

FILED

APR - 1 2014

A. C. J. C.

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO.: ACJC 2013-015

IN THE MATTER OF

GERALD J. COUNCIL,
JUDGE OF THE SUPERIOR COURT

FORMAL COMPLAINT

Tracie H. Gelbstein, Disciplinary Counsel, Advisory Committee on Judicial Conduct
("Complainant"), complaining of Superior Court Judge Gerald J. Council ("Respondent"), says:

1. Respondent is a member of the Bar of the State of New Jersey, having been admitted to the practice of law in 1983.
2. At all times relevant to these matters, Respondent served as a Presiding Judge of the Superior Court of New Jersey assigned to the Criminal Division in the Mercer County vicinage.
3. In 2001, New Jersey adopted the Drug Court Program ("Drug Court"), a highly specialized team process located within each vicinage in the existing Superior Court structure that addresses nonviolent drug-related cases.
4. In addition to his duties as the Presiding Criminal Division judge, Respondent presides over the Mercer County Drug Court, a position he has held since 2007.
5. As the Drug Court judge, Respondent heads a team of specially-trained court staff, attorneys, probation officers, substance abuse evaluators, and treatment professionals who collaborate to support and monitor a Drug Court participant's recovery.

6. Between December 2008 and May 2012, A.J. served as the Drug Court Coordinator under the direction of Respondent.¹

7. On March 6, 2012, A.J. was conversing with a Drug Court participant, a treatment provider, and another court employee at the conclusion of a court session in an attempt to schedule an appointment for that participant.

8. The Drug Court participant was uncooperative with A.J. and the treatment provider.

9. At that point, the participant sought the assistance from Respondent who had stepped down from the bench but remained in the courtroom.

10. A.J. also approached Respondent in an attempt to explain the circumstances of scheduling the participant's appointment at which time Respondent put his hand up close to A.J.'s face, "shushed" her, and sternly told A.J. that he did not want to hear from her.

11. A.J. was publicly embarrassed by the incident as it occurred in open court in front of other court personnel, the Drug Court participant and a treatment provider.

12. A.J. was extremely upset and crying when she reported the incident to her direct supervisors later that same day.

13. Approximately two weeks later on March 22, 2012, A.J. attended a "Meet & Greet" reception for the newly appointed Mercer County Assignment Judge.

14. All Mercer County court personnel, including the Drug Court team members, were invited to have breakfast with the Assignment Judge at the "Meet & Greet" reception.

15. Several of A.J.'s co-workers and her supervisor also attended the Meet & Greet reception.

¹ Judiciary personnel will be referred to by their initials to maintain the confidentiality of their identity.

16. After introducing herself to the Assignment Judge, A.J. was leaving the reception to go back to work when she saw a few members of the Drug Court team socializing together at the reception.

17. She briefly stopped to converse with her colleagues at which time Respondent approached A.J. and her colleagues, placed his hand on A.J.'s upper back/neck area, and told her to leave because she had work to do.

18. A.J.'s colleagues then witnessed Respondent usher A.J. out of the reception by leaving his hand on her upper back/neck area.

19. A.J. had only been at the "Meet and Greet" reception for approximately ten minutes before Respondent had approached her.

20. Respondent did not tell any of the other Drug Court personnel to go to work.

21. A.J. felt demeaned and concerned with how the other court personnel perceived Respondent's unwelcomed touching.

22. Shortly thereafter, on April 2, 2012, A.J. was in a courtroom with Respondent and other Drug Court personnel.

23. At some point, Respondent grabbed A.J. by the ear, and pulled her by her ear towards the exit of the courtroom saying "come on, come on, come on" and referred to her as "my problem child."

24. Respondent's conduct of leading A.J. by the ear caused her to be embarrassed, humiliated, and upset.

25. During this same time period, Respondent referred to R.N., a senior probation officer on Respondent's Drug Court team, as his "little pet" at a staff meeting causing that employee to feel uncomfortable and to correct him in front of other court employees that she was not his "pet."

26. Respondent also referred to D.E., an investigator on his Drug Court team, as “Hop-a-Long” on a few occasions after that employee underwent hip replacement surgery.

27. By his conduct directed towards A.J. as set forth above, Respondent publicly humiliated, belittled and demeaned A.J. in violation of Canon 3A(3) of the Code of Judicial Conduct.

28. By his conduct of referring to court personnel as “little pet” and “Hop-a-Long,” Respondent demonstrated discourteous and undignified behavior in violation of Canon 3A(3) of the Code of Judicial Conduct.

29. Respondent’s conduct as set forth above also failed to preserve the integrity of the Judiciary and the public’s perception of that integrity in violation of Canons 1 and 2A of the Code of Judicial Conduct.

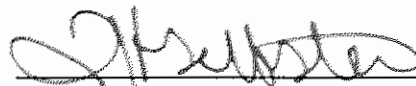
WHEREFORE, Complainant charges that Respondent, Superior Court Judge Gerald J. Council, violated the following Canons of the Code of Judicial Conduct:

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

Canon 2A, which requires judges to respect and comply with the law and to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary; and

Canon 3A(3), which requires judges to be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity.

DATED: April 1, 2014



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