voluntary retirement on July 3, 2005.

3. Between June 13, 1977 and July 3, 2005 Respondent employed numerous women to work in his office as secretaries.

4. During that time and on a recurring basis, Respondent treated his female employees in a manner which demeaned and belittled them.

5. Respondent repeatedly used derogatory and demeaning terms when either referring to, or criticizing, his female employees, including “Alzheimer’s,” “PMS,” “senile,” “that time of the month,” “dumb blond,” “stupid,” “gold digger,” “menopause” and other demeaning terms.

6. Respondent's use of the foregoing terms caused numerous members of his female staff to suffer embarrassment and humiliation, and on occasion brought them to tears.

7. Respondent often corrected and/or criticized his secretaries loudly and in the presence of third parties, including members of law enforcement and the general public.

8. Respondent's public criticism of his secretaries caused them to suffer embarrassment and humiliation.

9. When angry, Respondent occasionally pounded his fists, slammed doors, threw files and other papers around the office and engaged in loud outbursts of anger.

10. Respondent, on innumerable occasions and in the presence of staff, used racially and ethnically insensitive and inappropriate terms in referring to minority members of the community.

11. Respondent occasionally used such terms in the presence of members of law enforcement.

12. Respondent did not use such racially and ethnically insensitive terms while on the bench or during official court proceedings.

13. Nonetheless, Respondent acknowledges that the use of such terms, even in private with members of his staff or law enforcement, was wholly inappropriate and unacceptable behavior for a member of the judiciary.

14. Respondent acknowledges and agrees that the following individuals would corroborate, either individually or collectively, some or all of the facts as set forth above:

Cheryl Bailey, former secretary of Respondent;
Wanda Snyder, former secretary of Respondent;

Christina Mertz, former secretary of Respondent;
Tina Heydt, former secretary of Respondent;
Joseph Jones, Sergeant of Sunbury Police Department;
Ricky Longenberger, former Sunbury police officer;
Glenn Masser, former constable of Respondent;
Gina Daya, former secretary of Respondent;
Gary Heckman, former Sunbury police officer;
Tyson Havens, Pennsylvania State police officer;
Susan Schwartz, former assistant public defender;
Brian Bailey, former constable of Respondent;
Sherry Roush, former secretary of Respondent;
Phyllis Smith, former secretary of Respondent;
Cindy Lark, former secretary of Respondent;
Constance Yagel, former secretary of Respondent;
Wilhelmina Booth, former secretary of Respondent.

15. Respondent acknowledges that some, or all, of the above-listed individuals would corroborate that he failed to treat female members of his staff in a patient, dignified and courteous manner and that his behavior caused them to suffer embarrassment and humiliation.

16. Respondent acknowledges that some, or all, of the above-listed individuals would corroborate that he used racially and ethnically insensitive and inappropriate terms when referring to minority members of the community.

III. DISCUSSION

It is the Board's position that the conduct described in Stipulations 10-13¹ and Stipulations 4-6² constitute violations of Rule 2A. of the Rules Governing Standards of Conduct of Magisterial District Judges (Counts 2 and 5) and Rule 4C. of the Rules Governing Standards of Conduct of Magisterial District Judges (Counts 3 and 6) and that

¹ These stipulations relate to the facts averred in Part A of the Complaint (use of racial epithets).

² These stipulations relate to the facts averred in Part B of the Complaint (demeaning female staff).

the conduct described in Stipulations 7-9³ constitutes a violation of Rule 4C. (Count 8).

We will address the applicability of Rule 2A. first.

Rule 2A. provides:

IMPROPRIETY AND APPEARANCE OF IMPROPRIETY TO BE AVOIDED.

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. Magisterial district judges shall not allow their family, social or other relationships to influence their judicial conduct or judgment. They shall not lend the prestige of their office to advance the private interest of others, nor shall they convey or permit others to convey the impression that they are in a special position to influence the judge.

As noted, it is in Counts 2 and 5 that the Board charges that Respondent's use of racial epithets (Count 2) and his demeaning treatment of his staff (Count 5) violated Rule 2A. In Counts 2 and 5 the Board charges that Respondent violated Rule 2A. "by failing to conduct himself at all times in a manner promoting public confidence in the integrity and impartiality of the judiciary."

On the basis of the repeated holdings of this Court⁴ we hold that none of the conduct of Respondent set forth in the Board's Complaint in either Part A or Part B constitutes a violation of Rule 2A. of the Rules Governing Standards of Conduct of Magisterial District Judges.

We turn, then, to consider the charges made in Count 3 of Part A, Count 6 of Part B, and Count 8 of Part C. These three Counts charge Respondent with violations of Rule

³ These stipulations relate to the facts averred in Part C of the Complaint (indecorous behavior toward staff).

⁴ See, In re Kelly, 757 A.2d 456 (Pa.Ct.Jud.Disc. 2000); In re Strock, 727 A.2d 653 (Pa.Ct.Jud.Disc. 1998); In re Joyce & Terrick, 712 A.2d 834 (Pa.Ct.Jud.Disc. 1998); In re Trkula, 699 A.2d 3 (Pa.Ct.Jud.Disc. 1997); In re Walters, 697 A.2d 320 (Pa.Ct.Jud.Disc. 1997); In re Cicchetti, 697 A.2d 297 (Pa.Ct.Jud.Disc. 1997), aff'd, 560 Pa. 183, 743 A.2d 431 (2000); and In re Smith, 687 A.2d 1229 (Pa.Ct.Jud.Disc. 1996).

4C. of the Rules Governing Standards of Conduct of Magisterial District Judges. That Rule provides:

4. ADJUDICATIVE RESPONSIBILITIES.

- C. Magisterial district judges shall be patient, dignified and courteous to litigants, witnesses, lawyers and others with whom they deal in their official capacity, and shall require similar conduct of lawyers, of their staff and others subject to their direction and control.

We note that in Count 3 of Part A of the Complaint the Board charged that the Rule is violated because by using racial epithets in his office in the presence of his office staff and others, Respondent “fail[ed] to be dignified in the presence of those with whom he dealt in his official capacity.” In Count 6 of Part B, alleging “demeaning treatment of female staff” and in Count 8 of Part C alleging “indecorous behavior toward staff,” the Board charges that Respondent “fail[ed] to be patient, dignified and courteous to members of his staff with whom he dealt in his official capacity.”

We direct our attention first to Count 3 of Part A and have no reluctance in finding that repeated use of “racially and ethnically insensitive and inappropriate terms in referring to minority members of the community” does not admit of the description “dignified.” The word “dignified” has been defined as follows:

Dignified, adj. marked by dignity of aspect or manner; noble; stately.⁵

Respondent’s conduct described in Part A of the Complaint cannot qualify as “noble” or “stately” or “dignified.” We find that the stipulations establish a violation of Rule 4C. by clear and convincing evidence.

⁵ Random House Dictionary of the English Language, Unabridged Edition 1973.

In Count 6, the Board charges that the conduct set out in Part B of the Complaint (Stipulation Nos. 4-6) constitutes a violation of Rule 4C. By these stipulations, Respondent admits that he repeatedly spoke to or referred to his female employees using derogatory and demeaning terms such as “Alzheimer’s,” “PMS,” “senile,” “that time of the month,” “dumb blond.” It may be that such conduct may not manifest impatience but it surely is undignified and discourteous. We, therefore, find that the charges in Count 6 have been established by clear and convincing evidence.

Lastly, in Count 8, the Board charges that the conduct set out in Part C of the Complaint (Stipulation Nos. 7-9) constitutes a violation of Rule 4C. By these stipulations Respondent admits that he frequently corrected or criticized his secretaries loudly and in the presence of third parties including law enforcement officers and members of the general public and on some of these occasions Respondent “pounded his fists, slammed doors, threw files and other papers around the office and engaged in loud outbursts of anger.” We find that such conduct was neither patient, dignified nor courteous and thus constitutes a violation of Rule 4C. as charged in Count 8.

IV. CONCLUSIONS OF LAW

PART A. Use of Racial Epithets.

1. The conduct of Respondent is not such that violates Rule 2A. of the Rules Governing Standards of Conduct of Magisterial District Judges.

2. The conduct of Respondent is such that violates Rule 4C. of the Rules Governing Standards of Conduct of Magisterial District Judges.

PART B. Demeaning Treatment of Female Staff.

3. The conduct of Respondent is not such that violates Rule 2A. of the Rules Governing Standards of Conduct of Magisterial District Judges.

4. The conduct of Respondent is such that violates Rule 4C. of the Rules Governing Standards of Conduct of Magisterial District Judges.

PART C. Indecorous Behavior Toward Staff.

5. The conduct of Respondent is such that violates Rule 4C. of the Rules Governing Standards of Conduct of Magisterial District Judges.

6. For the reasons set out in Conclusions of Law Nos. 2, 4 and 5, Respondent is subject to discipline under Article V, §18(d)(1) of the Pennsylvania Constitution.

Musmanno, J., did not participate in the consideration or disposition of this case.