

FILED

OCT 20 2016

A.C.J.C.

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO: ACJC 2016-001

IN THE MATTER OF

LILIANA DeAVILA - SILEBI
JUDGE OF THE SUPERIOR COURT

FORMAL COMPLAINT

Maureen G. Bauman, Disciplinary Counsel, Advisory Committee on Judicial Conduct (“Complainant”), complaining of Superior Court Judge Liliana De Avila-Silebi (“Respondent”), says:

Facts

1. Respondent is a member of the Bar of the State of New Jersey, having been admitted to the practice of law in 1992.

2. At all times relevant to this matter, Respondent served as a judge in the Superior Court of New Jersey, assigned to the Civil Division in the Passaic Vicinage, a position she continues to hold. Prior thereto, Respondent was assigned to the Civil Division in the Bergen Vicinage from June 16, 2008 to August 31, 2010. From September 1, 2010 to April 30, 2011, Respondent was assigned to the Criminal Division in the Bergen Vicinage.

3. Effective May 1, 2015, Respondent was transferred to the Civil Division in the Passaic Vicinage.

4. On May 9, 2015 at 8:50 AM, Respondent spoke to Fort Lee Police Sergeant Michael Ferraro (“Sergeant Ferraro”) about a matter pending in the Family Court in the Essex Vicinage, Docket No. FM-07-1243-12 (the “Essex County Matter”).

5. The Essex County Matter was assigned to the Honorable Michael Casale (ret.) ("Judge Casale").

6. Respondent stated to Sergeant Ferraro:

RESPONDENT: I got a phone call from an attorney involving an emergent matter - -

SERGEANT FERRARO: Okay.

RESPONDENT: - - involving his client who is supposed to have the child this weekend and the husband didn't take the child to school the whole week - -

SERGEANT FERRARO: Okay

REPPONDENT: - - and, therefore, you know, they filed this emergent application. So I'm on emergent duty. And I saw the court order and she is supposed to have the child this weekend - -

SERGEANT FERRARO: okay

RESPONDENT: - - based on the court order. I just don't want her going to the house by herself to retrieve the child. . . .

7. Respondent asked Sergeant Ferraro if a police officer could accompany the mother to retrieve the child or call the father of the child and advise him that the child has to come outside when the mother arrived to pick the child up.

8. Sergeant Ferraro inquired whether the mother was at the father's house at the time Respondent was calling, to which Respondent replied:

RESPONDENT: No, I told her to - - I told the attorney to hold on, that I had to call the police department first and coordinate what would be a good time for you.

....

SERGEANT FERRARO: Yeah, I would prefer her to come here and then we can escort her there.

9. At one point during the phone call, Sergeant Ferraro asked Respondent where she was, to which Respondent replied:

RESPONDENT: I'm in Bergen, but I'm also assigned in Passaic County.

SERGEANT FERRARO: Bergen and - - okay.

RESPONDENT: But I'm on emergent duty this weekend, right.

10. Prior to placing the phone call to the Fort Lee Police Department, Respondent did not confirm the matter's venue; did not review the custody order which would have reflected the venue; and did not ascertain the nature of the caller's relationship to the parties in the underlying matter.

11. The phone call to Respondent about the alleged emergent application originated from telephone facility 201-667-4661. The owner of the phone was Vivianne Chermont ("Chermont"), the mother of the child who was the subject of Respondent's phone call to the Fort Lee Police on May 9, 2015.

12. On May 9, 2015 at approximately 9:36 AM, Fort Lee Police Officer Anthony Kim ("P.O. Kim"), along with Detective Lieutenant Porrino ("Det. Lt. Porrino"), responded to assist/escort Chermont for the custody of her child.

13. P.O. Kim, Det. Lt. Porrino and Chermont proceeded to the location where the child was staying and obtained the child in accordance with the court order that Chermont produced to the officers.

14. Chermont and the child were escorted to Fort Lee Police Headquarters and subsequently left.

15. On August 28, 2015, the Advisory Committee on Judicial Conduct (“the Committee”) received information that Respondent may have violated the Judicial Code of Conduct by inappropriately interfering with police activity related to a visitation dispute between a father and mother in a case docketed in the Essex Vicinage.

16. As a result, John A. Tonelli, former Executive Director of the Committee, and Louis H. Taranto, Chief Investigator for the Committee, interviewed Respondent under oath in her chambers at the Passaic County Courthouse on November 5, 2015.

17. At the interview, Respondent initially denied placing a phone call to the Fort Lee Police Department about the Essex County Matter.

18. At the interview, Respondent was unable to identify the person from whom she received the telephone call seeking her intercession in the Essex County Matter. Respondent admitted that the phone call could have been from “an attorney, a sheriff’s department, or the prosecutor’s office or a local police department, but [she couldn’t] remember offhand.”

19. On hearing the recording of Respondent’s May 9, 2015 phone call to the Fort Lee Police Department and reading the transcript of same, Respondent admitted to placing the call and to having “misspoke” when she told the police she saw the court order as she had not.

20. On May 11, 2016, Respondent appeared before the Committee for an Informal Conference. At the Informal Conference, Respondent was asked if the individual that called her about the Essex County Matter was an attorney to which she replied: “Yes, he said it.” Respondent further claimed that the “attorney” who called her read the custody order to her.

Count I

21. Complainant repeats the allegations contained in the foregoing paragraphs as if each were set forth fully and at length herein.

22. By misrepresenting to Sergeant Ferraro that Respondent received a phone call from an attorney who filed an emergent application involving his client who was supposed to have her child that weekend, and that Respondent saw the court order, as cited in paragraph 6 above, Respondent demonstrated an inability to conform her conduct to the high standards of conduct expected of judges and impugned the integrity of the Judiciary and engaged in conduct prejudicial to the administration of justice in violation of Canon 1, Rule 1.1 and Canon 2, Rule 2.1 of the Code of Judicial Conduct

23. By misrepresenting to Sergeant Ferraro that Respondent was the judge on emergent duty as cited in paragraph 9 above, Respondent demonstrated an inability to conform her conduct to the high standards of conduct expected of judges and impugned the integrity of the Judiciary and engaged in conduct prejudicial to the administration of justice in violation of Canon 1, Rule 1.1 and Canon, 2 Rule 2.1 of the Code of Judicial Conduct

Count 2

Complainant repeats the allegations contained in the foregoing paragraphs as if each were set forth fully and at length herein.

24. Respondent's intercession on behalf of Chermont in a matter pending in the Essex Vicinage that was not the subject of an emergent motion and in which the court's involvement was not solicited by either party created the significant and unacceptable risk that Respondent's judicial office could be an influential factor in the police department's handling of that matter as evidenced by Sergeant Ferraro's willingness to assist Respondent, in violation of Canon 2, Rule 2.3(A).

25. By her conduct as described above, Respondent also violated Canon 1, Rule 1.1 and Canon 2, Rule 2.1 of the Code of Judicial Conduct.


WHEREFORE, Complainant charges that Respondent has violated the following Canons of the Code of Judicial Conduct:

Canon 1, Rule 1.1, which requires judges to observe high standards of conduct so that the integrity and independence of the judiciary may be preserved;

Canon 2, Rule 2.1, which requires judges to avoid the appearance of impropriety and to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary;

Canon 2, Rule 2.3, which requires judges to avoid lending the prestige of their office to advance the private interest of others.

DATED: October 20, 2016



Maureen G. Bauman, Disciplinary Counsel
ADVISORY COMMITTEE ON JUDICIAL CONDUCT
Richard J. Hughes Justice Complex
25 Market Street
4th^d Floor, North Wing
P. O. Box 037
Trenton, NJ 08625
(609) 292-2552