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 Supreme Court Justice Roberto A. Rivera-Soto

FILED
MAY 18 2007
A. C. J. C.

IN THE MATTER OF	:	SUPREME COURT OF NEW JERSEY
	:	ADVISORY COMMITTEE ON
ROBERTO A. RIVERA-SOTO,	:	JUDICIAL CONDUCT
JUSTICE OF THE SUPREME COURT	:	DOCKET NO.: ACJC 2007-097
	:	
	:	ANSWER TO COMPLAINT

Respondent, Supreme Court Justice Roberto A. Rivera-Soto, by way of Answer to the Complaint filed by complainant, Advisory Committee on Judicial Conduct, respectfully represents as follows:

1. Respondent admits the allegations contained in paragraph 1 of the Complaint.
2. Respondent admits the allegations contained in paragraph 2 of the Complaint.
3. Respondent admits that C.R. is his son and states that his son is a sophomore at Haddonfield Memorial High School in the Borough of Haddonfield, and a member of its football team.
4. Respondent admits that C.L. is a senior at Haddonfield Memorial High School and states that he is one of several captains of the football team.
5. Respondent is without sufficient knowledge of the facts alleged in paragraph 5 of the Complaint to form a belief as to their truth or falsity, and states that on three separate occasions in September of 2006, C.L. harassed or physically struck C.R. In response to the first incident, the School and the Coach explained to Respondent that C.L. had been informed that

any further wrongdoing on his part would result in discipline, and that the School and the Coach would be vigilant to insure no further incidents would arise.

6. Respondent denies the allegations contained in paragraph 6 of the Complaint but states that, during September 2006, after each of the three incidents of assault or harassment, he engaged in telephone conferences with the School Vice Principal, the Superintendent of Schools, and/or the Coach, related exclusively to the repeated harassment of and/or assaults on his son.

7. Respondent denies the allegations contained in paragraph 7 of the Complaint and states that the telephone conversation alleged in paragraph 7 of the Complaint occurred after the second incident when C.L. assaulted C.R. in the stairwell of the school, and is taken out of context. During the conversation that is the subject of paragraph 7 of the Complaint, the Coach stated to Respondent that C.L. had denied any wrongdoing. Respondent advised the Coach that Respondent had been a trial lawyer for almost 30 years; that as part of his profession he was called on to make credibility determinations; and that those credibility determinations most often hinge on who has more to lose from his or her story. Respondent advised the Coach that he should take those considerations into account when evaluating the credibility of C.L.'s denial. Respondent also advised the Coach that, at the Coach's personal request, he had allowed the School to handle internally the first two incidents, but if another incident occurred, he would refer the matter to law enforcement.

8. Respondent admits that on September 28, 2006, C.R. and C.L. participated in a touch football drill, without helmets or pads, held during football practice. Respondent further states that, after a play that developed away from his son had ended, C.L. deliberately head-butted C.R. in the mouth, causing him injury. Respondent refers the Committee to the sworn juvenile delinquency complaint filed against C.L. dated September 28, 2006.

9. Respondent is without knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 9 of the Complaint and leaves the Committee to its proof. Respondent states that he did speak with the Vice Principal several times regarding the three incidents between C.L. and C.R.

10. Respondent denies the allegations contained in paragraph 10 of the Complaint. Respondent states that, after the second incident involving his son and C.L., when C.L. assaulted his son in a school stairwell, Respondent did express his dissatisfaction with the manner in which the School was handling the matter.

11. Respondent admits the allegations contained in paragraph 11 of the Complaint.

12. Respondent denies the allegations contained in paragraph 12 of the Complaint. Respondent states that he told all three of his sons when he was appointed to the Bench that there were a lot of restrictions that would apply to Respondent and that his sons would not be able to react in a way they wanted to react in certain circumstances and that they would have to take a step back. As a result, his son C.R., did not retaliate in any way against the assaults by C.L. Respondent further states that at approximately 7:30 p.m. on September 28, 2007 he received a call from his wife advising that there had been a third incident in which C.L. had assaulted his son by head-butting him in the face. Respondent called Chief Tsonis of the Haddonfield Police and asked him what he thought he should do. Chief Tsonis offered to have a police officer come to the house. Respondent said, "No, I want to know how this is normally handled." The Chief advised him that people go to the police station. The Chief advised him that it would be handled in the ordinary course. Later that evening, in response to an earlier call to the police department, a Haddonfield police officer came to Respondent's home, where Respondent identified himself, handed a business card to the officer, and introduced his son to the officer. Respondent told the

police officer that respondent and his son were going to the police station to file a complaint. Respondent went to the police department with his son. C.R. was provided paper and a pen and was asked to write out his version of the events; he did so. The officer took C.R.'s handwritten statement and returned with a printed juvenile delinquency complaint charging C.L. with simple assault. Upon review of the complaint, Respondent inquired whether an aggravated assault charge would be appropriate. The officer explained that, in his view, it would not be and, after reviewing the applicable statutory provisions with the officer, Respondent agreed that the simple assault charge was proper. Because C.R. was and is a minor, Respondent signed the complaint on his behalf. Respondent asked the officer what would happen next, and the officer explained that someone would speak with C.L. and his parents that evening. Thanking the officer for his work, Respondent and his son returned home.

13. Respondent denies the allegations contained in paragraph 13 of the Complaint and states that, following the head-butting incident on September 28, 2006, Respondent called the Superintendent of Schools. The Superintendent was unavailable and, because it was during business hours, was asked to return the telephone call to Respondent's office telephone number. When the Superintendent returned the call, he asked Respondent what his role was in the judiciary, and Respondent explained his judicial position to the Superintendent.

14. Respondent admits the allegations contained in paragraph 14.

15. Respondent admits the allegations contained in paragraph 15 of the Complaint, except that he denies the allegations contained in the last sentence of paragraph 15. Respondent states that, when the Prosecutor called a second time to explain the procedures to be followed, the Prosecutor explained that, despite the number of serious offenses handled by his juvenile unit, attention was given to every case reviewed by that unit; Respondent thanked him for that

assurance. At no time did Respondent ask that the complaint be handled in other than the ordinary course.

16. Respondent admits the allegations contained in paragraph 16 of the Complaint, but denies the last sentence as mischaracterizing what occurred. Respondent states that, because of the mix-up in the notices, Ms. Ruiz, a Court administrative employee, asked how she could reach him and Respondent handed Ms. Ruiz his business card. Respondent represents that at no time did he intend to influence Ms. Ruiz in the performance of her duties and that he presented her his business card as a convenient method by which she could reach him during business hours.

17. Respondent admits the allegations contained in paragraph 17 of the Complaint, but states that, during the second telephone call, the Assignment Judge advised respondent to include all facts in the letter the Assignment Judge earlier advised should be sent to the Presiding Judge of the Family Part.

18. Respondent admits the first sentence of paragraph 18 of the Complaint, and states that his letter to the Presiding Judge of the Family Part speaks for itself and was personally written by Respondent on personal letterhead bearing his name and home address. Judge Rand responded by a letter sent to Respondent, at Respondent's home address, which referred to Respondent as "Mister" and not by his judicial title.

19. Respondent admits the allegations of paragraph 19 of the Complaint to the extent they are not inconsistent with the Stipulation for Resolution that was recorded and transcribed that day, and states that the transcript of proceedings speaks for itself.

20. Respondent denies the allegations contained in paragraph 20 of the Complaint. Respondent did not use or allow the power and prestige of his judicial office as an Associate

Justice of the Supreme Court to influence or advance the private interests of his family and his son. To the contrary, he insisted at all times that C.R.'s matter be treated in the ordinary course and agreed that if no interaction between C.L. and C.R. occurred from the date of the hearing until June 19, 2007, the date C.L. is scheduled to graduate from high school, the matter would be dismissed by the Court with prejudice. Respondent affirmatively asserts that it was never his purpose or intention to influence the acts of anyone by reference to his judicial position. His intent at all times was to avoid any appearance of impropriety by insuring that the proceedings were handled in the ordinary course. To the extent any person understood Respondent's actions in any different light, Respondent regrets that understanding.


WHEREFORE, Respondent respectfully requests that the Advisory Committee on Judicial Conduct recommend that the Supreme Court dismiss this Complaint in its entirety with prejudice.

DEFENSES, INCLUDING AFFIRMATIVE DEFENSES

Respondent specifically reserves the right to amend his Answer and to include any Defenses or Affirmative Defenses after reviewing the discovery in this matter.

Respectfully submitted,

McMORAN, O'CONNOR & BRAMLEY, P.C.
Attorneys for Respondent
Supreme Court Justice Roberto A. Rivera-Soto

By: 
BRUCE P. McMORAN

DATED: May 18, 2007