

SUPREME COURT OF NEW JERSEY  
ADVISORY COMMITTEE ON  
JUDICIAL CONDUCT

DOCKET NO: ACJC 2021-020

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IN THE MATTER OF  
GUY W. KILLEN,  
JUDGE OF THE MUNICIPAL COURT

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STIPULATION OF  
DISCIPLINE BY CONSENT  
R. 2:15-15A(b)

THIS STIPULATION is made and entered into between Hon. Guy W. Killen, J.M.C., (“Respondent”) and Maureen G. Bauman, Disciplinary Counsel / Presenter for the Advisory Committee on Judicial Conduct.

Respondent is a member of the Bar of the State of New Jersey, having been admitted to the practice of law in 1981. At all times relevant to this matter, Respondent served as a part-time judge in the Municipal Courts of the City of Vineland and West Deptford Township. On September 16, 2020, Respondent submitted a letter of resignation, effective immediately, to the Mayor and West Deptford Township Committee. On October 9, 2020, Respondent submitted a letter to the Mayor and Township Committee in Vineland resigning his position as a municipal court judge. On October 27, 2020, Respondent rescinded his resignation and requested a leave of absence, which Vineland granted. Respondent is not currently presiding in any municipal courts.

**A. FACTS**

On or about August 22, 2020, at approximately 9:40 p.m., Patrolman Steven Flannery (“Ptl. Flannery”) of the West Deptford Police Department contacted Respondent and advised him of an

incident to which he responded at 7:24 p.m. between K.B.<sup>1</sup> and her ex-husband, David Shields, Jr. (“Shields, Jr.”). The incident involved a dispute between K.B. and Shields, Jr. regarding the return of a laptop Shields, Jr. gave their daughter. During this exchange, Shields, Jr. unsuccessfully attempted to prevent K.B. and their children from leaving her house by using his vehicle as a barrier and blocking her driveway. K.B. advised Ptl. Flannery that Shields, Jr. was currently living with his parents in West Deptford. **Exhibits 1, 2; See also Exhibit 4 at T8-24-25.**

Respondent recognized the name of the defendant, “David Shields, Jr.,” who is the son of David Shields, Sr. (“Shields, Sr.”), former Mayor of West Deptford. **Exhibit 7 at T12-25 thru T13-10.** In his position as Mayor, Shields, Sr. voted on Respondent’s initial appointment as the municipal court judge in West Deptford Township in August 1996 and Respondent’s re-appointments in March 1998 and 2001. Respondent concluded he did not have a conflict handling the matter since Shields, Sr. was no longer Mayor. **Exhibit 7 at T13-13 thru T14-2.**

K.B. applied for a TRO and signed a citizen’s complaint for criminal trespass against Shields Jr. **Exhibit 3.** At police headquarters, Det. Francis J. Mullin interviewed K.B. and recorded her statement concerning the incident, which was classified as a domestic violence incident. **Exhibits 1, 2.**

Per Rule 5:7A, Respondent spoke with K.B. who stated that Shields, Jr. owned handguns when they were married and believed that he still owned some of them. **Exhibit 4 at T8-3-19.** Ptl Flannery advised Respondent that a Firearms Inquiry in respect of Shields, Jr. revealed two Glock handguns registered to him. **Exhibit 4 at T10-15-22. See also Exhibit 1.**

Respondent ultimately granted the TRO. **Exhibit 4 at T6-3-5, T6-10-6-8. See also Exhibit 3.** Per N.J.S.A. 2C:25-21(d)(1)(b), Respondent authorized a warrant to search the residence where

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<sup>1</sup> The victim involved in the matter will be referred to by her initials to maintain the confidentiality of her identity.

Shields Jr. was staying for the seizure of the two Glock handguns and other weapons found at that location. **Exhibit 4 at T10-5 thru T11-13; Exhibit 7 at T20-21 thru T21-12. See also Exhibit 3.**

Ptl. Flannery and Sergeant John Craig ("Sgt. Craig") proceeded to Shields Sr.'s residence to serve Shields, Jr. with the TRO and conduct a search of the residence. Ptl. Flannery advised Shields, Jr. that K.B. signed a citizen's complaint against him for criminal trespass and was granted a TRO against him. Further, Shields, Jr. was advised that he was not permitted to have any contact with K.B. or their children until the matter was heard in family court. Ptl. Flannery advised Shields, Jr. that Respondent authorized a warrant to search the residence for the seizure of any weapons and firearms for safekeeping as part of the TRO. Shields, Jr. stated the residence was not his and advised the officers that he was going to call his father. Shields Jr. went inside the home and locked the door, precluding the officer's entry into the home. **Exhibit 1.**

Shields, Jr. eventually permitted the officers entry into the residence. Shields, Jr. denied having any weapons or firearms and asked Sgt. Craig to speak with his father, Shields, Sr. Sgt. Craig spoke with Shields, Sr. via telephone and advised him that Respondent authorized a search of his residence for weapons or firearms. Shields, Sr. confirmed that his son had been living at his residence for the past two weeks, that his son had no firearms in the residence, and confirmed that the two handguns his son owned were previously sold. Shields Sr. stated that he owned several firearms, including some inside his home, and others stored in a large safe kept in his detached garage. Shields, Sr. believed that the contents of the safe should not be seized because the safe was locked and only he had the key. Sgt. Craig advised Shields Sr. that they would be conducting a search of the residence for the seizure of any weapons and firearms for safekeeping as part of the TRO. **Exhibit 1.**

Thereafter, Shields, Sr. placed a call to Respondent on Respondent's personal cellular telephone stating that the guns belonged to him, and the police were not going to remove any of his guns. **Exhibit 7 at T25-20 thru T26-4.** Respondent advised Shields, Sr. that he asked Sgt. Craig to call the prosecutor's office for advice given the circumstances. **Exhibit 7 at T26-10-14.**

Shields, Jr. showed Sgt. Craig the safe in the garage, which was approximately 7 to 8 feet tall. Due to its size and weight, Sgt. Craig determined the safe was immovable. Sgt. Craig requested an Assistant Prosecutor ("AP") contact him to advise how to proceed with the safe. While waiting for an AP to return his call, Sgt. Craig received a telephone call from Respondent. Respondent advised Sgt. Craig that Shields, Sr. contacted him about the search warrant for weapons, confirmed that the weapons belonged to Shields, Sr., and advised that his garage safe was inaccessible to others. Respondent advised Sgt. Craig that since the safe was inaccessible to others, he was not going to require the officers to remove the gun safe from the property. **Exhibit 7 at T28-9-24. See also Exhibit 1.**

Sgt. Craig subsequently received a call back from a Gloucester County AP and explained the situation in respect of the search warrant issued by Respondent and the specifics regarding the firearms safe in Shields Sr.'s garage. The AP advised Sgt. Craig that since Respondent determined the safe did not need to be accessed at that time, he was to continue with the search of the rest of the residence and properly document that the safe was in the garage. **Exhibit 1.**

#### **B. MISCONDUCT COMMITTED**

Respondent, by his conduct as set forth above and as charged in the Committee's Formal Complaint dated May 5, 2021, violated Canon 1, Rule 1.1 and Rule 1.2, Canon 2, Rule 2.1, Rule 2.2, and Rule 2.3(A), Canon 3, Rule 3.6(C), Rule 3.8, and Rule 3.17(B) of the Code of Judicial Conduct, and Rule 1:12-1 (g) of the New Jersey Rules of Court.

### C. AGGRAVATING / MITIGATING CIRCUMSTANCES

On March 9, 2021, the Supreme Court publicly reprimand Respondent for practicing law in the form of a professional corporation without obtaining and maintaining in good standing a policy of professional liability insurance and for practicing law and presiding over multiple court matters as a municipal court judge from October 17, 2017 to March 29, 2018, despite his administrative ineligibility to practice law based on his failure to comply with the Supreme Court's mandatory IOLTA requirements. Respondent agrees that his prior judicial discipline serves as an aggravating factor. No mitigating circumstances have been presented.

### D. AGREED DISCIPLINARY SANCTION AND LEGAL PRECEDENT

The agreed disciplinary sanction is a range between public reprimand and public censure, which considers Respondent's conflict of interest for which his recusal from the Shields matter was required and his appearance of a bias in favor of Shields, Sr. (Count I), Respondent's abuse of office in amending the search warrant to exclude the search and seizure of Shields, Sr.'s firearms safe for Shield's Sr.'s benefit (Count II), Respondent's *ex parte* communication with Shields, Sr., (Count III), and his failure to follow appropriate procedures as set forth on the TRO when amending the search and seizure warrant (Count IV).

This recommendation of a range between a public reprimand and a public censure is based upon the Supreme Court of New Jersey's decisions in In re Elias, 195 N.J. 191 (2008) (censuring municipal court judge for engaging in an impermissible *ex parte* communication with a litigant, for engaging in a conflict of interest, and dismissing a ticket off the record and not in open court); In re Miniman, 195 N.J. 276 (2008) (reprimanding a municipal court judge for engaging in a conflict of interest by granting a Temporary Restraining Order for his municipal court administrator); In re Rivera-Soto, 192 N.J. 109 (2007) (censuring the Justice for engaging in a course of conduct that created the risk that the prestige and power of his office might influence

and advance his son's private interests); In re McElroy, 179 N.J. 418 (2004) (reprimanding a municipal court judge for giving a friend who was a defendant in a traffic case a message on his business card to hand to the municipal prosecutor requesting a downgrade); In re Murray, 92 N.J. 567 (1983) (reprimanding a municipal court judge for sending a letter on behalf of a client to another municipal judge in which he identified his judicial office); In re Baptista, 205 N.J. 316 (2011) (reprimanding a municipal court judge for appearing at the police department to discuss his son's complaint with police officers who regularly appeared before him, using the police department to ascertain the contact information for the mother of the alleged responsible party, insulting that mother, , and lacking candor when testifying before the ACJC).

Given Respondent's acknowledged failures to comply with the Code of Judicial Conduct, his prior disciplinary history, as noted herein, and the judicial disciplinary precedent, the agreed upon range of disciplinary sanction is between a public reprimand and a public censure.

#### **E. RESPONDENT REPRESENTATIONS**

By entering this Stipulation of Discipline, Respondent agrees that this disciplinary action will proceed directly to the Committee, by way of application for discipline by consent, for its review and consideration on the written record, in accordance with R. 2:15-15A(b)(3). No further documentation beyond the record submitted will be accepted by the Committee.

Respondent understands that should the Committee grant the application for discipline by consent and accept the recommendation herein, the Committee shall submit the written record to the Supreme Court for further action, in accordance with Rule 2:15-15A(b)(4). Respondent understands that in the event the motion for discipline by consent is denied by the Committee, the disciplinary proceeding shall resume as if no motion had been submitted and this Stipulation shall not be evidentiary.

F. LIST OF EXHIBITS IN SUPPORT OF STIPULATION

1. West Deptford Police Department Incident Report # 20-015984
2. West Deptford Police Department Incident Supplemental Report # 20-015984
3. New Jersey Domestic Violence Civil Complaint and Temporary Restraining Order, Docket No. FV-08-000223-21
4. Transcript of the August 22, 2020 telephone call between Respondent and West Deptford Police Department Patrolman Steven Flannery
5. Transcript of the November 4, 2020 Interview of Patrolman Steven Flannery
6. Transcript of the November 4, 2020 Interview of Sergeant John Craig
7. Transcript of the February 17, 2021 Interview of Respondent

G. SIGNATURE, RECOMMENDATION AND APPROVAL



HON. GUY KILLEN, J.M.C.  
Respondent

11/5/21  
Date



MAUREEN G. BAUMAN, ESQ.  
ACJC Disciplinary Counsel / Presenter

November 5, 2021  
Date

/s/ Virginia A. Long

HON. VIRGINIA A. LONG, RET.  
ACJC Chair

December 13, 2021  
Date